

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 110/1.2002.....

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SECTION OFFICER (Judl.)

FORM NO. 4
 (See Rule 42)
 CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
 GUWAHATI.

ORDER SHEET

Original No. 110/2002

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant(s) Mrs. Bishnani Dm

Respondent(s) H.O.T. Yoms

Advocate for Applicant(s) A.C. Bora, N. Borah

Advocate for Respondent(s) Case

Notes of the Registry | Date | ORDER OF THE TRIBUNAL

5.4.02

Heard Mr. N. Borah learned counsel
for the applicant.

The application is admitted. Call
for the records.

List on 8/5/2002 for further order.

I C U Shor
Member

Vice-Chairman

8.5.02

List on 7.6.02 for orders.

Vice-Chairman

7.6.2002

Written statement has been filed. The
case is ready for hearing.

List the case for hearing on 5.7.2002.

I C U Shor

Member

① Service report are
still awaited.

bb

5.7.

Due to court setting at Agostale, the case is
adjourned to 12/7/2002. BLD 4.7.02

My
7.5.02

27.5.2002

W/S submitted
by the respondents.

12.7.02

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

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

Order add 12/7/02
Communicated to the
Applicant & both parties
Court.

K Usha

Member

pg

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. . . 110 . . . of 2002.

DATE OF DECISION 12.7.2002.

Mrs Subharani Das

APPLICANT(S)

Sri N. Borah.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR K.K.SHARMA, ADMN. 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 ?

Ex:

Judgment delivered by Hon'ble Admn. Member.

K.K. Shar

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 110 of 2002.

Date of Order : This the 12th day of July, 2002.

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

Mrs Subharani Das,
W/o Late Sachin Das,
Vill. Majgaon, P.O. Majgaon,
P.S.- Majgaon, Dist. Kamrup (Assam) ...Applicant

By Advocate Sri N.Bora.

- Versus -

1. The Union of India,
represented by the Secretary to the
Government of India,
Ministry of Communication,
Sanchar Bhawan, B.S.N.L.,
New Delhi.
2. The Chief General Manager,
Assam Circle, Telecommunication,
Guwahati-7.
3. The General Manager,
Telecom, Kamrup Telecom District,
Ulubari, Guwahati-7.
4. The Divisional Engineer,
Central Telegraph Office,
Guwahati-7.
5. The Assistant Director,
Telecom (L), Assam Circle,
Guwahati-7. ...Respondents

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

O R D E R

K.K.SHARMA, ADMN. MEMBER,

By this application the applicant has prayed for setting aside the Order No. STES-21/344/9 dated 15.11.2001 (Annexure-G to the O.A). By the aforementioned order the applicant's prayer for compassionate appointment has been rejected.

2. This is the second round of litigation. The applicant had filed O.A.327/2001 which was disposed of on 12.9.2001 whereby a direction was given to the respondents to consider the case of the applicant as per rules. After the applicant's request for compassionate appointment was rejected this application has been filed.

3. The applicant is the wife of late Sachin Das, who was working as a casual labour under Superintendent, C.T.O,Guwahati. Sri Sachin das expired on 11.4.2001. After the expiry of Sachin Das the present applicant made a representation dated 7.5.2001 (Annexure-E) to the CGM requesting for compassionate appointment on the ground that she had no means of livelihood and has three minor children.

4. Mr N.Borah, learned counsel appearing for the applicant submitted that the name of the husband of the applicant was included in the list of 10 applicants in O.A.273/2001 but his name was excluded on account of his death on 11.4.2001. Mr Borah argued that by the order passed in O.A.273/2001 this Tribunal directed the respondents to consider the case of the applicants sympathetically for grant of temporary status. It was argued that had the applicant also been alive he would have also been considered alongwith the other applicants in that O.A. Mr Borah also referred to the fact that the applicants had been confirmed as casual worker.

LCW/hs

5. The respondents have filed written statement. Mr A. Deb Roy, learned Sr.C.G.S.C apeared on behalf of the respondents. Mr Deb Roy relying on the written statement submitted that the Chief Superintendent, C.T.O, Guwahati was not competent to engage any casual labour and that late Sachin Das was irregularly engaged. He also submitted that the term confirm is unknown in relation to casual labourer. A casual labour remains as such till he acquired temporary status. Mr Deb Roy also submitted that the case of the applicant has been examined and she has been intimated that there is no rule to provide employment to the dependent family members of the deceased casual worker. The dependent of deceased casual worker cannot claim appointment as a matter of right. The case has been considered carefully as per rules. He submitted that the case of the applicant has no merit and requires to be dismissed.

6. The facts have been considered and I have heard the learned counsel for the parties at length. Mr N. Borah, learned counsel for the applicant has not been able to estalish his case by referring to the relevant rules. It is not the fact that the respondents had passed an illegal order. It is clearly stated that there is no rule to provide employment to the dependent family members of the deceased casual workers. In the circumstances the application is liable to be dismissed.

7. It is however observed that the husband of the applicant late Sachin Das had served the department since 1991 as a casual worker. He had a family of four dependent members, who are without any means of livelihood. Considering the state of affairs the respondents may consider the case of the applicant against any existing vacancy as per law.

Subject to the observation made above, the application is dismissed. There shall, however, be no order as to costs.

ICL Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

DISTRICT: KAMRUP

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH

O.A NO. 110/2002

BETWEEN

Mrs. Subharani Das.

...Applicant.

- Versus -

The Union of India and others.

...Respondents.

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(NIRJAN BORAH)

Signature of the
Advocate.

For use in the Tribunals' Office.

Date of filling:

Registration No.:

Signature.

DISTRICT: KAMRUP.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT. - 1985).

ORIGINAL APPLICATION No.....110/2002

BETWEEN

17

apbh

Mrs. Subharani Das.

20

W/o - Late Sachin Das.

21

o/

Vill. - Majgaon, P.O. - Majgaon,
P.S. - Majgaon, Dist. - Kamrup,
Assam.

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2

...Applicant.

- AND -

1. The Union of India
(Represented by the
Secretary of the
Government of India,
Ministry of Communication,
Sanchar Bhawan, B.S.L.,
New Delhi)
2. The Chief General Manager,
Assam Circle, Telecom-
munication, Ghy - 7.
3. The General Manager
Telecom, Kamrup Telecom
District, Ulubari, ghy-7.

Contd..

Filed by the
Applicant Mrs. Subharani
Das through her
Nivem Basen
Advocate.

01-04-2002

Subharani Das

Ms

4. The Divisional Engineer,
Central Telegraph Office,
Guwahati-7.

5. The Assistant Director
Telecom (L) Assam Circle,
Guwahati, Ulubari.

... Respondents.

