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6
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 344/02

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant (s) H. C. Roy

-Vs-

Respondent (s) H. O. T. J. M.

Advocate for the Applicant (s) Mr. B. C. Das & K. Roy.

Advocate for the Respondent(s) Mr. A. Deb Roy, Sr. C. A. C.

Notes of the Registry	Date	Order of the Tribunal
<p>1/7575398 8/10/02 P.R. W.M. 10/10/02</p> <p>Steps taken</p> <p>✓</p>	11.10.02 lm	<p>Heard Mr. B. C. Das learned counsel for the applicant.</p> <p>Issue notice of motion.</p> <p>Returnable by four weeks. List on 15.11.02 for Admission.</p> <p>In the meantime, status quo shall be maintained.</p> <p>Member</p>
<p>Notice received and sent to DLS for writing the New Zealand No 1 to 3 to Regd. Adm.</p> <p>6/11/02</p> <p>D/X No 30357537 add 9/11/02</p>	29.11.02 lm	<p>Due to circuit attorney at Shillong, the case is adjourned to 29/11/2002.</p> <p>Mr. A. Deb Roy 15/11</p> <p>List on 3.1.03 to enable the respondents to file written statement.</p> <p>Vice-Chairman</p>

31.1.2003 The hearing is adjourned to 31.1.2003 for Admitted.
 090
 Atm

No written statement has been filed.

20/1/03

31.1.2003 Put up again on 7.3.2003 to enable the respondents to file reply, if any.

Vice-Chairman

mb

No written statement has not been filed

20/3/03

7/3/2003 Court did not sit today. The case is adjourned to 21/3/2003 mp

21.3.2003

No written statement so far filed. The application is admitted. List the case on 25.4.2003 for written statement.

No W/S has been filed.

24/4/03

25.4.2003

The respondents are yet to file written statement so far. Further three weeks time is allowed to the respondents as a last chance to file written statement if any.

List the case on 23.5.2003 for further order.

No written statement has been filed

22/5/03

Vice-Chairman

bb

23.5.2003

The respondents are yet to file written statement. Put up again on 27.6.2003 for written statement.

No W/S has been filed

26/6/03

Vice-Chairman

mb

Notes of the Registry	Date	Orders of the Tribunal
No written statement has been filed.	27.6.03	<p>The respondents are yet to file written statement though time granted. Further four weeks time is allowed to file written statement on the prayer made by Mr A. Deb Roy, Sr.C.G. S.C.</p> <p>List on 1.8.2003 for order.</p>
<i>My 27.6.03</i>		<i>Vice-Chairman</i>
No written statement has been filed.	1.8.2003	<p>The respondents are yet to file written statement though time granted. put up again on 29.8.2003 for orders.</p>
<i>My 28.8.03</i>		<i>Vice-Chairman</i>
No W.L.S has been filed.	29.8.2003	<p>Three weeks further time is allowed to the respondents for filing written statement as a last chance. Put up on 19.9.2003 for written statement.</p>
		<i>Vice-Chairman</i>
19.9.03	mb	<p>On the prayer of learned counsel for the respondents case is adjourned to 26.9.03 for orders.</p>
<i>My 25.9.03</i>	lm	<i>I.C. Palit, C.A. Member</i>

Notes of the Registry

Date

26.9.03

Orders of the Tribunal

The respondents has not been filed the written statement, though several time was granted. Let this case be listed for hearing on 7.11.03. In the meantime the respondents may file written statement.

Vice-Chairman

lm

No. w/s has been filed.

7.11.03

as Bench today.

30
15.12.03

adjourned to 4.12.03.

30
6.

16.12.03

None present for the applicant.
List again on 29.1.04 for hearingW/s has been filed
on respondent's (one copy)

16.12.03

ICV Baldev
Member

pg

19.2.2004

List again on 10.3.2004 for hearing.

mb

10.3.2004

On the plea of counsel for the respondents list on 6.4.2004 for hearing.

ICV Baldev
Member (A)

mb

ICV Baldev
Member (A)

6.4.2004

List on 18.5.2004 for hearing.


