

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 14.10/02.....

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SECTION OFFICER (Judl.)

Sahita
4/12/17

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 410/02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): Chandra Gyogoi

- Vs. -

Respondent(s): W.O.I. Gonn

Advocate for the Applicant(s): Mr. S. Sarma, this U. Day

Advocate for the Respondent(s): Case.

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in m but not in time indonation Petition is ailed / not filed C F for Rs. 50/- deposited vide IPO/B/ No 79605/46 Dated 19.12.02</p> <p><i>Steps taken with Encls - 3/01/03</i></p> <p><i>One Copy Short. Notice prepared and sent to DLS for serving the respondent No 1107 by Regd. A/D. 29/1/03</i></p> <p><i>D/No 150 W 157 dt 29/1/03</i></p> <p><i>Recd copy of OA 410/02 in respect of Respondent no 6 11/02/03</i></p>	<p>24.1.03</p> <p>pg 21.2.2003</p> <p>bb</p>	<p>Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman</p> <p>Heard Mr S.Sarma, learned counse. for the applicant.</p> <p>Issue notice to show cause as to why this application shall not be admitted. Returnable by four weeks.</p> <p>List on 21.2.03 for filing reply and admission.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Put up the matter on 21.3.2003 enabling the respondents to file writ- ten statement, if any.</p> <p><i>[Signature]</i> Vice-Chairman</p>

OA 2/10/02

-2-

21.3.2003

No written statement so far filed.

The application is admitted, call for the record. The respondents may file reply, if any, within four weeks from today.

List the case on 25.4.2003 for order.


Vice-Chairman

bb

25.4.2003

No written statements are forthcoming from the respondents. Put up again on 23.5.2003 enabling the respondents to file written statement as prayed for by Mr.A. K.Chaudhuri, learned Addl.C.G.S.C.


Vice-Chairman

bb

23.5.2003

No written statement so far filed by the respondents. List again on 27.6.2003 for written statement.


Vice-Chairman

mb

27.6.03

Written statement filed. The case may now be listed for hearing on 22.8.03. The applicant may file rejoinder within two weeks from today.


Vice-Chairman

pg

20/3/03

Written statement has not been submitted by the respondents

20/3/03

26/3/03

Notices issued vide D.No. 150 to 157 dttd.

29/1/03

26/3

No written statement has been filed

28/4/03

No Wks has been filed

22/5/03

23.6.03

Wks. Submitted by the Respondents.

21/8/03

No rejoinder has been filed.

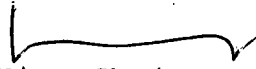
21/8/03

Notes of the Registry	Date	Orders of the Tribunal
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22.8.2003

Heard Mr S. Sarma, learned counsel for the applicants and Mr A. Deb Roy, learned Sr. C.G.S.C. Mr S. Sarma in course of hearing prays that he requires a little accommodation to bring on record the communication sent by the Sub-Divisional Engineer (Administration) from the office of the DGM dated 16.1.2000 addressed to the AGM (Administration) for conversion of part-time casual labourers to full-time casual labourers and subsequent conferment of temporary status as well as the communication sent by the DGM to the GM for conversion of part-time casual labourers into full-time casual labourers and regularisation thereof.

Three days time is allowed to the learned counsel for the applicants. List this matter for further hearing and disposal on 29.8.03. Mr A. Dey Roy may also obtain necessary instructions.


Vice-Chairman

nkm
12.9.2003

Present: The Hon'ble Mr.K.V.Prahalada
Administrative Member.

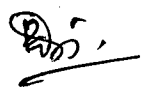
On the request of both the parties the case is adjourned and again listed for hearing on 26.9.2003.


Member


bb

26.8.03

Rejoinder filed by
the applicant.



Received case record
to-day on 10/9/03.


10/9/03

Notes of the Registry Date Orders of the Tribunal

26.9.03

Put up again on 24.10.2003
for hearing.

Vice Chairman

pg

24.10.03

There is no Bench today.
Adjourned to 27.10.03.

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la

27.10.03

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

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

Member

pg

20.11.2003

Copy of the Judgment
has been sent to the
D/Sec. for passing the
fine to the applicant
by post
H.S.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. 410 . . . of 2002.

27-10-2003.
DATE OF DECISION

..... Sri Chandra Gogoi and others. APPLICANT(S).

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

- VERSUS -

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

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

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

THE HON'BLE

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

Judgment delivered by Ho'ble Administrative Member.

K.V. Prahlan

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 410 of 2002.

Date of Order : This the 27th Day of October, 2003.

The Hon'ble Mr K.V.Prahladan, Administrative Member.

1. Sri Chandra Gogoi,
S/o Sarupai Gogoi,
Casual Mazdoor,
O/o. Malali Telecom Exchange,
Jorhat Microwave Building,
Jorhat.
2. Sri Jasu Sonar,
S/o Late Ram Bahadur Sonar,
Casual Worker,
O/o Kaliamari Fault Control Station,
Microwave Building, Dibrugarh.
3. Sri Rosheswor Hazarika,
S/o Late K.Hazarika,
Casual Worker (Driver)
O/o. SDE Microwave, Jorhat.

...Applicants

BY Advocate Sri S.Sarma.
- Versus -

1. Union of India,
represented by the Secretary to the
Ministry of Communication, New Delhi.
2. The Chief General Manager (ETR),
7th Khetra Das Lane,
Calcutta-2.
3. The General Manager,
Shillong, Max Building,
Meghalaya.
4. The Dy.General Manager (ETR)
Silpukhuri, Guwahati-3.
5. The Telecom District Manager,
Jorhat.
6. The Divisional Engineer, (Telecom ETR)
Guwahati-3.
7. The Sub-Divisional Engineer (Admn.) (ETR)
Silpukhuri, Guwahati-3.
8. The Chairman cum Managing Director,
Bharat Sanchar Nigam Ltd.,
New Delhi.

...Respondents

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

O R D E R (ORAL)

The applicants No.1, 2 and 3 are casual workers under Microwave stations of Jorhat and Dibrugarh Telephone Exchange. The applicants were working in the department from 1992 to 1997 as casual workers and ~~are~~ ^{ing} still claimed to be drawn salary from the department. This application has been

filed by the applicants for granting them the benefit under the Casual Labourers (Grant of temporary Status and Regularisation) Scheme 1989. As per the scheme any casual labourers who was rendered 240 days (206 days in case of offices observing five day week) will be entitled to be designated as temporary Mazdoors. The applicants also claimed that the Screening Committee of the Bharat Sanchar Nigam Limited recommended their case for conversion to full time casual labourer and regularisation. The applicants are also referred to the number of decisions rendered by the Guwahati Bench of the Central Administrative Tribunal, Guwahati Bench where it was directed to the respondents to scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case.

2. The DGM(M) ETR Guwahati also recommended the names of applicant No.1 and 2 for conversion to full time casual worker and regularisation.

3. The respondents in their written statement claimed that applicants No.1 and 2 were part time workers only and applicant No.3 is not eligible for temporary status since he was engaged only on 1.7.1999.

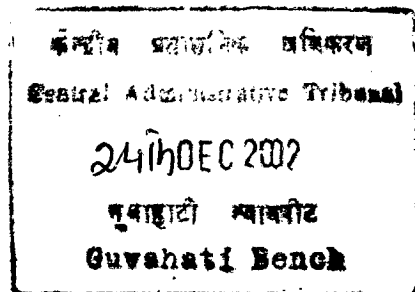
4. The learned counsel for the applicants Mr S.Sarma submitted that the recommendation of the Verification Committee of BSNL be implemented. Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents submitted that the respondents are agreed in case of applicants No.1 and 2 for granting them temporary status and regularisation but in case of applicant No.3 it cannot be materialised as he was engaged only on 1.7.99.

5. I have heard the learned counsel for the parties at length. Considering all the aspects of the matter I am or

the view that applicants No.1 and 2 shall be considered for promotion to full time workers and regularisation as per recommendation of the Verification Committee dated 11.4.2002. As far as the applicant No.3 is concerned it appears that he had engaged only on 1.7.99 and hence his name was not recommended. However, the learned counsel for the applicant has disputed this date 1.7.99. Hence the respondents are directed to verify ^{his} the records thoroughly on the basis of available records and take a decision ~~and on~~ recommend ^{ing} his case to the Committee.

With these the application is accordingly disposed of. There shall, however, be no order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Title of the case :

O.A.No. 410 of 2002.

BETWEEN

Shri Chandra Gogoi & ors.

VERSUS

Union of India & Ors.

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Filed by :U.Das Advocate.