DETAILS OF APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This instant application is made against the action of the Respondents for not appointing the applicant on compassionate ground vide order No. STES - 21/344/9 dated 15-11-2001 issued under signature of Assistant Director Telecom (L) Assam Circle, Guwahati.

(Annexure- G Page- 22)

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the instant application is within the Jurisdiction of the Hon'ble Tribunal.

3. LIMITATIONS:

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act.1985.

4. FACTS OF THE CASE:

Facts of the case in brief are given bellow: -

Contd..

✓
Rani Das
Sneha Das
MoS

4 (a) That, your humble applicant is a citizen of India and permanent resident of village Majgaon, P.O. & P.S. Majgaon, Dist.-Kamrup, Assam and as such, she is entitled to all the rights and privileges and protection granted by the Constitution of India and the Laws frame thereunder.

4 (b) That, your applicant has passed in the class-X (Ten) standard in 1983 from the North Guwahati Girls High School.

A copy of the aforesaid passed Certificate is annexed here to and marked as Annexure - 'A', (Page- 15).

4 (c) That, your applicants' husband, Late Sachin Das, was working as Casual Employee under C.T.O. Zone with effect from 1991. The applicants' husband Late Sachin Das died a premature death on 11-4-2001 while he was working as a Casual Labour (Night Guard) under Maligaon Telegraph Office.

4 (d) That, Sri Sachin Das was working as Casual Labour with effect from 01-02-1991 vide statement dated 30-10-1996 issued by office of the Chief Superintendent C.T.O. Guwahati-1. The name of the husband of the applicant appeared at Serial No.3 in the aforesaid statement. The husband of the applicant received salaries regularly as a Casual Labour.

A copy of the aforesaid engagement letter dated 30-10-1996 is annexed here to and marked as Annexure - 'B'.

Contd..

4(e) That, by Communication No. STA- 51/CL/96-97/04 dated 20-10-1996 the Chief Superintendent, C.T.O. Guwahati, sent to the Telecom District Manager, Guwahati a list of Casual Majdoor/Labour in Telegraph activity area of Kamrup S.S.A. stating interalia that-

"In this connection it may be stated that the Casual Majdoors under Sl. No. 1 to 6 of Annexure - I have been engaged to meet up the acute shortage of GP-D staff in CTO/TO & TC. Prior to January 1998. Now there engagement have been confirmed w.e.f. 1-1-1993 as per instruction contained vide CGMT/Guwahati Letter No. TTUI-1/3/95-96 dated 18-4-95 (copies enclosed).

Casual Majdoors under Sl. No. 7 to 22 of Annexure - I have been engaged as per instructions of CGMT/Guwahati Letter cited above to meet up the requirements to work load due to a paucity of GP-D staff".

Be sated here that the name of husband of the applicant at Sl. No.3 is in the said list of Casual Labours.

A copy of the aforesaid order dated 30-10-1996 is annexed here to and marked as Annexure - 'C'.
(Page- 17).

4(f) That, it is clear from the aforesaid order dated 30-10-1996 that the service of Sachin Das, husband of the applicant were confirmed with effect from 1-1-1993 as per the instructions contained vide CGMT/Guwahati Letter No.RRFC/18/RE dated 23-12 1992 and No.TTUZ-1/3/95/96. However, Sri Sachin Das, husband of the applicant did not receive any confirmation letter which ought to have been issued in as decided by (Annexure -C).

Mato Sulha Rane Das

14
 Sachin Das
 Son
 of
 deceased

4(g) That, the applicant respectfully states that unfortunately Sri Sachin Das casual worker under the Telecommunication Department and the husband of the applicant died in harness on 11-04-2001 at the age of 40 years bearing his unemployed wife and two minor sons and one minor daughter.

A copy of the Death Certificate is annexed here to and marked as Annexure - D.

4(h) That, the applicant submitted her application in prescribed form duly filed in her appointment on Compassionate ground consequent upon the death of her husband in harness to Chief General Manager, Telecommunication BSNL, Assam Telecom Circle, Ulubari, Guwahati-7 on dated 27th May 2001.

A copy of the aforesaid application is annexed here to and marked as Annexure - E.
 (Page- 20).

4(i) That, the applicant respectfully states that the Respondent authority did not take steps on Compassionate ground consequently, having no other alternative the poor applicant approach the Hon'ble Tribunal by way of filing O.A.No.327/2001. The Hon'ble Tribunal was pleased to issue notice to the Respondent authorities on 22-8-2001. Therefore, the Hon'ble Tribunal was pleased to disposed of the aforesaid original application on 19-9-2001 stating interalia as under -

"Having heard the learned Council of the parties, I am of the view that as the husband of the applicant was confirmed with effect from
 Contd..

1-1-1993 (Annexure - 'C' to the O.A.), ends of Justice will be met if a direction is given to the Respondents to consider the case of the applicant for compassionate appointment as per rules and is in the lights of Annexure - 'C' to this O.A. and also in the light of Circular dated 7-5-2001. ... with this application is disposed of as above. No order as to costs".

A copy of the aforesaid order dated 12-9-2001 is annexed here to and marked as Annexure - 'F'.

(Page-21)

4(j) That, the applicant respectfully states that the Assistant Director Telecom (L) most mechanically and without considering the factual position of the case of the applicant passed this order No. STES 21/344/9 dated 15-11-2001 which is as under -

"In due compliance of the Judgment and order dated 12-09-2001 passed by the Hon'ble Administrative Tribunal, Guwahati in O.A.No.- 327/2001, the matter pertaining to the compassionate appointment has been thoroughly examined keeping in view the grounds shown in your representation dated 25-09-2000.

Shri Sachin Das was irregularly and unauthorisedly engaged by the Chief Superintendent, C.T.O. Guwahati as a Casual Labour on day to day basis for performance of Sunday works of Casual and intermittent nature. He was not appointed against any post and was not regular employee of the Department. Be it mentioned here that the engagement of casual labour is not an appointment to any post according to rules and the casual labour does

Contd..

Sachin Das
M.T.S
Sachin Das

not hold any post. Such engagement can not be confirmed until formally appointed to any sanctioned post after due process of recruitment Rules.

The Rules governing the employment on Compassionate ground do not have any provision for grant of employment to the dependent family member of deceased Casual Labour.

For the above reason it is not possible to provide you any employment in the Department. As there is complete ban on engagement of Casual Labourer, it is also not possible to engage you as a casual labour".

A copy of the aforesaid order dated 15-11-2001 is annexed here to and marked as Annexure - 'G'.