Member (A)

mb

27.8.2004 Present: Hon'ble Shri D.C. Verma,
Vice-Chairman

Hon'ble Shri K.V. Prahladhan
Administrative Member.

Mr K.C. Roy, learned counsel
for the applicant and Mr A. Deb
Roy, learned Sr. C.G.S.C. are
present. On mention by the learned
counsel for the applicant the file
has been called. Learned counsel
for the applicant stated at the
Bar that as per instructions
received from his client he wants
to withdraw the O.A. The same is
permitted. The respondents have no
objection.

The application is
dismissed on withdrawal.


Member


Vice-Chairman

nkm

10
X
Before the Hon'ble
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

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

ORIGINAL APPLICATION NO. 344 /2002

TITLE OF THE CASE :

BETWEEN

Shri Hemen Chandra Roy

- Versus -

Union of India & Ors.

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Filed by :

B.C. Das
Advocate.

Filed by:
Bimal Chandra D
Advocate
10.10.02

Sri Hemen Chandra Roy -

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::::
GUWAHATI BENCH

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

ORIGINAL APPLICATION NO. 344 /2002

BETWEEN

Shri Hemen Chandra Roy Applicant.

- Versus -

1) The Union of India

Represented by the Secretary
to the Ministry of Communication,
New Delhi.

2) The Chief General Manager,

Assam Telecom Circle,
Guwahati.

3) The Junion Telecom Officer,

(Telegraphs), Bongaigaon,
Assam.

.... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against for

2.

not considering the case of the Applicant for grant of temporary status and regularisation of his services pursuant to the Govt. of India O.Ms., also Judgement and Order passed by Hon'ble Supreme Court of India, as well as the Hon'ble Central Administrative Tribunal, Guwahati Bench by which under the similar facts situation like that of the application, other named has been benefitted.

2. LIMITATION :

The Applicant declares that the instant application has been filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

3. JURISDICTION :

The Applicant further declares that the subject matter of the instant case is ~~thix~~ within the jurisdiction of the Hon'ble Tribunal.

4. FACTS OF THE CASE :

4.1) That the Applicant is a citizen of India and, as such, is entitled to all rights, protection and privileges as guaranteed by the Constitution of India and laws framed thereunder.

4.2) That the Applicant is a casual Mazdoor presently holding the post of casual worker under S.D.O.T., Telegraphs, Bongaigaon without any break in service since June, 1988 till today. The Applicant is presently working/continuing as casual worker and is drawing his wages under departmental pay slips, which shows that he is a casual worker of the Department of Telecommunication and hence prays for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

A copy of the letter dated 11.6.1999 is annexed herewith and marked as Annexure - 1.

4.3) That some of the similarly situated employees belonging to the postal Department had approached the Hon'ble Supreme Court for direction for regularisation, as has been prayed in the instant application and the Hon'ble Supreme Court acting on their Writ Petition had issued directions in regard to the regularisation as well as grant of temporary status of those casual labourers of the Department of Posts. It is pertinent to mention here that claiming similar benefit a group of similarly situated employees under the respondents i.e. the Department of Telecommunication had also approached the Hon'ble Supreme Court for a Writ Petition (C) No. 1280/89 (Ram Gopal & Ors. Vs. Union of India & Ors.) along with several Writ Petitions

contd....

Sree Bhavana Ch. For

i.e. 1246/86, 1248/86 etc. In the aforesaid Writ Petitions the Hon'ble Supreme Court was pleased to pass a similar direction to the respondents authority to prepare a Scheme on a rational basis for absorption of the casual labourers as far as possible, who have been working more than one year in their respective posts. Pursuant to the Judgement the Govt. of India, Ministry of Communication prepared a Scheme in the name and style "Casual Labourers (Grant of Temporary Status and regularisation) Scheme 1989" and the same was communicated vide letter No. 269-10/89-STN dtd. 7.11.89. In the Scheme certain benefits granted to the casual labourers, such as confirmation of temporary status, wages and daily rates with reference to minimum pay scale of regular Group - D officials including D.A./HRA etc.

Copies of the Apex Court Judgement and the above-mentioned Scheme is annexed herewith and marked as Annexures- 2 and 3 respectively.