Regn. No

File No.:C:\WS7\CHANDRA.G

Date: 24.1.2001.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by
the applicant through
Alpha Das
Advocate
18/12/02

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

O.A.No. 2002

BETWEEN

1. Sri Chandra Gogoi
S/o Sarupai Gogoi
Casual Mazdoor,
O/o. Malali Telecom Exchange,
Jorhat Microwave Building,
Jorhat.
2. Sri Jasu Sonar
S/o Late Ram Bahadur Sonar
Casual Worker,
O/o. Kaliamari Fault Control Station,
Microwave Building, Dibrugarh.
3. Sri Rosheswor Hazarika
S/o Late K. Hazarika,
Casual Worker, (Driver),
O/o. SDE Microwave, Jorhat,

..... Applicants.

- A N D -

1. The Union of India,
Represented by the Secretary to the
Ministry of Communication. New Delhi.
2. The Chief General Manager, (ETR)
7th Khetra Das Lane,
Calcutta-2.
3. The General Manager, (ETR)
Shillong, Max Bulding,
Meghalaya,
4. The Dy. General Manager, (ETR)
Silpukhuri, Guwahati-3.
5. The Telecom District Manager,
Jorhat.
6. The Divisional Engineer, (Telecom, ETR),
Guwahati-3.
7. The Sub-Divisional Engineer, (Admm.) (ETR),
Silpukhuri, Guwahati-3.
8. The Chairman cum Managing Director,
Bharat Sanchar Nigam Limited,
(A Govt. of India Enterprises)
New Delhi.

..... Respondents.

C Gogoi

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PARTICULARS OF THE APPLICATION

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

This application is directed against the action of the respondents in not considering the case of the applicants for grant of temporary status and regularisation of their respective services pursuant to scheme and directions of the Hon'ble Supreme Court by which under the similar facts situation like that of the applicants, others have been benefited. This application is also directed against the action of the respondents in not implementing the order dated 31.8.99 passed in O.A Nos 107 of 1998 and ors. by the Hon'ble Tribunal, wherein directions have been issued for scrutinising their documents and to consider the cases of the applicants.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the instant case is within the jurisdiction of the Hon'ble Tribunal.

4. FACTS OF THE CASE

4.1. That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That in the instant application, the applicant No 1 is a casual worker presently holding the post of casual worker under the Malali Telephone Exchange, Fault Control Center, Jorhat Microwave Building and he entered the service under the respondents in July 1992 as casual worker. In the said capacity the applicant is still continuing under the respondents. The applicant No 1 is drawing his pay under the departmental pay slip i.e, ACG-17. It is noteworthy to mention here that at the time of his initial entry as casual worker, the applicant No-1 had to face a screening committee for his placement against a clear vacant post of DRM.

The applicant No 2 entered the services of the respondents as casual worker, after facing a screening committee in February 1995 (22.2.95) under the respondents, in the office of the Kalimari Fault Control Section, Microwave Building, Dibrugarh, he is still continuing as such without any break against a clear vacant post of DRM. The applicant No 2 is drawing his salary under the ACG-17 pay slip.

The applicant No 3 entered the services of the respondents as casual worker, after facing a screening committee in February 1997 under the respondents, in the office of the SDE Microwave, Jorhat and he is still continuing as such without any break against a clear vacant post of DRM. The applicant No 3 is drawing his salary under the ACG-17 pay slip.

That the above applicants after their respective employment submitted their Employment Exchange Registration Cards as directed by the respondents.

4.3. That the applicants as stated above are presently continuing as casual workers and all of them were appointed in various dates in the year 1992 to 1997 on casual basis after following the due selection process. The applicants are at

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present drawing their wages under departmental pay slips, ACG-17, which will show that they are casual workers of the Dept. of Telecommunication and hence the applicants pray for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

Since their employments are not in dispute, the applicants instead of annexing all the documents pertaining to their employment, crave leave of the Hon'ble Tribunal to produce the same at the time of hearing of the case.

4.4. 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 certain directions in regard to regularisation as well as grant of temporary status to 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. of department of Telecommunication had also approached the Hon'ble Supreme Court for a similar direction by way of filing writ petition (C) No.1280/89 (Ram Gopal & Ors.Vs. Union of India & Ors) along with several writ petition 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 the casual labourers as far as possible, who have been working more than one year in their respective posts. Pursuant to judgment 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 dated 7.11.89. In the scheme Certain

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benefits granted to the casual labourers such as conferment of temporary status, wages and daily Rates with reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

Copies of the Apex Court Judgment and the above mentioned scheme is annexed herewith and marked as ANNEXURE-1 and 2.

4.5. That as per the Annexure-2 scheme as well as the directions issued by the Hon'ble Supreme Court (Annexure-1) in the cases mentioned above, the applicants are entitled to the benefits described in the scheme. The applicants are in possession of all the qualifications mentioned in the said scheme as well as in the aforesaid verdict of the Hon'ble Supreme Court, and more specifically in the dates described in the Annexure-A may be refereed to for the better appreciation of the factual position.

4.6. 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.269-4/93-STN-II dated 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 applicants crave leaves of the Hon'ble Tribunal to produce the said order at the time of hearing of the case.

4.7. 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 up to 10.9.93 pursuant to a judgment of the Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in OA No.750/94. Pursuant to the said judgment delivered by the Ernakulam Bench, Govt of India, Ministry of Communication issued letter No.66-52/92-SPD-I

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dated 1.11.95 by which the benefits of conferring temporary status to the casual labourers have been extended up to the recruitees up to the 10.9.93. Since the Dept. of Telecommunication and Posts are under the same Ministry hence the same benefits will also be applicable to the Casual workers of Telecom.

A copy of the aforesaid letter dated 1.11.95 as annexed herewith and marked as ANNEXURE-3.

The applicants have not been able to get hold of an authentic copy of the said letter and accordingly they pray for a direction to produce an authenticated copy of the same at the time of hearing of the instant application.

4.8. That the benefits of the aforesaid judgment and circular of Govt. of India is required to be extended to the applicants in the instant application more so when they are similarly circumstance with that of the casual workers to whom benefits have been granted and presently working in the Deptt. of Posts. As stated above both the Deptts. are under the same Ministry i.e. the Ministry of Communication, and the scheme were pursuant to the Supreme Court's Judgment as mentioned above. There can not be any earthly reason as to why the applicants shall not be extended the same benefits as have been granted to the casual labourers working in the Dept. of Posts.

4.9. That the applicants state 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 Court delivered their judgment in respect of the casual workers in the Deptt. of Telecommunication following the judgment delivered in respect of casual workers in the Deptt. of Posts. As stated earlier both the Deptts. are the

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same Ministry i.e. Ministry of Communication. 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 Posts on obtaining the Temporary Status are granted much more benefited 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 facts both the Deptts are under the same ministry and the basic foundation of the scheme for both the Deptts are Supreme Court's judgment referred to above. If the casual workers of the Deptt of Posts can be granted with the benefits as enumerated above based on Supreme Court's verdict, there is no earthly reason as to why the casual workers of the Deptt. of Telecommunication should not be extended with the similar benefits.

4.10. That the applicants beg to state that in view of aforesaid scheme as well as the verdict of the Hon'ble Supreme Court, they entitled to be regularised more so when there is at present more than 900 posts of DRM have been allotted to Assam Circle.

4.11. That the applicants beg to state that making a similar prayer a group of casual workers working under Assam Circle had approached this Hon'ble Tribunal by way of filing OA No. 299/96 and 302/96 and this Hon'ble Tribunal pleased to allow the aforesaid application on 13.8.97 by a common judgment and order.

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

4.12. That the applicants state that it is settled position of law that when some principles have laid down in a given case those principles are required to be made applicable to other

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similarly situated cases without requiring them to approach the Hon'ble Court again and again. But in a nutshell case in spite of judgment of Hon'ble Ernakulam Bench delivered in respect of casual labourers of Deptt. of Posts, the Deptt. of Telecommunication under the same ministry has not yet extended the benefits to the casual labourers working under them.

4.13. That the applicants beg to state that the action of the respondents towards the non implementation of the case of the applicants are with some ulterior motive only to deprive them from their legitimate claim of regularisation. The main crux of their prayer was for regularisation and grant of temporary status and for consideration of their cases against the 900 posts as mentioned above but in reply, the respondents have not issued any order as yet. The respondents being a model employer ought to have granted the benefit of temporary status as per the scheme without requiring them to approach the doors of the Hon'ble Tribunal again and again, more so when all the applicants fulfill the required qualification as per the said scheme.

4.14. That the applicants state that in a nutshell their whole grievances are that to extend the benefit of the 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 of date of engagement as has been modified from time to time by issuing various orders, of which mention may be made of order dated 1.9.99 by which the benefit of the scheme has been extended to the recruitees up to 1.8.1998.

A copy of the order dated 1.9.99 is annexed herewith as Annexure-5.