4 (k) That, the applicant respectfully states that 9 (Nine) persons having the similar situation with that of the husband of the applicant approach this Hon'ble Tribunal by way of filing Original Application No.273/2001 for a direction to regularise their services as Temporary status Casual employees. Had the husband of the applicant been alive, he would have been also an applicant with those 9 applicants in O.A. No.273/2001. However, due to premature death of the husband of the applicant he was not an applicant in the aforesaid O.A. No.273/2001. The applicant respectfully and categorically states that the husband of the applicant namely Late Sachin Das was similarly situated with their 9 applicants in O.A. No.273/2001. The Hon'ble Tribunal disposed of the aforesaid O.A. No. 273/2001 by its order dated 7-3-2002 interalia stating as -

Contd..

17
 Moti Guha Das
 Page No. 8
 Moti Guha Das

"The respondent though in the impugned order dated 29-6-2001 stated that the applicants could not satisfy the eligibility criteria as laid down in the Scheme but it was nowhere mentioned that the applicants did not complete 240 days of service in any given year. Whatever may be the reasons the applicants have completed 240 days of service during all these years. It was also stated in the written statement that the applicants were disengaged from service on 30-9-1997 but they were re-engaged on 18-11-1998 in view of the order passed by the Tribunal on 29-5-1998 in O.A. No.112/98. The documents referred to Annexure - A/10 series to the rejoinder also speaks that the applicants rendered their service continuously. In some of the cases payments were made to the applicants through private contractor on the strength of pay order issued by the Accounts Officer, Central Telegraph Office on the basis of a certificate given by the Chief Superintendent, Central Telegraph Office, Guwahati and in some cases by the Sub-Divisional Engineer and in some of the cases by the Junior Telecom Officer but pay order was passed by the Divisional Engineer.

For all the facts and circumstances stated above, we are of the view that the applicants are working under the respondents and accordingly respondents are directed to consider the case of the applicants sympathetically for grant of temporary status as per law. Before concluding Mr. A. Deb Roy, Sr. C.G.S.C. submitted that the applicant No.8 Sri Sachin Das (153) is no longer alive and he has expired on 11-4-2001. Mr. A.C. Buragohain,

Contd..

learned counsel for the applicants submitted that his name was wrongly shown in the application. He did not sign in the Vakalatnama, so the name of the applicant No.8 may be deleted.

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

A copy of the aforesaid Judgment and Order dated 7-3-2002 is annexed here to and marked as Annexure - 'H'. (Page - 23)

4(l) That, the applicant respectfully states that in the aforesaid order dated 7-3-2002 the Hon'ble Tribunal directed the Respondents to consider the case of applicant sympathetically for grant of Temporary status.

4(m) That, the applicant respectfully states that had her husband Sri Sachin Das been alive his case would have been directed to be considered in the light of the order dated 7-3-2002 in O.A. No.273/2001 (K. Kardong and others - Versus - The Union of India and others).

4(n) That, the applicant respectfully states that the applicants' application for appointment on Compassionate ground ought to have been considered by the respondent authority taking into the matrix of whole situation correctly into consideration. However, the respondent authority did not consider the actual factual position and passed the order dated 15-11-2001 (Annexure - 'G') most mechanically and perfunctorily causing irreparable loss and injury to the applicant.

Contd..

4(o) That, the applicant respectfully states that balance of convenience is in her favour and equity and good conscience demand that the application of the applicant for appointment on Compassionate ground ought to have been considered by the Respondent authority.

4(p) That, the applicant respectfully states that on the untimely death of the applicants' husband the whole family has came tremendous financial strain due to the loss of income sources, and earning member or employee in the family. The family consists of (i) The applicant Mrs. Subharani Das who passed class-X (Ten) eligible for casual employment, (ii) Two minor sons, one was class-X (Ten) and another class-III (Three), (iii) One minor daughter who was studying in class-VII (Seven) Majgaon, Kamrup suffered pro-economical hardship and had to leave his study due to the death of her father. The petitioner / applicant is the only person who is the major of the applicant family.

4(q) That, in view of the facts and circumstances, it is a fit case for interference by the Hon'ble Tribunal to save the entire family members of the application from starvation.

4(r) That, this application is filed bonafide and for the interest of Justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that, the action of the Respondents for not appointing the applicant on Compassionate ground is illegal, arbitrary, malacide and violative of the principles of natural Justice.

Contd. .

M/s Suhana Deo
Suhana Deo

5.2. For that, the applicants' case is a genuine and also need a sympathetic consideration of the matter by Respondents and hence the Respondents cannot deny it.

5.3. For that, at the time of death of applicants' husband was on official duty in his office and till death he was performing his all duties and service to corporation with all his sincerity. As such the Respondents cannot deny the applicants benefit of getting her appointment on Compassionate Ground.

5.4. For that, applicants case along with six others has been considered by the Department. It is to say vide order dated 10-10-96 by No.STA-51/CL/96-97/04 and please to confirmed the applicants husband along with six labourers has casual labours as per instruction contained in Government Notification CGMT/Guwahati-No. RRFC-18/RE dated 23-12-92 and No.TTUI-1/3/95-96 dated 18-4-95 and as such the applicants' husband ought to have treated as confirmed Muster Roll worker and the applicant should have the benefit of compassionate appointment as per Rule.

5.5. For that, applicants has been illegally deprived of her legitimate due/illegal right to the considered for compassionate appointment at the sudden death of her husband who was confirmed by the Department and the confirmation letter was not handed over the petitioner and not fault of her husband.

5.6. For that, the Department ought to have published the content of the order dated 10-10-98 and the applicants' husband ought to have given conferred the status of confirmed muster roll worker immediately.

Contd..

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6. DETAILS OF REMEDIES EXHAUSTED:

That, there is no other alternative and efficacious remedy available to the applicant except invoking the Jurisdiction of this Hon'ble Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN OTHER COURT:

That, the applicant further declare that she was filed a Original Application as suit in respect of the subject matter or the instant application before the Hon'ble Tribunal and the O.A. in 327/2001 which will disposed on 12-9-2001 (Annexure - F).

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that your Honour may be pleased to admit this petition and may call for records of the case, issue rule calling upon the Respondents to show cause as to why the relief should not be given to the applicant and after hearing the parties on the cause or causes that may be shown and on perusal of records your Honour may be pleased to grant the following relief to the applicant.

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8.1. That the Hon'ble Tribunal may be pleased to quash and set aside the order No. STES-21/344/9 dated 15-11-2001 vide (Annexure - G) and to direct the Respondent authorities to appoint the applicant in a suitable post on Compassionate Ground.