4.4) That as per Annexure - 2 Scheme as well as the directions issued by the Hon'ble Supreme Court (Annexure-1) in the cases mentioned above, the applicant is entitled to the benefits described in the Scheme.

4.5) That the respondents after issuance of the aforesaid Scheme, issued further clarification from time to time of which mention/ may be made of letter No. 269-4/99 -STN-II dtd. 17.12.93 by which it was stipulated that the benefits of the Scheme should be conferred to the casual

labourers who were engaged during the period from 13.3.85 to 22.6.88.

The applicant craves leave of the Hon'ble Tribunal to produce the said order at the time of hearing of the case.

4.6) That on the other hand casual workers of the Deptt. of Posts who were employed on 29.11.89 were eligible to be conferred the temporary status on satisfying other eligible conditions. The stipulated dated 29.11.89 has now further been extended upto 10.9.93 pursuant to a Judgement of the Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in O.A. No. 750/94. Pursuant to the said Judgement delivered by the Ernakulam Bench, Govt. of India, Ministry of Communication issued letter No. 66-52/92-SPD-I dated 1.11.95 by which the benefits of the conferring temporary status to the casual labourers have been extended upto the recruits upto 10.9.93.

A copy of the aforesaid letter dtd. 1.11.95 is annexed herewith and marked as Annexure- 4.

The applicant has not been able to get an authentic copy of the said letter and accordingly prays for a direction to produce an authentic copy of the same at the time of hearing of the instant application.

4.6) That the benefits of the aforesaid Judgement and Circular of Govt. of India is required to be extended to the applicant in the instant application more so when he is similarly situated with that of the casual workers

Smt. Sharmila Chatterjee

to whom benefits have been granted and presently working in the Deptt. of Post. As stated above, both the Deptts. are under the same Ministry i.e. Ministry of Communication and the Scheme were pursuant to the Supreme Court's Judgement as mentioned above. There can not be any earthly reason as to why the applicant shall not be extended the same benefit as has been granted to the Casual labourers working in the Deptt. of Post.

4.8) That the applicant states that the casual labourers working in the Deptt. of Telecommunication are similarly situated like that of the casual workers working in the Deptt. of Posts. In both the cases relevant Schemes was prepared as per the direction of the Hon'ble Supreme Court delivered their Judgement in respect of the casual workers in the Deptt. of Telecommunication following the Judgement delivered in respect of casual workers in Deptt. of Posts. As stated earlier both the Deptts. are in the same Ministry. Therefore, there is apparent discrimination in respect of both the sets of casual labourers though working under the same Ministry. It is pertinent to mention here that the casual workers of the Deptt. of Post on obtaining the temporary status are granted much more benefit than the casual workers of the Deptt. of Telecommunication. Similar benefits are required to be extended to the casual workers of the Deptt. of Telecommunication having regard to the fact both Deptt. are under the same Ministry and the basic foundation of the Scheme for both the Deptts. are Supreme Court's Judgement referred to above.

contd...

Grievances/Chfor

7.

4.9) That the applicant states that in view of aforesaid Scheme as well as the verdict of the Hon'ble Supreme Court, he is entitled to be regularised as he is similarly situated with the rest.

4.10) That the applicant begs to state that making a similar prayer a group of casual workers under Assam Circle had approached this Hon'ble Tribunal by way of filing O.A. No. 299/96 and 302/96 and this Hon'ble Tribunal was pleased to allow the aforesaid application on 13.8.97 by a common Judgement and Order.

A copy of the said order dated 13.8.97 is annexed herewith and marked as Annexure- 5.

4.11) That the applicant states that it is settled position of law that when same principles have been laid down in a given case those principles are required to be made applicable to other similarly situated cases without requiring them to approach the Hon'ble Court again and again.

4.12) That the applicant states that the action of the respondents towards non-implementation of the case of the applicant is with some ulterior motive only to deprive him from his legitimate claim of regularisation. The respondents being the nodal employer ought to have granted the benefit of temporary status as per the Scheme.

4.13) That the applicant states that in nut shell his whole grievances is that to extend the benefit of the

contd....