4.15 That the applicant begs to state that highlighting their grievance, they had approached the Hon'ble Tribunal by way of filing OA No. 112 of 98 praying for grant of temporary status and

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regularisation. The Hon'ble Tribunal was pleased to dispose of the said OA along with other connected matters vide its order dated 31.8.99 with a direction to the respondents to consider their cases after due scrutinise of the documents.

A copy of the order dated 31.8.99 is annexed herewith and marked as Annexure-6.

4.16 That the applicants beg to state that pursuant to the aforesaid order dated 31.8.99, the higher authorities of the respondents have issued various orders to the Divisional authorities for furnishing documents/certificates to ascertain the facts. The applicants also in response to the said Judgment and order dated 31.8.99 filed individual representation to the concern authority. To that effect mention may be made of order dated 9.11.99 issued by the respondent No. 3 asking for documents and certificates.

The applicants inspire of their best effort could not collect the said copy of the order dated 9.11.99 and hence prays before the Hon'ble Tribunal for a direction to the respondents to produce the said copy of the order and other connected orders at the time of hearing of the case.

4.17 That the applicants beg to state that after the judgment and order dated 31.8.99, they have submitted representations individually highlighting their date of appointment as well as number of working days, certificates etc. and the applicants were asked to appear in interview held by the respondent. However, the respondents have not yet held any interview in respect of the present applicants. The respondent No. 3 in the light of the said interview granted the benefit of the scheme to the other similarly situated employees like that of the applicants, but for the reasons best known to the respondents the said benefit have not been granted to the present applicants.

Even some of the employees who were recruited even in the year 1977-98 have been granted with the benefit of the scheme ignoring the long and continuous 10-12 years of service of the applicants.

4.18 That the applicants beg to state that barring the cases of the present applicants, in all other cases interviews have been held for scrutinising the records but only the present applicants have been debarred for the same. The respondents have treated the present applicants differently violating Article 14 and 16 of the Constitution of India. All the other similarly placed employees (Casual workers) have been given chance to point out personally the facts and figures pertaining to their service particulars but the said opportunity has not been granted to the present applicants. Hence the entire action on the of the respondents are illegal and violative of Article 14 and 16 of the constitution of India.

4.19. That the applicants beg to states that the respondents have not verified the records placed before them by the applicants. In fact the respondents have violated the direction issued by the Hon'ble Tribunal in its judgment and order dated 31.8.99 (Annexure-6).

Records pertaining to services of the applicants are annexed herewith and marked as Annexure-7A, 7B and 7C colly.

4.20. That the applicants beg to stat that the respondent have violated the directions issued by the Hon'ble Tribunal. In implementing the said judgment and order (Annexure-6) dated 31.8.99, the respondents have held interviews in other cases but same procedure has not been maintained in case of the present

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applicants which has resulted in hostile discrimination and same is liable to be set aside and quashed.

4.21. That the applicants beg to state that the respondents have not apply their mind properly in acting in the arbitrary manner as has been done in the present case. In fact the applicants fulfill the required criteria laid down in the scheme of 1989 itself and hence their case are required to be considered for grant of temporary status with retrospective effect and to regularise their service with full back wages etc.

4.22. That the applicants beg to state that they are still continuing in their respective posts without any termination. On the other hand the respondents are now granting the temporary status to the juniors of the applicants, even some of the outsiders have also been granted with the benefits of the temporary status.

The applicants in view of the aforesaid facts and circumstances have prayed for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

4.23. That the applicants beg to state that the respondents are now granting the said benefits of the 1989 scheme and filling up all most 900 posts of DRM within a very short time without considering their cases. The applicants are now in employments as casual workers but in view of the aforesaid development narrated above the respondents may terminate their service. In that view of the facts and circumstances stated above the applicants pray for an interim order directing the respondents not to disengage them from their present employments and not to fill up the posts of DRM till the disposal of the case. In case the interim order as prayed for is not granted the applicants will suffer irreparable loss and injury.

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5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the denial of benefit of the scheme to the casual labourers whom the applicants union represent in the instant case is prima-facie illegal and arbitrary and same are liable to be set aside and quashed.

5.2. For that it is the settled law that when some principles have been laid down in a judgment extending certain benefits to a certain set of employees, the said benefits are required to be similarly situated employee without requiring them to approach the court again and again. The Central Govt. should set an example of a model employer by extending the said benefit to the applicants.

5.3. For that the discrimination meted out to the applicants in not extending the benefits of the scheme and in not treating them at par with postal employees is violative of Articles 14 and 16 of the Constitution of India.

5.4. 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.

5.5. For that the respondents have acted illegally in not considering the case of the applicants without examining the relevant documents submitted by the applicants as well as the authorities of their respondents. And hence the impugned action of the respondents is liable to be set aside and quashed.

5.6. For that as per the order dated 1.9.99 the cases of the applicants are required to be considered under the scheme of 1989 and since the applicant have completed 240 days of continuous

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service in teach a year since their entry into the service, and hence the respondents are duty bound to grant temporary status as per the scheme, more so when the other similarly situated employees like that of the applicants have been granted with the said benefit.

5.7. For that the respondents have violative the judgment and order dated 31.8.99 passed by this Hon'ble Tribunal in not calling the applicants for interview. On that score alone the impugned action is liable to be set aside and quashed.

5.8. 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 applicants crave leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that they have exhausted all the remedies available to them and there is no alternative remedies available to them.

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

The applicants further declare that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this 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. In view of certain management restructuring occurred in the administration of the respondents the applicants have come under the protective hands of the Hon'ble Tribunal seeking urgent relief.

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8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records be grant the following reliefs to the applicants:

8.1. To direct the respondents to extend the benefits of the said scheme to the applicants and to regularised their services with all consequential service benefits.

8.2. To direct the respondents not to fill up any vacant posts of Daily Rated Mazdoors without first considering the case of the applicants.

8.3. Cost of the applicants.

8.4. Any other relief/reliefs to which the applicants are entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants pray for an interim order directing the respondents not to fill up any vacant posts of Daily Rated Mazdoors without first considering the case of the applicants. The applicants further prays for an interim order direction the respondents not to disturb their services and to allow them to continue in their respective posts during the pendency of the case.

10.

11. PARTICULARS OF I.P.O.:

1. I.P.O. No. : 7 G 605146
2. Date : 19/2/02
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.

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

I, Shri Chandra Gogoi, s/o S.Gogoi, aged about 33 years, casual worker, at present working under the Malali Telephone Exchange, Fault Control Center, Jorhat Microwave Building, Jorhat, do hereby verify and state that the statements made in paragraphs 1,2,3,4'1,4'2,4'5,4'8-4'10,4'12,4'13,4'18,4'18,4'20,4'21,4'22 are true to my knowledge and those made in paragraphs 4'3,4'4,4'6,4'7,4'11,4'14-4'16,4'19,4'22 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other applicants to sign this verification on their behalf.

And I sign this verification on this the 16th day of December 2002.

Shri Chandra Gogoi

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

.With.

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

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

By the said Judgment this Court said :

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

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

Attested
by
Advocate.

ANNEXURE-2

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

SIN 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-SIC dated 18.11.88 a scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of at least one year has been approved by the Telecom Commission. Details of the scheme are furnished in the Annexure.

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

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

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

Attested
W. S. An
Advocate.

3.3.. No Casual Labourer who has been recruited after 30.3.89 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 SMF/78/98 dated 27.9.89.

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

sd/-

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/-

ASSISTANT DIRECTOR GENERAL (STN).

Attested
Udan
Advocate.

ANNEXURE

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

1. This scheme shall be called "Casual labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989"
2. This scheme will come in force with effect from 1.10.89 onwards.
3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.
4. The provisions in the scheme would be as under.

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

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

Temporary Status.

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

Attested

 Advocate.

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 (286 days in administrative offices observing 5 days week) in the year.

iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of week. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.

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

v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr. D employees, provided they furnish two sureties from permanent Govt. servants of this Department.

vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.

Attested

h. San
Advocate.

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

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

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

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

@ @ @

Advocate

- 23 -

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ANNEXURE-..3.
EXTRACT.

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

NO.66-52/92-SPB/I

dated 1.11.95.

I am directed to refer to the scheme on the above subject issued by this office vide letter No 45-95/87 SPB-I dated 12.4.91 and 66-9/91-SPB-I dated 30.11.92 as per which full time casual labourers who were in employment as on 29.11.89 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 29.11.89 has been considered in the office in the light of the judgement of the CAT Ernakulam Bench delivered on 13.3.95 in O.A. No 750/94 .

It has been decided the full time casual labourers recruited after 29.11.89 and up to 10.9.93 may also be considered for the grant of benefit under the scheme.

This issue with the approval of I.S and F.A. vide Dy. No 2423/95 dated 9.10.95.