8.2. To direct the Respondents to issue appointment letter to the applicant on Compassionate ground against in terms of the of the Hon'ble Tribunal order in O.A. No.327/2001 against any vacant post ascending to her

Contd..

✓
 educational qualification releasing the normal rules in the Department.

8.3. To direct the Respondents to complete the process of appointment as early as possible.

8.4. Cost of application.

8.5. To pass any other relief or relieves to which the applicant may be deem fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the Original Application the applicant most respectfully prays for an interim order dismissing the Respondents to consider her case of appointment apart of vacant post in temporary basis to till her regular appointment to tied over the immediate financial constraint is made by the Respondents.

10. Application is filed through the Advocate.

11. PARTICULARS OF I.P.O.:

1. I.P.O. No.: -
2. DATE : -
3. PLACE : - GUWAHATI.

12. LIST OF ENCLOSURE:

As stated above.

Contd.. VERIFICATION.

Sudha Dane *sd*
M/s S

VERIFICATION:

I, Mrs. Subharani Das, W/o Late Sachin Das, aged about 30 years, resident of Village - Majgaon, P.O. Majgaon, P.S.- Majgaon, District - Kamrup, Assam, do hereby solemn verify that the statements made in paragraphs *4(a,c,f,m,n,o)*....., are true to my knowledge, those made in paragraphs *4(b,d,e,f,g,h,i,j,k)* - are being matters of records are true to my information denied thereof.

And I set my hand on this verification, to-day the *18th March* 2002, at Guwahati.

Mrs Subha Das Das
Deponent.

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Annexure - 4'

- # -

[ORIGINAL]

THE NORTH GUWAHATI GIRLS' HIGH SCHOOL (PROVINCIALISE)

North Guwahati, Dist. Kamrup.

P. O. Guwahati-30

TRANSFER CERTIFICATE

Certified that Alka Senghuli Majumder
Daughter of Alka Majumder is an inhabitant of Guwahati in the
District Kamrup left this school on 31-12-83.

Her date of birth as recorded in the Admission Register was
11.02.1968

Her age at the date, according to the Admission Register was
..... Years Months days

She is/was reading in class IX (L.M.) and had/had not passed
the Annual/Test Examination for promotion to Class.....

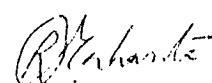
All sums due by her have been paid viz:—Fees and Fines
upto 16.05.1991 (date)

Character Good

REASONS FOR LEAVING :—

- (i) Unavoidable change of residence.
- (ii) Ill health (this reason shall only be given if it is, in the opinion of the Head Master/Head Mistress well founded).
- (iii) Abolition or closure of school.
- (iv) Completion of the school course.
- (v) Minor or Private reasons [including all reasons other than the foregoing]
If failure to secure promotion has been put forward as a reason or is considered by the Head Master/Head Mistress, to be the real reason, the fact should be noted here.

Dated 16.05.1991


Head Master/Head Mistress
North Guwahati Girls' H.E. School
P.O. Guwahati-30.

Certified to be true

Copy



Advocate

moneses B

List of Casual Mazdoor/Labours engaged in Telegraph activity area of Kamrup BSA.

No.	Name of the Casual Labour	Community	Date of birth.	Date of engagement	Engaged by	Place of engagement	Engaged against.	Remarks
		(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	SRI Bhaniram Deka	OC	24-9-67	01-01-90	C.S.CTO, GH	T/C, Panbari	Farash-cum-W/Man	Engaged as part labour -
2.	Chempak Palukdar	OC	01-3-71	01-05-90	-do-	T.O. Noornati	-do-	Instructions of the C.G.M.T/GH
3.	Sachin Das	SC	30-4-61	01-02-91	-do-	T.O. Maligora	Night-Guard	letter No. RRPC-12/82 dttd 23-12-92 & No. TTUT-1/1/2/2 dttd. 13-4-93.
4.	Kulen Das	SC	01-3-72	01-07-91	-do-	T/C Dispur	-do-	
5.	Subash Barman	OC	28-2-67	11-11-91	-do-	T/C Ply. /Str.	-do-	-do-
6.	Niranjan Malakar	SC	01-11-71	26-02-92	-do-	T/C Rly. Sta. Farash-Cum-W/Man.	-do-	-do-
7.	Sarju Basfore	SC	01-7-63	21-05-93	-do-	T.O. Noornati	Safaiwala	-do-
8.	Santu Chakraborty	OC	01-5-73	01-11-93	-do-	T/C Kabilipara	W/Man-cum-Farash	-do-
9.	Kameswar Kardong	ST	01-10-69	05-11-93	SDE(E) I/D	CTO Guwahati	Electrical Labour	-do-
10.	Birbal Basfore	SC	08-11-75	01-12-93	C.S.CTO, GH	T.C. Ulubari	Safaiwala	-do-
11.	Kiron Ch. Boro	ST	29-9-73	01-04-94	-do-	T/C Kabilipara	Night Guard	-do-
12.	Rijoy Boro	ST	25-8-71	15-07-94	-do-	T.O. Assam Sacri	Farash-Cum-W/Man	-do-
13.	Rabin Ch. Boro	ST	31-10-72	03-05-95	-do-	T/C Dispur	-do-	-do-
14.	SRI Kiran Kalita	OC	24-7-70	16-7-95	-do-	T.O. Maligora	-do-	-do-
15.	Sanjay Shaw	OC	10-2-78	01-03-96	-do-	T/C GH High Court	-do-	-do-
16.	Ramoni Medhi	OC	24-2-73	01-08-96	-do-	T/C Borjhar Arr/Ter.	-do-	-do-
17.	Nayan Jyoti Dutta	OC	01-01-75	13-08-96	-do-	T/C Borjhar Dep/Ter.	-do-	-do-
18.	Miss Muzfika Sultan	CC	10-12-75	26-08-96	SDE (G), CTO	C.T.O.Guwahati	As Peon of SDE (G)	-do-
19.	SRI Jagat Ch. Brahma	ST	01-01-59	28-08-96	C.S.CTO/GH	T.O. Maligora	Delivery of Telegrams & Telephone Bills	
	Mohan Kr. Brahma	ST	23-9-77	03-10-96	-do-	T.O. Noornati	-do-	-do-
	Pradip Bhuyan	OC	31-12-77	07-10-96	-do-	T.O. Ulubari	-do-	-do-
	Kaj Bora	OC	01-01-77	05-08-96	-do-	T.O. ASSM Sachiavalaya	-do-	-do-

7/26-5770

Dated at Guwahati, the 30-10-9

Ch. 1 of 8: Introduction

On 15-3 to be
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NO. STA-51/CL/96-97/01 Dated at Guwahati, the 30.10.96

To

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

(for attn. of Sri M.C.Baruah, D.E. (P&A) pl.)