15
See Annexure One Page -

aforesaid Scheme as well as similar treatment as has been granted to the casual workers working under Deptt. of Posts in regard to treating the cut off date of engagement as has been modified from time to time by issuing various orders of which mention may be made of order dated 1.9.1999 by which the benefit of the Scheme has been extended to the recruits upto 1998.

A copy of the Order dated 1.9.99 is annexed herewith and is marked as Annexure - 6.

4.14) That your applicant begs to state that similarly situated casual workers had approached this Hon'ble Tribunal for granting of temporary status and regularisation of their services. This Hon'ble Tribunal by Order dated 31.8.1999 was pleased to issue an order directing the respondents to consider the cases after due scrutiny of the documents.

A copy of the order dated 31.8.1999 is annexed hereto and marked as Annexure - 7.

4.15) That your applicant begs to state that he is now going to be over aged and if he is not regularised in this Department then he will also be deprived from other Govt. and semi-Govt. employment. He is rendering unblemished service with full satisfaction of higher authority.

contd...

4.16) That your applicant begs to state that he is running from pillar to post to get his service regularised, but the respondents have not taken any action in this regard.

4.17) That your applicant submits that he belongs to a very poor family back ground as such if his service is not regularised then he will be suffered from mental and financial anxiety.

4.18) That your applicant submits that there is no alternative remedy and the remedy sought for in this petition is aequate and proper.

4.19) That your applicant filed this application for bonafide and also for ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISION :

5.1) For that it is settled law that same principles have been laid down in a judgement extending certain benefits ~~few~~ to a certain set of employees, the said benefits are required to be given to similarly situated employees without requiring them to approach the court again and again.

5.2) For that the discrimination meted out to the applicant in not extending the benefits of the

10.

Scheme and in not treating at par with the postal employees in violative of Article 14 and 16 of the Constitution of India.

5.3) For that the respondents could not have deprived of the benefits of the aforesaid Scheme which has been applicable to their fellow employees which is also violative of Article 14 and 16 of the Constitution of India.

5.4) For that as per the Order dated 1.9.1999 the case of the applicant is required to be considered under the Scheme of 1989 and since the applicant has completed 240 days of continuous service in a year, respondents are duty bound to grant temporary status as per the Scheme, more so when the other similarly situated employees like that of the applicant has been granted with the same benefit.

5.5) For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the case.

contd...

11.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedies available to him.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which the application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them. It is further stated that since the respondents have not yet issued any order and due to paucity of time and having regard to the urgency in the matter the applicant has not filed any representation however has made several verbal representation.

8. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above, the applicant prays most respectfully that the instant application be admitted, records be called for and after hearing the parties in the case on the cause

or causes that may be shown and on perusal of the records be granted the following reliefs to ~~be~~ the applicant :

- 8.1) To direct the respondents to extend the benefits of the said Scheme to the applicant and to regularise him.
- 8.2) To direct the respondents not to fill up any vacant post of Daily rated Mazdoor without first considering the case of the applicant.
- 8.3) Cost of the application.
- 8.4) Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application the applicant prays before your Lordships for a direction to the respondents that he may not be ousted from his services as he is working since June, 1988 till date.

10.

11. PARTICULARS OF I.P.O. :

- 1) I.P.O. No. : 7G 675398
- 2) Date : 8.10.2002.
- 3) Payable at : Guwahati.

13.

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Sri Hemen Chandra Roy, S/O Late Pachu Gopal Roy, aged about 30 years, resident of Bhakat Gaon, Khanabari, Chapor, do hereby verify and state that the statements made in paragraphs 4.1, 4.4, 4.7 to 4.9, 4.11, 4.12, 4.15, 4.16, are true to my knowledge and those made in paragraphs 4.2, 4.3, 4.5, 4.6, 4.10, 4.13 & 4.14 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 10th day of October, 2002.

Sri Hemen Ch Roy.

SIGNATURE

INDIAN POSTS AND TELEGRAPH DEPARTMENT - 14²⁰

From OFFICE OF THE JUNIOR
TELECOM OFFICER (TELEGRAPH)
BONGAIGAON - 783 380.