Attested
u/s
Advocate

ANNEXURE-4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996.

All India Telecom Employees Union,
Line Staff and Group-D,
Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

All India Telecom Employees Union,
Line Staff and Group-D
Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J. (V.C.)

Both the applications involve common question of law and similar facts. In both the applications the applicants have prayed for a direction to the respondents to

Attested
W.Das
Advocate

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

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

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

Attested
W.D.
Advocate

the Tribunal dated 13.3.1995 passed in U.A.No.758/94 .. 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. U.A.299/96 is also of similar facts. The grievances of the applicants are also same.

4. Heard both sides, Mr.B.K.Sharma, learned Counsel, appearing on behalf of the applicants in both the cases submits that the Apex Court having been granted the benefit of temporary status and regularisation to the casual labourers, should also be made available to the casual labourers working under Telecom Department under the same Ministry. Mr.Sharma further submits that the action in not giving the benefits to the applicants is unfair and unreasonable. Mr.A.K.Choudhury, learned Addl.C.G.S.C for respondents does not dispute the submission of Mr.Sharma. He submits that the entire matter relating to the regularisation of casual labourers are being discussed in the J.C.M level at New Delhi, however, no discision 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 U.A.382/96) and Annexure-4 (in U.A.No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

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

Sd/- Vice Chairman.

Attested
V.D.
Advocate.

ANNE XURE. 5.

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

Dated 1.9.99.

To

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

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

Sir,

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

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

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Federations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

2005/11/11
UPAN
1/10/99

ANNEXURE - 6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

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

1. O.A. No.107/1998

Shri Subal Nath and 27 others. Applicants.
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda

- versus -

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

2. O.A. No.112/1998

All India Telecom Employees Union,
Line Staff and Group- D and another..... Applicants.
By Advocates Mr.B.K. Sharma and Mr.S.Sarma.

- versus -

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

3. O.A.No. 114/1998

All India Telecom Employees Union
Line Staff and Group-D and another. Applicants.
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.

- versus -

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

4. O.A.No.118/1998

Shri Bhuvan 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

Handwritten signature/initials

and Ms. N.D. Goswami.

- versus -

The Union of India and Others Respondents.

By Advocate Mr.B.C. Pathak, Addl.C.G.S.C.

.....

6. O.A.No.131/1998

All India Telecom Employees Union and another.....Applicants.

By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

- versus -

The Union of India and others. Respondents.

By Advocate Mr. B.C. Patha, Addl.C.G.S.C.

.....

7. O.A.No.135/98

All India Telecom Employees Union Line Staff and Group-D and 6 others. Applicants.

By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

- versus -

The Union of India and others . . . Respondents.,

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

.....

8. O.A.No.136/1998

All India Telecom Employees Union, Line Staff and Group-D and 6 others. Applicants.

By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

- versus -

The Union of India and others. Respondents.

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

.....

9. O.A.No.141/1998

All India Telecom Employees Union, Line Staff and Group-D and another Applicants.

By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

- versus -

The Union of India and others Respondents.

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

.....

10. O.A. No.142/1998

All India Telecom Employees Union, Civil Wing Branch. Applicants.

By Advocate Mr.B.Malakar

- versus -

The Union of India and others. Respondents.

By Advocate Mr.B.C. Pathak, Addl. C.G.S.C.

.....

11. O.A. No.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.

.....

Attested
Advocate.

12. O.A.No. 192/1998

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

-versus-

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

- versus -

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

20/03/99
H.Dan
Advocate

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 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 U.A.s, however, in U.A. No.269/1998 there is no prayer against the order of termination. In U.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 U.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-SIN 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 U.A. and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts as on 18.9.93 pursuant to the judgement of the Ennakulam Bench of the Tribunal passed on 13.3.1995 in U.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 U.A. No.s 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 U.A.s were applicants in U.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 U.As.

Attested
[Signature]
[Signature]

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

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Line Staff and Group-D. The casual employees not being regular Government servant are not eligible to become members or office bearers to the staff union. Further, the 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 O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not

Attested
W.D.M.
Advocate

entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in U.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in U.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6. We have heard Mr.B.K.Sharma, Mr J.L.Sarker, Mr.I. Hussain and Mr.B.Malakar, learned counsel appearing on behalf of the applicants and also Mr.A.Oeb Roy, learned Sr.C.B.S.C. and Mr.B.C. Pathak, learned Sr.C.B.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 counser for the applicants also submits that the respondents can not put any

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direct

cut off date for implementation of the scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

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

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

Attested
Advocate

DEPARTMENT OF TELECOMMUNICATIONS
O/o the Chief General Manager, Eastern Telecom Region
7, Kshetra Das Lane, Calcutta-700 012.

No. E-34/DRM/99-2000.

Dated at Calcutta, the 27th August 1999

To
Shri G.K. Bhattacharjee
Divisional Engineer
FC/Guwahati

Subject: Grant of Temporary Status to the Casual Labourers
Engaged after imposition of ban order.

Kindly refer to your letter NO. DRM/99-2000/20 dated 25-06-99 regarding the above mentioned subject. In this regard, this is to inform you that the following casual labourers working in your Division have been sent to the respective SSAs for granting Temporary Status and for inclusion of their names in the respective Gradation List. The names of the Casual Labourers are appended hereunder:

Names of the Casual Labourers

1. Shri Chandra Gogoi
2. Shri Jasu Sonar

R.K. CHATTERJEE (ADHYAY)
Asstt General Manager (Admin)
O/o the C.G.M. ETR Calcutta

Attested
Advocate

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Particulars of Sri Chandra Gogoi,
Fault Control, Jerhat.

93-94

<u>A/C No.</u>	<u>Vr. No.</u>	<u>Amount.</u>
2/93-94	5	150.00
3/93-94	9	150.00
4/93-94	6	342.00
5/93-94	12	342.00
6/93-94	3	342.00
7/93-94	8	342.00
8/93-94	6	356.00
9/93-94	5	960.00
10/93-94	4	356.00
11/93-94	7	657.00
12/93-94	6	356.00
14/93-94	1	347.00

94-95

15/94-95	1	347.00
16/94-95	1	1387.00
17/94-95	1	1387.00
18/94-95	1	1387.00
19/94-95	2	347.00
20/94-95	1	347.00
21/94-95	1	347.00

95-96

01/95-96	2	1387.00
02/95-96	3	1387.00
03/95-96	2	346.00
04/95-96	1	346.00
05/95-96	1	346.00
06/95-96	1	346.00
07/95-96	1	346.00
08/95-96	1	346.00
09/95-96	1	346.00
10/95-96	2	346.00
11/95-96	1	346.00
12/95-96	1	346.00

Attested
W. D. Sen
Advocate.

1996-97.

Vr. No.

Amount.

7/A

1/96-97	1	346.00
2/96-97	1	346.00
3/96-97	1	346.00
4/96-97	1	346.00
5/96-97	1	364.00
6/96-97	1	364.00
7/96-97	1	364.00
8/96-97	5	364.00
9/96-97	7	364.00
10/96-97	6	364.00
11/96-97	8	364.00

1997-98.

1/97-98	2	364.00
2/97-98	3	364.00
3/97-98	5	364.00
4/97-98	1	364.00
5/97-98	1	364.00
6/97-98	1	364.00
7/97-98	1	364.00
8/97-98	5	364.00
9/97-98	4	364.00
10/97-98	7	364.00
11/97-98	6	364.00
12/97-98	6	364.00

1998-99.

1/98-99	2	364.00
2/98-99	4	364.00
3/98-99	1	364.00
4/98-99	1	364.00
5/98-99	1	364.00
6/98-99	6	364.00
7/98-99	2	448.00
8/98-99	2	448.00
9/98-99	1	448.00
10/98-99	1	448.00
11/98-99		

Attended
Advocate.

2nd
JUNIOR TELECOM OFFICER
FAULT CONTROL STATION
JORNAT-785 001

Particulars of engagement of Sri Chandra Gogoi,
Parttime Masdoor at Fault Control Station, Jorhat
for the year 1999. A

<u>A/C No.</u>	<u>Month</u>	<u>Vr. No.</u>	<u>Days</u>	<u>@ Hrs.</u>
1 of 98-99	1/99	5	31	2 hrs daily
1 of 99-200	2/99	1	28	2 "
1. -do-	3/99	2	31	2 "
2. -do-	4/99	6	30	2 "
3. -do-	5/99	2	31	2 "
4. -do-	6/99	1	30	2 "
5. -do-	7/99	7	31	2 "
6. -do-	8/99	6	31	2 "
7. -do-	9/99	1	30	2 "
8. -do-	10/99	6	31	2 "
9. -do-	11/99	1	30	2 "
10. -do-	12/99	3	7	8 "

Total 341 days.