Sub:- Engagement of Casual Labour.

Reff:- Your letter No.TDM/EST-179/96-97/45 dtd. 25-9-96.

All list of casual labour engaged in the Telegraph
Activity Area under Kamrup SSA is furnished below under
enclosed Annexure-I.

In view of the acute shortage of Group-D staff as
furnished below, only 22 Casual Labour have been engaged
to run the smooth functioning of works of different units
of Telegraph activity area under Kamrup SSA (CTO/4 T.Os &
7 T.Cs).

i) T/Man(O/D) & (I/D), Gateways & RM(Engg.) 19
shortage as per sanctioned strength.

ii) T/Man(O/D) & (I/D) in T.O.Ulubari as per 5
justification but not yet sanctioned.

iii) RM(TEC) as per CGMT/Guwahati letter No.TTUI-
1/3/95-96 dtd. 28/12/95 (Copy enclosed)
for 7 Telecom Centres viz., Dinspuk, GH Rly. Khazan
Station, Dorgjhar Arrival Terminal & Departure
Terminal, Kahilipara, Panbazar & Guwahati High
Court & 3 T.Os viz., Naligaon, Noonmati &
Ulubari. Total 43

(iv) Anticipated vacancy after training & posting
of Group-D staff as Phone Mechanic 64

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

In this connection, it may be stated that the Casual
Mazdooras under Sri. No. 1 to 6 of Annexure-I have been engaged
to meet up the acute shortage of GP-D staff in CTO/TOs & TCS
prior to January/93. Now, their engagement have been confirmed
w.e.f. 01-01-93 as per instructions contained vide CGMT/Guwahati
letter No. RRFC-18/RE dtd. 23-12-92 and No.TTUI-1/3/95-96
dtd. 18-4-95 (Copies enclosed).

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

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

"Certified that the minimum Casual Mazdoors engaged
in CTO/TOs & TCS of this Telegraph activity area
under Kamrup SSA are essential for smooth functioning
of works of the said units".

(S/10/1),
Chief Superintendent,
C.T.O, Guwahati-781001.

Enclosure 1) Annexure-I.

Reff to:- The A.G.O, M.T.O (G)

Certified to

be true copy

Zb

Enclosed

Department of Posts & Telegraphs
Office of the Chief Superintendent, CTO, Guwahati

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

Name of the Casual Labour	Community	Date of birth.	Date of engagement	Engaged by	Place of engagement	Engaged against	Remarks
(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1. Sri Bhaniram Deka	OC	24-9-67	01-01-90	C.S.CTO, GH	T/C Panbazar Farazkum-W/Man	Engaged as per instructions of the CTO/GH	
2. " Champak Talukdar	OC	01-3-71	01-05-90	-do-	T.O. Noornmati -do-	letter No.RRFC-13/PE dtd.	
3. " Sachin Das	SC	30-4-61	01-02-91	-do-	T.O. Maligaon Night-Guard	23-12-92 & No.TTUI-1/3/95-321	
4. " Kulen Das	SC	01-3-72	01-07-91	-do-	T/C Dispur	-do- dtd. 18-4-95.	
5. " Subhash Barmaa	OC	28-2-67	11-11-91	-do-	T/C Rly. Sta.	-do-	
6. " Niranjan Malakar	SC	01-11-71	25-02-92	-do-	T/C Rly. Sta. Sachi-Farah-Cum-W/Man	-do-	
7. " Sacju Basfore	SC	01-7-63	21-05-93	-do-	T.O. Noornmati	Saiwala	-do-
8. " Baru Chakraborty	OC	01-5-73	01-11-93	-do-	T/C Kahilipara	W/Man-cum-Farah	-do-
9. " Kameswar Kardong	ST	01-10-69	05-11-93	SDE(E) I/D	CTO Guwahati	Electrical Labour	-do-
10. " Birbal Basfore	SC	08-11-75	01-12-93	C.S.CTO, GH	T.O. Ulubari	Saiwala	-do-
11. " Kiran Ch. Boro	ST	29-9-73	01-04-94	-do-	T/C Kahilipara	Night Guard	-do-
12. " Bijoy Boro	ST	25-3-71	15-07-94	-do-	T.O. Assam Sachi-Farah-Cum-W/Man	-do-	
13. " Rabia Ch. Boro	ST	31-10-72	03-05-95	-do-	T/C Dispur	-do-	
14. Sri Kiran Kalita	OC	24-7-70	16-7-95	-do-	T.O. Maligaon	-do-	
15. Sri Sanjay Shaw	OC	10-2-78	01-03-96	-do-	T/C GH High Court	-do-	
16. " Ramoni Medhi	OC	24-2-73	01-08-96	-do-	T/C Borjhar APP/Ter.	-do-	
17. " Nayan Jyoti Dutta	OC	01-01-75	13-08-96	-do-	T/C Borjhar Dep/Ter.	-do-	
18. Miss Musfiqa Sultan	OC	10-12-75	26-08-96	SDE(G), CTO	C.T.O. Guwahati	As Peon of SDE(G)	-do-
19. Sri Jagat Ch. Brahma	ST	01-01-69	28-08-96	C.S., CTO/GH	T.O. Maligaon	Delivery of Telegraphs & Telephone Bills	
20. " Mohan Kr. Brahma	ST	23-9-77	03-10-96	-do-	T.O. Noornmati	-do-	
21. " Pradip Bhuyan	OC	31-12-77	27-10-96	-do-	T.O. Ulubari	-do-	
22. " Ranjaj Bora	OC	01-01-77	05-08-96	-do-	T.O. ASSM Sachi Valaya	-do-	

2X
Certified to be true
by D. Bhattacharya
Date: 28/07/2007/04/07



Sl. No.
নথি নং 0049567

মতমুক্ত জাতীয়

GOVERNMENT OF ASSAM
(অসম চৰকাৰ)
DIRECTORATE OF HEALTH SERVICES
(স্বাস্থ্য সেবা সঞ্চালকালয়)
CERTIFICATE OF DEATH
(মৃত্যুৰ প্রমাণ পত্ৰ)

ISSUED UNDER SECTION 12/17 of the Registration of Births and Deaths Act, 1969.