देश में
To

* TO WHOM IT MAY CONCERN. *

क्रम संख्या
No.

दिनांक
Dated at Bongaigaon the 11th June, 1989

दिप्त
Subject

Certified that Shree Hemen Chandra Roy, son of Late Pachu Gopal Roy, an inhabitant of Bhakatgaon, Khanabari, Chapor was engaged on ACG-17 as and when required during the period from the month of June, 1988 to May 1989 for working as a casual Mazdoor in the jurisdiction of the S.D.O.T. Telegraphs, Bongaigaon.

He was engaged ~~for~~ in miscellaneous departmental works such as erection and repairing of overhead lines, laying U/G cables etc.

He was found sober, laborious and obedient during the aforesaid period.

I wish him every success in life.

Bhakatgaon 11.6.89
Junior Telecom Officer
(Telegraph), Bongaigaon

Certified to be
true copy
B. C. Das
Advocate.

ANNEXURE - 2

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

more than one year. The petitioners have

filed a writ petition in the Supreme Court of India.

Civil Original Jurisdiction.

Case No. 1246 of 1986. The decision of the Court is as follows:

Writ Petition (C) No 1246 of 1986.

On 11th January 1987 the following order was passed:

Ram Gopal & ors. etc. Petitioners.

versus- Union of India & ors. Respondents.

Union of India & ors. etc. Petitioners.

versus- Union of India & ors. Respondents.

Union of India & ors. etc. Petitioners.

versus- Union of India & ors. Respondents.

Union of India & ors. 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 30th September 1985. It is contended that the principle of the decision of this Court in Daily Rated Casual Labour Vs. Union of India & ors. 1986 (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 supports the stand of the petitioners.

In the said Judgment this Court said:

"We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the

Postal and Telecom 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/-

Sd/-

(Ranjeet Singh) J.

(Kuldeep Singh) J.

New Delhi

April 17, 1993.

Certified to be
true copy
C. V.
Advocate

29
17-
19

ANNEXURE - 3

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 30.5.83 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 30.3.83 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 30.3.83 would be available for consideration for conferring temporary status. In the unlikely event of there being any case of casual labourers engaged after 30.3.83 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 30.3.83 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

IMF/78/DP dated 27.9.09.

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.

26
The undersigned, Assistant Director General (Finance) of
the Central Pay Commission, is pleased to certify that
the above is correct.
sd/
D. P. D.

ASSISTANT DIRECTOR GENERAL (ATN).

Copy to:

F.O.S. to MDS (C), D.P.O. for information.

D.P.O. to Chairman Commission.

Member (S) / Advisor (HRD), GM (IR) for information.
MCA/CSA/TE -II/IPS/Adm. I/CSE/PAT/SFB-I/6R Secs.

All recognised Unions/Associations/Federations.

27
The undersigned, Assistant Director General (Finance) of the Central Pay Commission, certifies that the above is correct and that the same is in accordance with the rules and regulations of the Central Pay Commission, particularly the Circular dated 27.9.09.

28
ASSISTANT DIRECTOR GENERAL (ATN).

Attested
R. D. D.

~~CONFIDENTIAL~~ 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 a 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.

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 (208 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 work. 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 regularization. They will not be entitled to the benefit of encashment of leave on termination of services for any reason or their quitting service.

iv) Counting of 50% of services rendered under Temporary Status for the purpose of retirement benefit after their regularization.

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 Advances/ food advances on the same condition and rate 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 with in accordance with the relevant provisions of the Industrial Disputes Act, 1947 on the ground of availability of work. A casual labour with temporary status can quit 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 encashment 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.

Done

Attested
B. L. Pan
Advocate

ANNEXURE - A~~EXTRACT~~
EXTRACT

SUGGESTED READING

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

HO.601-90/92-GEN/1

dated 1.11.93.

I am directed to refer to the scheme in the above subject noticed by this office vide letter No. 45-95/87(SGB-I) dated 12.4.93 and C6-9/91-SGB-I dated 30.11.92 as per which full-time casual labourers who were in employment on 27.11.89 were eligible to be conferred "Temporary status" on satisfying other eligibility conditions.