S. N. 2
JUNIOR TELECOM OFFICER
FAULT CONTROL STATION
JORHAT-785 001

*Received
WDM
Advocate.*

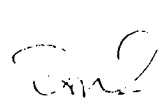
- 40 -

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Particulars of engagement of Sri Chandra Gogoi,
Part time mazdoor at Fault Control Station,
Jorhat, for the year 2000(From January-2000 to
December-2000).

<u>A/C No.</u>	<u>Month</u>	<u>Vr.No</u>	<u>days</u>	<u>9 Hrs.</u>
11 of 99-2000	1/2000	1	6	8 Hrs.daily
12 -de-	2/2000	1	6	8 "
1. -de-	3/2000	3	7	8 "
2. -de-	4/2000	4	8	8 "
3. -de-	5/2000	7	31	2 "
4. -de-	6/2000	4	30	2 "
5. -de-	7/2000	1	31	4 "
6. -de-	8/2000	1	31	4 "
7. -de-	9/2000	2	30	4 "
8. -de-	10/2000	1	31	4 "
9. -de-	11/2000	1	30	4 "
10. -de-	12/2000	1	31	4 "

Total 272 days.


 JUNIOR TELECOM OFFICER
 FAULT CONTROL STATION
 JORHAT-785 901

Attested

 Advocate.

<u>A/C No.</u>	<u>Month</u>	<u>Vr.No</u>	<u>Pay</u>	<u>@ hrs.</u>
11 of 2000-01	1/2001	2	31	4 hours.
1 of 01-02	3/2001	1	31	4 "
3 of 01-02	2/01	2	28	4 "
4 of 01-02	4/01	2	30	4 "
5 of 01-02	5/01	1	31	4 "
6 of 01-02	6/01	2	30	4 "
7 of 01-02	7/01	1	31	4 "
8 of 01-02	8/01	2	31	4 "
9 of 01-02	9/01	1	30	4 "
10 of 01-02	10/01	1	31	4 "
11/01-02	11/01	1	30	4 "
12 of 01-02	12/01	1	31	4 "

Am
SENIOR TELECOM CEB
STATE CONTROL STATION
FORMAT-383 901

Amended
W.D.S.
4/4

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Particulars of Sri Chandra Gogoi, DRM of Jorhat Fault Control.

1. Name of the Mazdur - Sri Chandra Gogoi.
2. Father's Name - Sri Sarupai Gogoi.
3. Date of birth - 31-01-1971.
4. Whether S.C/S.T/OBC - OBC
5. Educational Qualification - H.S.L.C. Passed
6. Date of engagement - 1992.
7. Whether working in the job of regular nature or casual/occasional nature - Casual
8. Date of sponsorship -
9. Officer who engaged the casual labour - J.T.O. Fault Control Jorhat.
10. Particulars of service-

Engagement year	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Total day per year
1992							5	12	10	4	18	9	= 58 day
1993	11	12	5	6	9	13	3	8	13	11	15	6	= 112 day
1994	15	28	11	12	12	10	13	14	26	26	26	26	= 219 day
1995	20	26	26	20	18	15	26	26	15	20	21	20	= 253 day
1996	26	20	14	20	26	26	15	19	26	20	21	15	= 248 day
1997	20	15	25	24	23	18	19	15	16	26	21	20	= 242 day
1998	26	26	26	26	26	26	26	26	26	25	27		= 208 day (+) 79 373

Total no of Days worked

JUNIOR TELECOM OFFICER
FAULT CONTROL STATION
JORHAT, IMBOL

For Oct, Nov, Dec
KOLYIS TOLLING
TELECOM NO. 03721 2011

- Encls:- (I) Certificate of J.T.O. A.K. Debchoudhary.
- (II) " " " M. Rahman.
- (III) " " " H.S.L.C. Passed.
- (IV) Cast Certificate.
- (V) Citizenship Certificate.
- (VI) Admit Card of H.S.S.L.C.
- (VII) " " " H.S.L.C.
- (VIII) Employment Exchange Card.

Udas

(CANDIDATE SHOULD WRITE THE APPLICATION BY HIS OWN HANDWRITING.)
(As per Govt. of A.M. Guwahati Order O.A. No-112/1998 & 223/1998)

STATEMENT OF EX. DRN

Daily rated Mazdoors. (In Block Letters)	Father Name	Address Vill/Town :- P.O :- P.S :- Mauza/Ward :- Sub -Dvn :- Dist :-	Date of Birth (Supporting documents should be attached)	Educational Qualification (Supporting documents should be attached)	Caste	Date of initial engagement and name of the Officer/Official who engaged
SRI CHANDRA GOGOI	Sri Sarupai Gogoi	Vill: Barncha- rai Gharphalin PS: Pulibor mauza: Barncha- (Jorhat)	31-1-71	H.B.L.C Passed	Ahom (OBC)	Sept 92

Part-II

PARTICULARS OF ENGAGEMENT

Name of the subdivisional Officer under whom the official worked.	Year	Month (each month separately)	No of days	Name of mastering official with designation under whom worked	Nature of work done in each month.
S.D.E Fault control Guwahati, (On the office of J.T.O Fault control (Jorhat))	9	10	11	12	13
		Detail Particulars enclosed		① A.K. Debchandhary ② M. Rohman ③ u Borah	① Cleaner & Office peon.

I do hereby solemnly affirmed that the particulars furnished above are true to the best of my knowledge and belief. In case any false or wrong information is furnished, my application is liable to be rejected.

Signature of the applicant Sri Chandra Gogoi
Full Name SRI CHANDRA GOGOI

Attested

uDon
Advocate.

The particulars furnished by
 in charge Sagar have been verified
 on the basis of the records of the
 engaging officers and found to
 have been correct.

Sol
 JUNIOR TELECOM OFFICER
 FAULT CONTROL STATION
 JORHAT-783 901

C/s.
Pratt
 Divisional Engineer
 Fault Control
 Eastern Telecom, 12/24
 Ambazar, Guwahati-781 001.

Amended
 W.D.S.
 Advocate.

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55

TO WHOM IT MAY CONCERN

This is to certify that Sri Chandra Gogoi, son of Sri Sarupai Gogoi, of village Gharfaha, P.O. Dhekargarah, District Jorhat of Assam has been working as cleaner and office peon in the Fault control station Jorhat from 24th September 1998 to 31st January 1999. He is a hard and honest worker and possess a good moral character.

I wish him success in life.

U. Bora
11/2/99
(U. Bora.)
Junior Telecom. Officer
Fault Control, Jorhat

JUNIOR TELECOM OFFICER
FAULT CONTROL STATION
JORHAT, NIML

Attended
WOM
Advocate

DEPARTMENT OF TELECOMMUNICATIONS
O/o the Chief General Manager, Eastern Telecom Region
7, Kshetra Das Lane, Calcutta-700 012.

No. T-34/DRM/99-2000.

Dated at Calcutta, the 27th August 1999

To
Shri G.K. Bhattacharjee
Divisional Engineer
FC/Guwahati

Subject: Grant of Temporary Status to the Casual Labourers
Engaged after imposition of ban order.

Kindly refer to your letter NO. DRM/GM/ST-2/99-2000/20 dated 25-08-99 regarding the above mentioned subject. In this regard, this is to inform you that the names of the following casual labourers working in your Division have been sent to the respective SSAs for granting Temporary Status and for inclusion of their names in the respective Gradation List. The names of the Casual Labourers are appended hereunder.

Names of the Casual Labourers

1. Shri Chandra Gogoi
2. Shri Jasu Sonar

K.K. CHATTERJEE (ADHYAY)
Asstt. General Manager (Admin)
O/o the C.G.M./ETR/Calcutta

Attested
W.D.
Advocate.

- 47 -
PROFORMA FOR THE PARTICULARS OF CASUAL LABOURS:

1. Name of the Casual Labour :- CHN JAGU SONAR
2. Father's Name :- Sri Ram Bahadur Sona
3. Educational Qualification :- H.S.C. Passed.
4. Date of engagement :- 22-2-95
5. Whether working in the job of regular nature or casual seasonal nature. :- Regular Nature
6. Date of sponsorship :- 22-2-95
7. Official/Officer who engaged the casual labour. :- As per verbal order of D.I. P/C, G.H. engaged by J.T.O. P/C, D.
8. Particulars of service rendered since engagement. :-

<u>Sl No</u>	<u>Year</u>	<u>Total No. of days worked</u>	<u>Place of Posting.</u>
①	1995	267 days	Fault Control Centre Dibrugarh
②	1996	312 "	—do—
③	1997	266 "	—do—
④	1998 (upto 1st August '98) 64 "		—do—

Certified that the above mentioned Casual Mazdoor engaged from 22-2-95 is still continuing in the Fault Control Centre Dibrugarh.