(জন্ম আৰু মৃত্যুৰ পঞ্জীয়ন আহিন ১৯৬৯ ৰ ১২/১৭ অংশত নিশ্চিন্তা)

This is to Certify that the following information has been taken from the original record of Death which is in the register for.....
Registration unit of..... of District..... of the State of Assam.
হয়াল দ্বাৰা প্রমাণিত কৰা হয় যে নিম্ন নথিত তথা অসম বাজাৰ জন্ম মৃত্যু নথি/
পোৰসভাৰ মুকুট মুকুট মুজোৰ অন্তৰ্গত মুকুট মুকুট মুজোৰ গোটৰ পঞ্জীৰ মূল অভিলেখৰ পৰা
সংগৃহীত কৰা হৈছে।

Name/নাম : - বিদ্যুত পাতীন মিশন - মিশন - বিদ্যুত পাতীন

Sex/লিঙ্গ : - মহিলা

Date of Death/মৃত্যুৰ তাৰিখ - ০৫/০৭/২০০৯

Place of Death/মৃত্যুৰ স্থান - মুকুট মুকুট

Registration No./পঞ্জীয়ন নং - ১০৫

Date of Registration/পঞ্জীয়ন তাৰিখ - ০৫/০৮/২০০৯

মুকুট মুকুট

Signature of issuing authority/জারি কৰা কৰ্ত্তৃপক্ষৰ চৰ্যা

Designation/পদবী

Date/তাৰিখ/১৫/৮/০৯ মুকুট মুকুট মুজোৰ প্রতিষ্ঠা

Stamp Sig. of Chief Registrar/মুকুট মুকুট মুজোৰ চৰ্যা

No disclosure shall be made to any particular person regarding the cause of death as entered in the Register. See proviso to Section 17 (1)

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Sb
Advocate

TO
The Chief General Manager,
Telecom .BSNL.
Assam Telecom Circle ,Ulubari
Guwahati-781007.

Dated ,Guwahati the 11 May, 2001.

Sub: Prayer for appointment to the widow of a
deceased casual employee.

sir,

Most respectfully I beg to lay before you the following
few lines for favour of your sympathetic consideration.

That Sir, my husband Late Sachin Das, who had been serving
as a casual employee under CTO since June, 1991, died on 11th
April, 2001 due to sudden illness. Although the services of all
his contemporary casual workers working under SDOE, SDOP, DMT,
and other Deptt. were regularised, his service was not regular-
ised till his death. During his life time too we with three
growing Children could hardly manage the minimum requirement
for our livelihood.

That Sir, my eldest son is a student of Class-X and the
other two are minors. Now in absence of my husband I am at sea
with my three children. I am not in a position to meet the
expenses of our livelihood. The education of my children is a
far cry. Without a source of income I will not be able to lead
a normal life to the minimum standard. In these competitive days
the education of the Children is a must.

That Sir, under the above circumstances I request your
honour to be kind enough to offer me any job in your Department
so that I with my three children can survive. This is my humble
submission before your honour.

yours faithfully,

Miss Sunita Das,

W/o Late Sachin Das,

For the last 10 years

under C.S.C.T.O. Guwahati

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Advocate

Annexure-F

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI

ORDER SHEET.

ORIGINAL APPLICATION NO.327 OF 2001.

Mrs.S.R.Das ... Applicant
Versus
U.O.I & ors. ... Respondents.

P R E S E N T.

THE HON'BLE SHRI K.K.SHARMA, MEMBER(A)

For the Applicant: Mr.A.C.Buragohain,
Mr.N.Borah, Advocates.

For the Respondents: Mr.B.C.Pathak, Addl.C.G.S.C.

D A T E

O R D E R

12.9.01. This Original Application under section 19 of the Administrative Tribunal Act, 1985 came for admission today. Mr.N.Borah, learned counsel appearing for the applicant states that the applicant in this case is a widow of Late Sachin Das, The applicant's husband was appointed as a Casual Worker with effect from 1.2.1991. The services of Late Sachin Das was confirmed with effect from 1.1.1993. Late Das died a premature death on 11.4.2001. The applicant applied for appointment on compassionate ground on account of untimely death of the husband of the applicant. The applicant submitted an application for compassionate appointment on 27.5.2001 which is still pending.

I have heard the learned counsel for the applicant and Mr.B.C.Pathak learned Addl.C.G.S.C. for the respondents.

Mr.Pathak referring to the Circular dated 7.5.1991 by Department of Telecom submitted that as the husband of the applicant was neither a regular employee nor an employee having temporary status holding a Group D post, the applicant is not entitled to compassionate appointment and the case

contd...

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Advocate

12.9.2001. of the applicant is not covered under the Circular.

Having heard the learned counsel for the parties, I am of the view that as the husband of the applicant was confirmed with effect from 1.1.1993 (Annexure-'C' to the O.A.), ends of justice will be met if a direction is given to the respondents to consider the case of the applicant for compassionate appointment as per rules and is in the light of Annexure-'C' to this O.A. and also in the light of Circular dated 7.5.2001.

With this the application is disposed of as above. No order as to costs.

Sd/-

MEMBER (A)

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प्राप्ति प्रतिस्ति

N.S. G

(13/9/2001)

Section Officer (J)

आनुसारा अधिकारी (न्यायिक कार्य)

Central Administrative Tribunal

क्षेत्रीय-प्रशासनिक अधिकरण

Guwahati Bench, Guwahati-6

प्राप्ति प्राप्ति, प्राप्ति

13/9/2001

BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)
O/O THE CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE: ULUBARI: GUWAHATI

No. STES-21/344/9

Dated at Guwahati the 15/11/2001

Registered

To

Mrs. Subha Das,
W/o Late Sachin Das,
Vill:- Majgaon, P.O. Majgaon,
P.S. Majgaon, Dist. Kamrup (Assam),

Sub:- Prayer for grant of employment on Compassionate Ground.

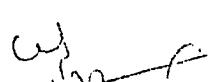
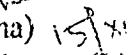
Madam,

In due compliance of the judgement and order dated 12.09.2001 passed by the Hon'ble Administrative Tribunal, Guwahati in the OA No. 327/2001, the matter pertaining to the compassionate appointment has been thoroughly examined keeping in view the grounds shown in your representation dated 25/9/2000.

Shri Sachin Das was irregularly and un-authorisedly engaged by the Chief Superintendent, CTO, Guwahati as a casual labourer on day to day basis for performance of Sundry works of casual and intermittent nature. He was not appointed against any post and was not regular employee of the Department. Be it mentioned here that the engagement of casual labourer is not an appointment to any post according to rules and the casual labourer does not hold any post. Such engagement can not be confirmed until formally appointed to any sanctioned post after due process of recruitment Rules.

The rules governing the employment on compassionate ground do not have any provision for grant of employment to the dependent family member of deceased casual labourer.

For the above reason, it is not possible to provide you any employment in the Department. As there is complete ban on engagement of casual labourer, it is also not possible to engage you as a casual labourer.