The question of extending the benefit of the scheme to those full-time casual labourers who were engaged recruited after 27.11.89 has been considered in the light of the light of the judgement of the CAT Ernakulam Bench delivered on 13.2.95 in P.A. No. 750/94.

It has been decided the full-time casual labourers recruited after 27.11.89 and up to 16.9.93 may also be considered for the grant of benefit under the scheme.

This issue with the approval of I.S and F.R. vide
D.O. No. 24.22/95 dated 9.10.93.

Attested
B. C. Das
B. Advocate

24 82
-22-
ANNEXURE - 5

**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 prayed for a direction to the respondents to give them certain benefits which are being given to their counterparts 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 labourers working in the telecom Department. They are also similarly situated with their counterparts 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 (1908) 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 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 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.Bharma, 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.Bharma further submits that the action in not giving the benefits to the applicants is unfair and unreasonable. Mr.A.K.Chaudhury, learned Addl.C.G.C for respondents does not dispute the submission of Mr.Bharma. He submits that the entire matter relating to the regularization 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-1 (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.

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

Attested
B. C. Ver
Advocate

ANNEXURE-6

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

Dated 1.3.99.

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. 269-4/99-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 regularization to the temporary status Labourers eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully

(CHARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Federations/Associations.

(CHARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

After read
R. D. S.
Advocate

Sd/- Vice Chairman.

ANNEXURE-7ANNEXURE-6IN 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 Bhuban 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

iii. India Telecom Employees Union 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. B.C. Pathak, Addl. C.G.S.C.

7. O.A. No. 135/1998

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.

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. Malaker

- versus -

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

11. O.A. No. 143/1998

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. 144/1998

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.

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 R

BARUAH,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 application 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

32

respondents be directed not to implement the decision of terminating 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 D.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-BTN 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

3 X

were further extended to the casual labourers of the Department of 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.A.s.

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.A.s 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 respondents 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 D.A. 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 regularization 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 to the casual employees who were engaged before the scheme came into 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 10.9.1997 passed in D.A. No.223 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 10.9.1997 passed in D.A. No.202 and 220 of 1996 the respondents have filed writ petition, 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. Barkar, Mr. I. 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 into 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 scrutinise and examine each case in consulta-

tion 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.

9. No order to costs.

SDA VICE CHAIRMAN

SD/- MEMBER (A)

THE PRACTICAL USE OF

Attested
B. C. Par
Advocate

देशीय सरकारी नियंत्रण
Central Govt. Parivartan Niyamika
17/10/2002
गुवाहाटी न्यायालय
Guwahati Bench

File No. 6
16/12/03

Mr. Deb Roy

St. C. S. C.
S. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 344 OF 2002

Shri H.C. Roy.

..... Applicant.
- Vs -

Union of India & Ors.

..... 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 ~~not~~ to state that the
Respondent Department Considered the case of the applicant and
found that he is not eligible for the benefit of the departmental
scheme for full time casual labourer.

2. That with regard to para 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 applicant
does not hold any post in the department nor he was appointed
as such at any point of time. The applicant was engaged as a

part time casual worker on hourly basis for performance of odd works of purely casual and intermittent in nature and for which engagement of whole time worker is not justified. The applicant worked for 1(one) hour daily from July' 1996 to March' 1997. In the process he worked for 153 days in 1996 and 90 days in 1997 in as many days. As he was not an employee of the department remuneration was not paid through Establishment Pay bill and the same was paid under simple receipt and the expenditure was booked under O.E. (other expences).

4. That with regard to the statement made in para 4.3, of the application the respondents beg to state that persuant to the judgement by the Hon'ble Supreme Court of India, the Department of Telecom prepared a scheme in 1989 for absorption of all casual labourers who completed 240 days casual service in a year. The Scheme was known as casual labourer (Grant of Temporary Status and regularization) Scheme 1989.

The scheme is intended to cover all casual labourer who were on engagement on the day of introduction of the scheme and have completed 240 days in calender year. Under the provision of the scheme good number of casual labourers have been regularized.