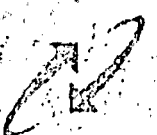
Attested
W.D.
Advocate

Subin
25/9/98
Junior Telecom Officer,
FAULT CONTROL
DIBRUGARH - 786001

		Mode of Payment i.e. Master Roll / ACG-17 Particulars i.e. Vouchers Nos		Amount	Engaged By Whom	Billing/ Passing Authority	Name of A.C. who has paid.
	7	ACG-17	AC NO 8/94-95 - 2	93'00	J.T.O P/C D2	DE P/C GH	
	27	"	AC NO 1/95-96 - 2	360'00	"	"	58
April	25	"	AC NO 2/95-96 - 2	333'00	"	"	
May	27	"	AC NO 3/95-96 - 2	360'00	"	"	
June	26	"	AC NO 4/95-96 - 2	346'00	"	"	
July	26	"	AC NO 5/95-96 - 2	346'00	"	"	
August	27	"	AC NO 6/95-96 - 2	360'00	"	"	
Sept.	26	"	AC NO 7/95-96 - 2	346'00	"	"	
Oct.	26	"	AC NO 8/95-96 - 2	346'00	"	"	
Nov.	26	"	AC NO 9/95-96 - 2	346'00	"	"	
Dec.	26	"	AC NO 10/95-96 - 2	346'00	"	"	
196 Jan.	27	"	AC NO 11/95-96 - 2	360'00	"	"	
Feb.	25	"	AC NO 12/95-96 - 2	333'00	"	"	
March	26	"	AC NO 1/96-97 - 2	346'00	"	"	
April	30	"	AC NO 2/96-97 - 2	400'00	"	"	
May	31	"	AC NO 3/96-97 - 2	413'00	"	"	
June	30	"	AC NO 4/96-97 - 2	400'00	"	"	
July	31	"	AC NO 5/96-97 - 2	961'00	"	"	
August	31	"	AC NO 6/96-97 - 2	961'00	"	"	
Sept.	30	"	AC NO 7/96-97 - 2	930'00	"	"	
Oct.	31	"	AC NO 8/96-97 - 2	961'00	"	"	
Nov.	30	"	AC NO 9/96-97 - 2	930'00	"	"	
Dec.	31	"	AC NO 10/96-97 - 2	961'00	"	"	
197 Jan.	31	"	AC NO 11/96-97 - 2	961'00	"	"	
Feb.	28	"	AC NO 12/96-97 - 2	838'00	"	"	
March	30	"	AC NO 1/97-98 - 2	930'00	"	"	
April	30	"	AC NO 2/97-98 - 2	930'00	"	"	
May	31	"	AC NO 3/97-98 - 2	960'00	"	"	
June	30	"	AC NO 4/97-98 - 2	930'00	"	"	
July	31	"	AC NO 5/97-98 - 2	961'00	"	"	
August	12	"	AC NO 6/97-98 - 2	372'00	"	"	
Sept.	10	"	AC NO 7/97-98 - 2	310'00	"	"	
Oct.	11	"	AC NO 8/97-98 - 2	341'00	"	"	
Nov.	10	"	AC NO 9/97-98 - 2	310'00	"	"	
Dec.	11	"	AC NO 10/97-98 - 2	341'00	"	"	
198 Jan.	11	"	AC NO 11/97-98 - 2	341'00	"	"	
Feb.	10	"	AC NO 12/97-98 - 2	310'00	"	"	
March	11	"	AC NO 1/98-99 - 2	341'00	"	"	
April	10	"	AC NO 2/98-99 - 2	341'00	"	"	
May	11	"	AC NO 3/98-99 - 2	310'00	"	"	
June	11	"	AC NO 4/98-99 - 2	341'00	"	"	
July	10	"	AC NO 5/98-99 - 2	310'00	"	"	
August	11	"	AC NO 6/98-99 - 2	341'00	"	"	

Wan

Search

 BHARAT SANCHAR NIGAM LTD.	भारत संचार निगम लिमिटेड EASTERN TELECOM REGION Office of the Director Maintenance Senapati Road, Silpukhuri, Guwahati
--	--

No. DM/ETR/GH/E-48 2000-2001/1

Dated at Guwahati 25 January, 2001

To,

The DE m/w GH/Jr/Dc/Bgn,
 The DE OFC Tezpur,
 The DE Sat (M) GH,
 The DE F/C GH.

Sub:- Particulars of Part time Labourers.

Kindly arrange to furnish the following informations in respect of Part time labourers working at different stations in your division at an early date.

1. Name of the Part time labourer. *Rosheswar Hazant*
2. Date of engagement as part time worker. *1-7-1999*
3. Station of working. *JR m/w*
4. Nature of duty performed. *Moving the Dept Vehicle.*
5. No. of hours working per day at the time engagement. *8 Hours.*
6. No. of hours working per day at present. *8 Hours.*

SIDE Administration

O.C. the District Office

ETR: Guwahati 48/01

① Date of Engagement is in the
 department - a. General Labour (part time worker)

Attested
 W.D.
 Advocate

1.8.99

BHARAT SANCHAR NIGAM LIMITED
(A GOVT OF INDIA ENTERPRISE)

OFFICE OF THE DIVISIONAL ENGINEER MICROWAVE, JORHAT.

NO. DEMW/JRT/E-4/IV/2000-01/10 dt. at Jorhat 2.2.2000.

To

The Director Maintenance,
Eastern Telecom. Circle,
Guwahati-781 003.

Sub:- Particulars of part time labours.

Ref: Your letter No. DE/ETP/G / 2000-01, dated at GH the 25.01.2000.

Ref. your letter no cited above, it is intimated that one Casual Labour engaged in this Division for Driving the departmental Vehicles AS 03A 8013 and AS 03A 9781.

Particulars of the Casual labour is given below.

1. Name : Sri Rameswar Mahanta,
2. Date of engagement: 1.7.1999.
3. Station of working: Jorhat Microwave Division. / 5/2/2000
4. Nature of duty performed: Driving the departmental Vehicle AS 03A 8013 and AS 03A 9781.
5. No. of hours working per day at the time engagement. 8 hours.
6. No. of hours working per day at present. 8 hours.

भारतीय डाक



INDIA POST

RECEIVED

25 FEB 2000

TELEPHONE DEPARTMENT

GUWAHATI

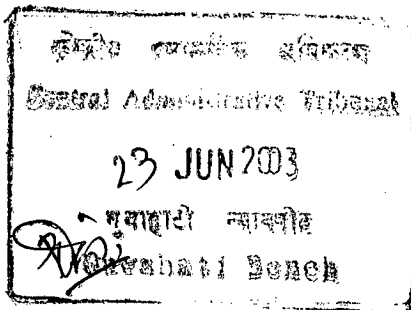
NO. 10/2000

25 FEB 2000

25 FEB 2000

25 FEB 2000

Divisional Engineer,
Microwave Maintenance BSNL,
Jorhat-781001.



Read by
22/6/03
61
Q.A. DEB ROY
Sr. C. G. S. C.
Q. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 410 OF 2002

Shri Chandra Gogoi & 2 (two) ors.

- Vs - Applicant.

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 para 4.1, of the application the respondents beg to offer no comment.
2. That with regard to the statement made in para 4.2, of the application the respondents beg to state that the applicant No.1 Mr. Chandra Gogoi was working as a part time worker only for 2 hours a day and not a full time worker in Jorhat Fault control w.e.f. 1.9.92. He had been disengaged on or from 22.02.2002 (Annexure-I & III).

The applicant No.2 Mr. Jasu Sonar was also
working as a part time worker only for 2 hours a day in

a day in Dibrugarh Fault control w.e.f. 22.02.95 and was disengaged on 25.02.2002 (Annexure-II, IV).

The applicant No.3, Mr. Rosheswar Hazarika was engaged on 1.7.99 on contractual basis for diving a vehicle of Jorhat Microwave Division. He was disengaged on 22.02.02 (Annexure-V).

3. That with regard to the statement made in para 4.3, of the application the respondents beg to state that none of the three applicants is working at present. Hence question of drawing wages at present does not arise.

4. That with regard to the statement made in para 4.4, & 4.5 of the application the respondents beg to state that the applicant No. 1 and 2 do not fall under the rule of full time, casual labourer. They were working as part time workers only. Applicant No.3 was engaged on 1.7.99. He also does not fall under the rule of regularization.

5. That with regard to the statement made in para 4.6, of the application the respondents beg to state that no applicant was engaged during the period from 13.3.85 to 22.6.88.

6. That with regard to the statement made in para 4.7, of the application the respondents beg to state that engagement of applicant No.1 a part time worker though engaged before 10.9.93 i.e. 1.9.92 is not covered under this rule.