(G. C. Sarma) 
Asstt. Director Telecom (L)

Copy to—The ADT (WLF), CO, Guwahati, for information and record.

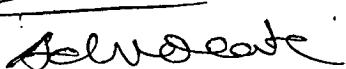

For CGMT, Assam Circle, Guwahati


TO Subha Das
Wife of Late Sachin Das
w/o Late C.T.O. Guwahati

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True copy.




Sarwar

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 273 of 2001

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

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

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

Sri Kameswar Kardong (146)
S/o Rupeswar Kardong,
Village-Birubari,
P.O. Gopinath Nagar,
P.S. Paltanbazar,
Guwahati-16.
District-Kamrup, Assam & 9 Ors.

...Applicants

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

-versus-

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

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

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

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

Respondents

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

O R D E R (ORAL)

CHOWDHURY J. (V.C.).

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

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SD Advocate*

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

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

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

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

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

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

Contd...

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

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

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

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প্রাপ্তির প্রতিলিপি

W.S. 3
20/3/02
Section Officer (S)

গুৱাহাটী অধিদায়ী (স্নায়ুক্ত কোর্ট)
Central Administrative Tribunal

গুৱাহাটী প্রযোগনিক অধিদায়ী
Guwahati Bench, Guwahati

তাৰিখ: 20/3/02

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Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: : GUWAHATI.

O.A. NO. 110 OF 2002.

Filed By
24/5/02

Mrs. SubhaRani Das.

-vs-

Union of India & Ors.

-And -

IN THE MATTER OF ::

Written statement submitted by the respondents.

The Respondents beg to submit written statement as follows :-

1. That with regard to para - 1 of O.A., the respondents beg to state that the order dated 15/11/2001 was issued after examining all aspect of the case. The same is a reasoned one and there is no infirmity in the order.
2. That with regard to para - 2 & 3 of O.A., the respondents beg to offer no comments.
3. That with regard to para- 4(a), 4(b), ~~4(c)~~ of O.A., the respondents beg to offer no comments.
4. That with regard to para - 4(c) of O.A., the respondents beg to state that the respondents department has no records or knowledge of the family particulars of the Late Sachin Das who was engaged as casual labourer for some duration of time.

Casual labourers are engaged on day to-day requirement basis. Since the casual mazdeer are not Departmental employee no service book or other form of records is

maintained in respect of such casual labourers. The department is, therefore, not in a position to comment on the family status of Late Sachin Das and his relation with the present applicant.

5. That with regard to para - 4(d) of O.A., the respondents beg to state that Late Sachin Das was irregularly engaged by the Chief Superintendent CTO, Guwahati, without any competence and justification. There has been a complete ban on engagement of casual labourer since 01/04/86. The Chief Superdt, CTO, Guwahati irregularly engaged Late Das and few others in defence of the imposition of ban order. Such irregular engagement that too without following any selection procedure has no sanction of any Rule/Law.

6. That with regard to para - 4(e) of O.A., the respondents beg to state that the Chief Superdt, CTO has no authority to engage least confirm a casual labourer. In fact the term confirm is unknown in relation to casual labourer. A casual labourer is a casual labour and remains so until Temporary Status is granted by competent authority.

7. That with regard to para - 4(f) of O.A., the respondents beg to state that there is absolutely no provision in any scheme about the confirmation of casual labourer. A casual labourer in course of time depending on the length of service may be granted Temporary status and thereafter as per provision of departmental rules can be considered for appointment against sanctioned Group 'D' post by competent appointing authority. The fact remains that Late Sachin Das was working as a casual labourer and Temporary status was not confirmed on him nor he was absorbed in the Department.

8. That with regard to para - 5(g) of O.A., the respondents beg to state that as already submitted in foregoing Para the Department has no knowledge of the Surviving family member(s) of the deceased Sachin Das.

9. That with regard to Para- 4(h) of O.A., the respondents beg to state that the respondents examined the request of the applicant but there is no way within the rule to accede to her request.

10. That with regard to para - 4(i) of O.A., the respondents beg to state that the respondents defended the case by filing statement explaining the fact of the case and the absence of any rule/law for providing employment to the dependent family member of deceased labourer.

The Hon'ble Tribunal was pleased to pass the judgment and order dated 12/9/01 with a direction to the department to consider the case of the applicant. The respondent Department respectively complied with the direction with diligent (Annexure - A)

11. That with regard to para - 4(j) of O.A., the respondents beg to state that the case was examined in depth keeping in view the direction of the Hon'ble Tribunal and the Departmental Rules on the subject. After detailed examination, the order dated 15/11/2001 was passed under the signature of ADT(Legal) Circle office, thereby informing the applicant about the fact of the case and the reason inter alia for not acceding to here request. (Annexure - B and Annexure-C and Annexure - D.)

12. That with regard to para - 4(k) of O.A., the respondents beg to state that it is beyond apprehension as to what the deceased Sachin Das would have done or for that matter the Department would do as regard his casual service had he been alive. The fact remains that he has been a casual labourer at the time of his death. The case has to be settled on the basis of factual position without entertaining any assumed position.

The case of Late Sachin Das is not similar with the applicants of OA No- 273/2001 who are currently on engagement on the basis of CAT order.

13. That with regard to para - 4(n) The respondent beg to state that the case of the applicant was examined in totality with open mind the facts and circumstances of the case is heavily tilted against her as there is no rule to provide employment to the dependent family member of a deceased casual labourer.

14. That with regard to para - 4(o), of O.A., the respondents beg to state that the employment of dependent family member compassionate ground is governed and regulated by a well defined set of Rules. Even the dependent of deceased regular Departmental employee cannot claim the employment as a matter of right. It is entirely a matter of discretion of the High Power Committee to grant employment in really deserving cases. So far as family of casual labourer is concerned there is no scheme for grant of employment on compassionate ground.

15. That with regard to para - 4(p) of O.A., the respondents beg to state that the Department is fully sympathetic to the bereaved family but unable to grant the employment as there is no law/rule or scheme in her favour.

16. That with regard to para - 4(q) of O.A., the respondents beg to state that as submitted in the foregoing in the paras, the prayer of the applicant is not covered by any rule/scheme. The application is devoid of merit and no lawful relief is permissible.

v e r i f i c a t i o n

V_E_R_I_F_I_C_A_T_I_O_N

I, Shri Shankar Chandra Das presently working as Asstt. Director Telecom (Legal) be duly authorised and competent to sign the verification, do hereby solemnly affirm and state that the statements made in paras

are true to my knowledge and belief, these made in para

being matter of records, are true to my information derived therefrom and the facts are my humble submission before this Hon'ble Tribunal, I have not suppressed any material facts.