The department has imposed a completed ban on ~~engagam-~~ engagement of casual labourers with effect from 22.6.88 and restaining order was issued to all concern. The Telecom Officers are devoid of any power/competence to engage any casual labourer for any type of work beyond the date on 22.6.88.

But later the department of Telecom on humanitarian ground and as one time relaxation decided that all casual labourers who eligible as on 01.08.1998 for grant of TSM under 1989 scheme, would be granted temporary status followed by regularization.

The case of the instant applicant is different from the est. The applicant was not a full time casual labourer and the scheme meant for full time casual labourers does not apply to him. It is a settled position of law that the part-time casual labourers are not entitled for the benefit of the scheme formulated for the full time casual labourers.

3. That with regard to the statement made in paras 4.4 and 4.5 of the application the respondents beg to state that the essence of the direction issued by the Hon'ble Supreme Court of India as well as the Departmental Scheme is to provide security to the casual labourers who have put on duty continuously for one year at least. The present applicant worked for 1(one) hour a day and thus fall into the category of 'Part-Time casual labourer'. His case is neither covered by the direction of the Supreme Court nor the departmental scheme as he was not a full time casual labourer and did not put in continuous service for 240 days as full time casual labourer. As mentioned in earlier paras, he worked for 1 hour a days for 153 in 1996 and 90 days in 1997.

4. That with regard to the statement made in paras 4.6, 4.7, 4.8 and 4.9, of the application the respondents beg to state that ~~%~~ all the casual labourers of the Postal Department engaged up to 10.9.93 were covered under Postal Scheme provided they satisfy other eligibility conditions. Department of

Telecom extended the above scheme up to 01.8.1998 subject to other eligibility condition and hence it is more beneficial compared to Postal Scheme. To draw comparison with the scheme of Postal Department by the applicant is found useless.

5. That with regard to the statement made in paras 4.10 & 4.11, of the application the respondents beg to state that O.A. No. 299/96 and O.A. No. 302/96 aimed at to remove disparity in the cut off date as the Postal Scheme accomodated all casual labourers up to 10.9.93. The Telecom Department relaxed the cut off date up to 01.8.1998 and thereby it is more beneficial compared to Postal Scheme.

6. That with regard to the statement made in para 4.12, of the application the respondents beg to state that the applicant is not entitled either for grant of temporary status or conversion to full time casual labourers as he could no ~~max~~ satisfy the eligibility criteria.

7. That with regard to the statement made in para 4.13, of the application the respondents beg to state that pursuant to the common judgement dated 31.8.1999 the 3(three) members verification committee formed at each SSA to verify the authenticated records found that the applicant worked for 1 hour only per day w.e.f. 01.7.1996 to 31.3.1997. Part-Time casual labourer is not covered by the above mentioned scheme for granting temporary status. His claim is found baseless (copy enclosed).

VERIFICATION

I, Sri Shankar Chandra Das, presently working as Asstt. Director Telecom (Legal), being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statements made in paragraphs are true to my knowledge and belief and those made in paragraph 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 7th day of November 2003.

S. Shankar Chandra Das
7/11/03

Deponent.
सहायक निदेशक दिवसमार (विधि)
Assistant Director Telecom (Legal)
सियारप, क्रम नं. २४ प्रबंध दिवसमार,
२१८ एस. एस. एन्ड. एम्प्लायमेंट, Manager Telecom
२२८ दिवसमार, २२८ अड्डा, गुवाहाटी-७
Assam Telecom Circle, Guwahati-7

B S N L

(6)

To

dtd: 30.05.2003

The SDO(T), Bongaigaon.

It is Intimated That- Sri. Hemen Ch. Roy
is using ^{as Labour} occasionally when it is required
for departmental works.

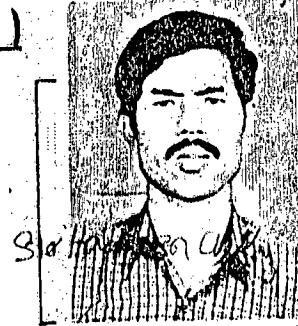
IS : *Abhay*
30/5/03

Sub-Divisional Officer
(T.O.G.T.)