Applicant no. 2 and 3 were engaged after 10.9.93.

7. That with regard to the statement made in paras 4.8, of the application the respondents beg to state that the para same as 4.4 to 4.7 above.

8. That with regard to the statement made in para 4.9, of the application the respondents beg to state that none of the applicants fall under the above mentioned scheme.

9. That with regard to the statement made in para 4.10, of the application the respondents beg to offer no comments.

10. That with regard to the statement made in para 4.11, of the application the respondents beg to state that none of the applicants fall under the above mentioned scheme.

11. That with regard to para 4.12, of the application the respondents beg to offer no comments.

12. That with regard to the statement made in para 4.13, of the application the respondents beg to state that no applicant fulfills the required qualification of regularization.

13. That with regard to the statement made in para 4.14, of the application the respondents beg to state that applicant No. 1 and 2 were part time workers and do not fall under the scheme of regularization up to 1.8.98 as they were not full-time Casual Labourers. Applicant No.3 was engaged after 1.8.98 so he also does not fall under the scheme of regularization

/ & 4.15

14. That with regard to the statement made in para 4.16, of the application the respondents beg to state that letter will be produced at the time of hearing the case if available.

15. That with regard to the statement made in para 4.17, of the application the respondents beg to state that the applicants No.1 and 2 were part time workers and the committee did not find them fit for regularization. The applicant No.3 was engaged after 1.8.98 . Hence question of calling him for interview and regularization does not arise.

16. That with regard to the statement made in para 4.18, of the application the respondents beg to state that the applicants do not fulfill the condition of the regularization as Casual Labourers. No separate treatment has been given to the applicants. There is no intention of violation of Article 14 and 16 of the Constitution of India.

17. That with regard to the statement made in paras 4.20 and 4.21, of the application the respondents beg to state that records in case of applicants No.1 and 2 were verified and found that they were only part time Casual worker and not full time worker (Annexure-I & II) . Records in case of applicant No.3 were not ~~submitted~~ submitted at all for verification.

18. That with regard to the statement made in para 4.22, of the application the respondents beg to state that no applicant fulfil the criteria laid down in the scheme of 1998.

19 . That with regard to the statement made in para 4.23, of the application the respondents beg to state that no applicant is continuing their work at present. They had already been dis engaged (Annexure- III, IV & V) respectively.

20. That with regard to the statement made in para 4.24, of the application the respondents beg to state that the applicants are not working at present. They have already been disengaged in Feb' 2002.

21. That with regard to para 5.1, of the application the respondents beg to offer no comment.

22. That with regard to the statement made in para 5.2, of the application the respondents beg to state that the applicants are not fit to get the benefit.

23. That with regard to the statement made in para 5.3 and 5.4, of the application the respondents beg to state that benefits can not be granted to the applicants. So violation of Article 14 and 16 does not arise.

24. That with regard to the statement made in para 5.5, of the application the respondents beg to state that committee constituted for regularization of Casual Labourers rejected the case of applicants No. 1 and 2 after verification of relevant documents on the pleas that they were part time workers only and not full time casual labourers. Case of applicant No.3 did not come before the committee at the time of verification. (Annexure-I and II) respectively.

25. That with regard to the statement made in para 5.6, of the application the respondents beg to state that applicants are not fit for regularization under the scheme.
26. That with regard to the statement made in para 5.7, of the application the respondents beg to state that committee constituted for regularization of casual labourers rejected the case of applicants No. 1 and 2 after verification of relevant documents on the plea that they were part-time workers only and not full time casual labourers. Case of applicant No.3 did not come before the committee at the time of verification. (Annexure-I and II) respectively.
27. That with regard to paras 5.8, 6 & 7 of the application, the respondents beg to offer no comments.
28. That with regard to the statement made in para 8.1, of the application the respondents beg to state that could not be extended the benefits of the scheme to the applicants.
29. That with regard to the statement made in para 8.2, of the application the respondents beg to state that engagement of Daily Rated Mazdoors is completely stopped in the department at present.
30. That with regard to para 8.3, of the application the respondents beg to offer no comment.
31. That with regard to the statement made in para 9, of the application the respondents beg to state that there is no vacancy of Daily Rated Mazdoors. Hence the question of filing up the vacancy ~~does~~ does not arise.


All the applicants had already been disengaged w.e.f. Feb'2002. Hence continuance of their services does not arise at present.

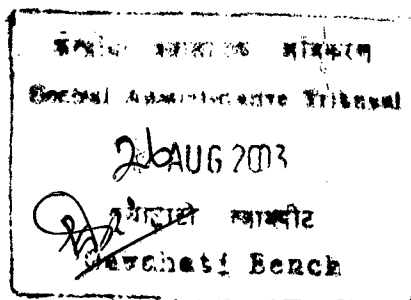
V E R I F I C A T I O N

I, Shri Edwinson Swer, presently
working as Dy. General Manager (Maintenance) / BSNL / Guwahati being duly
authorised and competent to sign this verification, do hereby
solemnly affirm and state that the statements made in para
1 through 31 are true to my knowledge and
belief and those made in para 1 through 31 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 10th day of
June
March, 2003 at Guwahati.

Declarant.


10.06.03.
(E. SWER)



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 418/2882

Chandra Gogoi & Ors.

-VS-

Union of India & Ors.

REJOINDER FILED BY THE APPLICANTS

1. That the applicants have received a copy of WS and have gone through the same. Save and except the statements which are specifically admitted herein below, rests may be treated as total denial. The statements which are borne on records the Respondents are put to the strictest proof thereof.

2. That with regard to the statement made in para 1 & 2 of the WS the applicants while denying the contentions made therein begs to state that the Respondents themselves in their various communications while forwarding the service particulars of the applicants more particularly the applicant No.1 and 2 referred them to be a part time worker working 4 hours a day. The statement relating to applicant No.3, Sri Rokheswar Hazarika is also not correct as prior to his engagement (1-7-99) he had occasioned to serve as daily rated mazdoor under the Respondents. The said applicant No.3 also working under the respondents, but his case was never sent for verification committee for his conversion to regular full time worker and by this action he was deprived of his legitimate claim of regularisation etc.

3. That with regard to the statement made in para 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 & 14 of the WS the applicants while denying the contest made therein beg to reiterating and reaffirming the statement made above as well as in the OA and beg to state that all of them fulfilled the required criteria for their conversion to full time regular mazdoor under the schemes preferred by the respondents in the regards and as such their services are required to be regularised.

4. That with regard to the statement made in para 15, 16, 17, 18, 19, 20, 21, 22, 23 to 31 of the WS the applicants while denying the contentions made therein beg to state that the statements made by the respondents are totally contrary to the records. the statement made by the respondents regarding non-fulfillment for required qualification under the scheme is totally a wrong statement with an intention to mislead the Hon'ble Tribunal. The Respondents vide communication dated 16.1.2002 sent the names of the applicants for their conversion to full time regular mazdoor and for conferment of temporary status. The respondents themselves in para 26 of the WS have admitted the fact that the name of the applicant was never sent for such consideration and as such his case could not be considered. It is pertinent to mention here that the subsequent communication by DGM(M), ETR, Guwahati to GM(M), ETR, Shillong clearly indicates that due their own lapses the applicants could not be converted to full time regular employee. The said communication dated 22.4.2002 enclosing the minutes of the Verification Committees meeting held on 11.4.2002 wherein the said committee recommended the cases of the applicant No. 1 and 2 for their conversion and for regularisation. From the said minutes it is apparently clear that the name of the applicant

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No. 3 was never sent for verification and as such he case was not never considered for such regularisation.

Copies of the letters dated 16.1.2002 dated 22.04.2002 and the minutes verification committees report are annexed herewith and marked as Annexure-RJ-1, RJ-2 & RJ-3 respectively.

5. That the applicants beg to state that the respondents knowing fully well about the minutes of the Verification Committee willfully and deliberately have misled the Hon'ble Tribunal by making statement that their cases are not covered under the scheme and for that action the respondents are liable to be proceeded under contempt of court and they are liable to be punished severely for swearing false affidavit before the Hon'ble Tribunal.

In view of the above facts and circumstances the applicants pray that the present OA be allowed directing the Respondents to regularise the services with retrospective effect providing them all the consequential service benefits.

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VERIFICATION

I, Shri Chandra Gogoi, s/o S.Gogoi, aged about 34 years, casual worker, at present working under the Malali Telephone Exchange, Fault Control Center, Jorhat Microwave Building, Jorhat, do hereby verify and state that the statements made in paragraphs 1, 2, 3, 5 are true to my knowledge and those made in paragraphs 4 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other applicants to sign this verification on their behalf.

And I sign this verification on this the 25th day of August 2003.