And I sign this verification on this 22nd ~~th~~
day May 2002 at Guwahati.

Shankar Chandra Das
Declarant. 22/5/2002

সহায়ক নির্দেশন দাতা মানুষ

Assistant Director Telecom (Legal)

কামোচৰা, মুখ পুরু পুরু পুরু

Office No. 010, 10th Floor, Assam Telecom Building,

অসম প্রস্তরা, গুৱাহাটী, পুরু পুরু

Assam Telecom Circle, Guwahati-7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.Original APPLICATION NO. 327 of 2001

APPLICANT (s) Mrs. S. R. Das

RESPONDENT (s) U.O.I. Govt.

ADVOCATE FOR APPLICANT(s) Mr. A.C. Borah, Mr. N. Pathak
Mr. B.C. Pathak,
ADVOCATE FOR RESPONDENT(s) Addl.C.G.S.C.12.9.01 Present : Hon'ble Mr.K.K.Sharma,
Administrative Member

This Original Application under section 19 of the Administrative Tribunal Act, 1985 came for admission today. Mr.M. Borah, learned counsel appearing for the applicant stated that the applicant in this case is a widow of Late Sachin Das. The applicant's husband was appointed as a Casual Worker with effect from 1.2.1991. The services of Late Sachin Das was confirmed with effect from 1.1.1993. Late Das died a premature death on 11.4.2001. The applicant applied for appointment on compassionate ground on account of untimely death of the husband of the applicant. The applicant submitted an application for compassionate appointment on 27.5.2001 which is still pending.

I have heard the learned counsel for the applicant and Mr.B.C.Pathak learned Addl.C.G.S.C for the respondents.

Mr.Pathak referring to the Circular dated 7.5.1991 by Department of Telecom submitted that as the applicant was neither a regular employee nor an employee having temporary status holding a Group D post, the applicant is not entitled to compassionate appointment and the case of the applicant is not covered under the Circular.

Having heard the learned counsel for the parties, I am of the view that as the husband of the applicant was confirmed with effect from 1.1.1993 (Annexure- 'C' to the O.A.), ends of justice will be met if a direction is given to the respondents to consider the case of the applicant for compassionate appointment, in the light of Annexure-'C' to this O.A. and also in the light of Circular dated 7.5.2001.

With this the application is disposed of as above. No order as to costs.

Sd/-MEMBER (Adm)

Dated 25-9-01

Name: No 3612
Copy for information and record section 4
1) Mr. N. Borah, Advocate, Gauhati High Court
2) Mr. B.C. Pathak, Addl.C.G.S.C. C.A.T.
Amritlal Fenil

N.S. 15/9/2001

Rohan Adhikari (S)

BHARAT SANCHAR NIGAM LIMITED
 (A GOVERNMENT OF INDIA ENTERPRISE)
O/O THE CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE, ULUBARI, GUWAHATI

Recd

No. STES-21/344/9

Dated at Guwahati the 15/11/2001

To:

Mrs. Subha Das,
 W/o Late Sachin Das,
 Vill. Majgaon, P.O. Majgaon,
 P.S. Majgaon, Dist. Kamrup (Assam),

Sub:- Prayer for grant of employment on Compassionate Ground.

Madam,

In due compliance of the judgement and order dated 12.09.2001 passed by the Hon'ble Administrative Tribunal, Guwahati in the OA No. 327/2001, the matter pertaining to the compassionate appointment has been thoroughly examined keeping in view the grounds shown in your representation dated 25/9/2000.

Shri Sachin Das was irregularly and un-authorisedly engaged by the Chief Superintendent, CTO, Guwahati as a casual labourer on day to day basis for performance of Sundry works of casual and intermittent nature. He was not appointed against any post and was not regular employee of the Department. Be it mentioned here that the engagement of casual labourer is not an appointment to any post according to rules and the casual labourer does not hold any post. Such engagement can not be confirmed until formally appointed to any sanctioned post after due process of recruitment Rules.

The rules governing the employment on compassionate ground do not have any provision for grant of employment to the dependent family member of deceased casual labourer.

For the above reason, it is not possible to provide you any employment in the Department. As there is complete ban on engagement of casual labourer, it is also not possible to engage you as a casual labourer.

(G. C. Sarma)
 Asstt. Director Telecom (L)

Copy to—The ADT (WLF), CO, Guwahati, for information and record.

For CGMT, Assam Circle, Guwahati

C/C

Annexure - C

A/B/gdskr/P-16

⑨

H. H. BHARAT SANCHAR NIGAM LIMITED
(A GOVT OF INDIA ENTERPRISE)
O/o THE CHIEF GEERAL MANAGER
ASSAM TELECOM CIRCLE :ULUBARI :GUWAHATI.

No. STES-21/344/12

Dated at Guwahati the 19th November 2001

To

Shri B. C. Pathak,
Addl. C. G. S. C.,
CAT, Guwahati Bench,
Guwahati.

Sub: - Order dated 12/09/2001 passed by the Hon'ble CAT/Guwahati in OA No. 327/01

Kindly find enclosed herewith a copy of the Judgement passed by the Hon'ble CAT, Guwahati in the OA noted above. In their order, the Hon'ble Tribunal, Guwahati, in the last para of the Judgement has stated that the husband of the applicant has confirmed w.e.f. 1/1/93 but the fact is that there is no provision in the rules of the department to confirm a casual labourer, as, such engagement is not against any sanctioned post.

In this connection, I am directed to request you to take appropriate steps before the Hon'ble CAT, Guwahati, for correction of the said recording, as the same may create problem in future.

This may kindly be treated Urgent.

With regards,

Encl:- A/A

Sincerely Yours

(G. C. Sarma)

Asstt. Director Telecom (Legal)

21/11/01

10

Annexure - D

C/gds/IL/P/ 46

BHARAT SANCHAR NIGAM LIMITED
(A GOVT OF INDIA ENTERPRISE)
O/O THE CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE, ULUBARI, GUWAHATI-7

No. STES-21/344/13

Dated at Guwahati the 31.12.2001

To

The General Manager,
Kamrup Telecom District,
BSNL, Guwahati

Sub:- Prayer for Grant of Employment on Compassionate Ground by Mrs. Subha Rani Das w/o Late Sachin Das, casual laourer.

Kindly find enclosed herewith one copy of this office letter No. STES-21/344/9 dated 15/11/2001 issued to Mrs. Subha Rani Das, wife of Late Sachin Das, casual labourer, who prayed for grant of employment on compassionate ground.

This is for favour of your information and necessary action please.

Encl:-A/A


(S. C. Das)
Asstt. Director Telecom (Legal)


C/C