20/5/03
30.05.03
Junior Telecom Officer (Group)
B.S.N.L. Abhayaburi.

ANNEXURE 'C' (PAGE-1)

(7)



Signature of the Mazdoor

*Verification of Records of Casual Labourers in Bongaigaon SSA
Ref :- Hon'ble CAT Guwahati bench decision dated 31-08-99.*

01. Name of the applicant casual Mazdoor : Si Hemanta Ch. Ray

02. O/A No. if the labourer has gone to Court : NIL

03. Father's Name and address : Si Pachugopal Ray
Bhakatgaram

04. Date of birth : 18-9-72

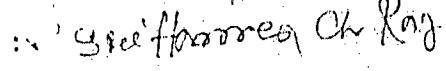
05. Age as on 01-08-1998 : 25 yrs 10 months 13 days.

06. Date of initial engagement : 01-07-1996.

07. Mode of selection (through Employment Exchange or any other method) : No formal Selection.

08. Nature of duty performed : Cleaning of Bongaigaon Tel. & Not working at present.

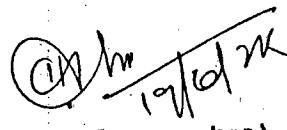
09. Present status of the Mazdoor : Not working at present.

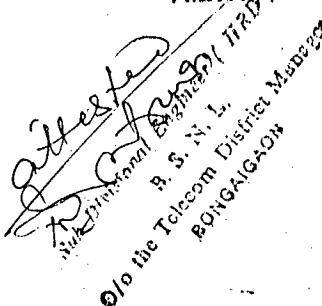
10. Specimen Signature of the Mazdoor : 

11. Engagement particulars from the Date of initial engagement (as per attached sheet) till 01-08-1998. : Sheet enclosed.

12. Recommendation of the Committee whether casual labour should be granted Temporary Status or not keeping in view guide line. : Not recommended to grant temporary status as he has worked as a part time labo and at present not working.

13. Recommendation of the SSA Head/Unit : Not recommended.


A.D.T. (Circle Office member)


A. S. N. L.
Telecom District Manager
BONGAIGAON
O/o the Telecom District Manager

Accounts Officer
O/o the TDM/BGN

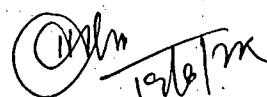
Divisional Engineer (P & A)
O/o the TDM/BGN

ANNEXURE "C" (PAGE-2)

*Engagement particulars from the date of initial Engagement
(Hermen ch. Ray)*

Year	Month	No. of days	Mode of Payment	A/C No.	Vr.No.	Amount	Engaged by whom	Billing/Passing Authority	Name of who has
1996	July	31 days @ 1 hr/ day	Reg-17	15/96-97	28(5)	200/-	Sri D. K. Doley STO/ ATBY	STO/SDOT/ D.E	P. Bal lora
"	Aug	do	do	7/96-97	45(5)	200/-	-do-	-do-	-do
"	Sept	30 days @ 1 hr/ day	do	19/196-97	13(2)	200/-	-do-	-do-	-do
"	Oct	31 days @ 1 hr/ day	do	do	17(2)	200/-	-do-	-do-	-do
"	Nov	30 days @ 1 hr/ day	do	20/96-97	30(29)	200/-	-do-	-do-	-do
1996	Dec	31 days @ 1 hr/ day	do	23/96-97	21(15)	200/-	-do-	-do-	-do
<hr/>									
	Total	153 days @ 1 hr/day							
1997	Jan	31 days @ 1 hr/ day	Reg-17	23/96-97	45(5)	200/-	-do-	-do-	-do
"	Feb	28 days @ 1 hr/ day	do	25/96-97	7(1)	200/-	-do-	-do-	-do
"	Mar	31 days @ 1 hr/ day	do	1/97-98	7(4)	200/-	-do-	-do-	-do
<hr/>									
	Total	90 days			as at present	200/-	leaving		

Signature of the Committee Members



A.D.T. (Circle Office member)

Accounts Officer
O/o the TDM/BGN

Divisional Engineer (P & A)
O/o the TDM/BGN