Sri Chandra Gogoi



BHARAT SANCHAR NIGAM LIMITED
(A GOVT. OF INDIA ENTERPRISES)
EASTERN TELECOM REGION

Office of the D.G.M. Maintenance
Senapati Road, Silpukhuri, Guwahati-3

No. DGM/ETR/GH/E-48/2001-2002/16

Dated at Guwahati the 16.01.2002.

To,
The A.G.M. (Admn.)
O/O the C.G.M.M. ETR,
7, kshetra Das Lane,
Kolkata - 12.

Sub :- Conversion of part - time casual labourers to full - time casual labourers and subsequent conferment of temporary status.

Ref. No. E - 34/T.S.M./2001 - 02/50, dt. 01.10.2001.

With reference to your letter cited above; the particulars of the following part - time casual labourers working at different stations under ETR, Guwahati are forwarded herewith for necessary order for conversion of full - time casual labourers and subsequent conferment of temporary status. The particulars were not forwarded earlier due to non availability of DGT's letters as cited in your letter under reference by which only this office comes to know about the conversion of part - time casual labourers to full - time casual labourers and consequent conferment of T.S.M.

Sl No.	Name of part - time labourer	Rate of hours working daily	Date of engagement	Remarks
1.	Sri Chadra Gogoi ✓	4 hrs.	9/92	JR
2.	Sri jasu Sonar ✓	4 hrs.	22. 02.95.	
3.	Smt.. Lakhiya basfor	3 hrs.	7/92	
4.	Smt. Sukhi Begam	3 hrs.	5/91	
5.	Sri Mahesh Basfor	4 hrs	01.02.2000.	Payment particulars are not available in this office. The

Sub Divisional Engineer (Admn.)
O/O the D.G.M. (Mice.) ETR,
Guwahati - 781003.

Attested
V. P. S.
Associate

EASTERN TELECOM REGION

No.: DGM/ETR/GW/E-48/01-02/

Dated: 22nd April 2002.

To,
GM (Mtee), ETR
Shillong

Subject: "Conversion of part time casual labour into full time and regularisation thereof"

Sir,

Five part time casual labour, as per names given below, were working as sweeper in various offices of ETR Sub region Assam:-

1. Sri Chandra Gogoi --- under JTO F/C Jorhat (DE F/C Guwahati)
2. Sri Jasu Sonar --- under JTO F/C Dibrugarh (DE F/C Guwahati)
3. Smt Lakhiya Basfor --- under O/o DGM ETR Guwahati
4. Smt Sukhi Begum --- under SDE Goalpara (DE Bongaigaon)
5. Mahesh Basfor --- under DE M/V Dibrugarh

DOT first, vide its letter No. 269-1089-STN dated 14-08-98, asked name of part time casual labours, working in various field units for conversion into full time casual labours. Again BSNL H/Q vide its letter No. 269-94/98-STN-II/Pers-IV Dated 19-04-2001 asked to furnish details of casual labour working in field units. But name of persons at Sl No. 1 to 4, who were working much earlier to August 98 (as per detail given in attached annexure) could not be communicated to DOT H/Q in time, due to lapses at end of controlling officers. Hence these four persons (Sl 1 to 4) could not be converted into full time and regularised further. Though name and service particulars of all above five persons were forwarded to CGM ETR by SDE(A) of this office on 16-01-2002 vide letter No. DGM/ETR/GI/H/E-48/01-02/16, however CGM office vide letter No. CGM/ETR/Part Time/CI-II/3 dated 18-02-02 communicated that their name can not be considered as same has not been sent earlier. In view of CGM office letter mentioned above and DO letter of CGM ETR dated 31-01-2002, all these part time sweepers were retrenched w.e.f. 28-02-2002.

BSNL H/Q vide letter No. 269-9498-STN-II/Pers-IV Dated 23-02-2002 has once again asked details of casual labour working in field units of BSNL as reminder to its letter dated 19-04-2001. In pursuance of it a committee consisting of controlling DEs, SDE(A) and AO of this office was formed to verify service records, payment details and to examine suitability and other terms and condition for eligibility to convert these part time labours into full time. The committee has submitted its report and has recommended that persons at Sl No 1 to 4 above may be considered for conversion into full time and regularisation. Person at Sl No. 5 Sri Mahesh Basfor, who was engaged after 1-8-98 has not been found recommended for conversion into full time casual labour.

Therefore the case of above four persons from Sl no. 1 to 4 is re-submitted for consideration to convert them into full time casual labour and to regularise them against vacant post of group 'D'.

Sanjeev Kumar

Copy to :- DGM(P&A) O/O CGM ETR Kolkata

DGM(Mtee) ETR, BSNL, Senapati Road, Sil, Jakhuri, Guwahati-781003, Phone-0361-660273 (O), 530555 (R), Fax-661306.

Attested
Advocate.

BHARAT SANCHAR NIGAM LIMITED.

OFFICE OF THE D.G.M(M)ETR, SENPATHI ROAD, GUWAHATI-3.

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In the O/o D.G.M(M)ETR, GUWAHATI for regularisation of part time officials.

1. The D.E. M/W Dibrugarh. - Sri P. Sing
2. The D.E. M/W Bongaigaon. - Sri S.K. P.
3. The D.E. F/C Guwahati-1. - Sri P.K. Ghosh
4. Senior A.O. O/o D.G.M(M)ETR, GH-3. - Sri T.S. Nagaryan
5. S.D.E. (ADMN) - Sri S.K. Sarkar

Recommendation of the Committee:-

At the outset the members of this committee unanimously feels that the formation of this committee and further decision there of could have been avoided if administration could have taken prompt action at the time of forwarding the service particulars of Smt. Lila Ridas, Part time ^{casual} M/W Silchar (by DE MW Silchar) who has been converted to full time casual labour and simultaneously converted into T.S.M. vide CGM.C-31/TSM/2001-2002/50 dt. 01-10-2001. Due to Administrative lapses the services of part time officials as per details furnished in Annexure -A working under various DE's of DGM, ETR, GH has to be dispensed subsequently.

V.V

The Service particulars and other details have been verified and enclosed in Annexure -A as per DDT letter No. 269-13/99 STN STN dt. 16-9-99 & No. 269-13/99-STN-II dated 21-08-2000. All divisions are running with shortage of GR-D Staff due to promotion of R.M. to P. Mech.

Hence the committee recommends for regularisation of 4 cases as detailed in the annexure except Shri. Mahesh Basak who has been working from 01-02-2000.

His case has not been considered since the person is engaged after issue of DDT 269-13/99 II dt. 16-9-99.

S.K. P.
Bongaigaon

S.K. P. Sing
Dibrugarh

(Sri P.K. Ghosh)
DE FC, GUWAHATI

Attested
Advocate.

65 45

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Annexure-RT-3

IT REGARDING CASUAL LABOURS (part time).
 of casual labour who have not been regularized
 temporary status. The following part time
 and was not converted to full time, then

Name of Casual Labour	Date of engagement	No. of hours working daily	Whether actually engaged on eligible for temporary status as on 1-1-78		Recommendations	
Shri Chandra Gopal.	Sept '77 from 1.9.77	1 hour 140 days in every year.	May be considered Admin. as eligible as per working days.	Part time Casual Labour worked as Sweeper in the o/o DE F/C/JRT under DE F/C, QUWAHATIA.	Recommendations	
Shri Jagan Sonar	11.1.78	4 hrs. -do-	-do-	-do-	Part time Casual Labour working as Sweeper in the FC/UR under DE FC, GH.	Recommendations
Smt Labhina Baskon	July, 77 -7-77	3 hrs -do-	-do-	-do-	Part time casual labour working as sweeper in the o/o DGM (M) ETR, GH.	Recommendations
Smt Subhi Begam	May, 01 1.5.71	3 hrs -do-	-do-	-do-	Part time Casual labour worked as sweeper in the MW Coalpara under DE MW UGN.	Recommendations
Sri Mahesh Baskon	01-1-1980	4 hrs not considered by the committee.	Date of joining is after 01.1.78	-do-	Part time casual labour worked as Sweeper in the o/o Part time DE MW UR.	Not

All the particulars have been verified.

It is noted that the above information is correct and accurate given there is no and there are no casual labour in this sub region except those mentioned above.

Recommendations - Except Sl. No. 5 All the four officials as mentioned in the may be regularized. The case of Shri Mahesh Baskon, P.T. has not been considered since the person is engaged after issue of D.O. 162-13/77-STH, 11 dt. 16-9-77.

[Signature]
 P. B. Baskon
 DE MW UGN
[Signature]
 S. K. Paul
 DE MW UGN
[Signature]
 J. Singh
 DE MW UGN

[Signature]
 S. K. Paul
 DE MW UGN

Attested
 u/s
 Advocate.