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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 75/02.....

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7
SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 25/2002
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____Applicant(s) Bijendra SarRespondent(s) Govt. of Ass.Advocate for Applicant(s) Mr. Adil Ahmed.Advocate for Respondent(s) ASC.

Notes of the Registry | Date | ORDER OF THE TRIBUNAL

This application has been filed by the Advocate with I.P.O. No. 7G 547803 dated 26/2/02 for Re: 80/ with 4 copies of application from Respondent(s).

6.3.02 Heard Mr. A.Ahmed, learned counsel for the applicant.

The application is admitted. Call for the records.

List on 8.4.2002 for order.

K C Usha
Member

Vice-Chairman

8.4.2002 List on 9.5.2002 enabling the respondents to file written statement.

K C Usha
Member

Vice-Chairman

Slips taken, Notice issued and sent to D/8 for my the respondent No. 1 to S by Regd. A.D.

18/3/02

9.5.02 List on 7.6.2002 to enable the Respondents to file written statement.

K C Usha
Member

Vice-Chairman

D/No 907 W 910
Dtd 26/3/02

No. written statement
has been filed.

7.6.02 List on 27.6.2002 to enable the
Respondents to file written statement.

3/
8.5.02.

I.C.Usha
Member

Vice-Chairman

No. wts has been filed.

mb

27.6.02

Written statement has been
filed. The case may now be listed for
hearing on 9.8.02. The applicant may
file rejoinder if any, within two
weeks. List on

3/
6.6.02.

I.C.Usha
Member

Vice-Chairman

19.6.2002

W/S Submitted
by the Respondents.

lm

9.8.2002

Let the matter be placed for
hearing on 10.9.02. The General
Manager, Canteen Stores Department
(P&A) is ordered to appear in person
before the Tribunal at 10-30 A.M. on
that day..

PA

I.C.Usha
Member

Vice-Chairman

Copy of the order
dt. 9.8.02 issuing
of the same to the
respondents through
Regd. post with A/D.

Vide D.No. 2294
Dtd. 27.8.02.

nkm

10.9.02

Heard Nr.A.Ahmed learned counsel
for the applicant and also Mr.A.Deb
Roy, Sr.C.G.S.C. for the respondents.
As per ordered, Shri N.B.Singh, Dy.
General Manager(P&A) appearing on
behalf of the General Manager before
us and his presence is recorded. The
application is dismissed by separate
order.

3/
26.8.02

order dt. 18/9/02
communicated to the applicant
and the parties concerned.

PA

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 75 of 02 of

10.9.2002
DATE OF DECISION.....

Sri Birendra Sah,

APPLICANT(S)

Mr. A. Ahmed

ADVOCATE FOR THE APPLICANT(S)

VERSUS

Union of India & Others.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D. N. CHOUDHURY, VICE-CHAIRMAN

THE HON'BLE

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

Judgment delivered by Hon'ble VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.75 of 2002

Date of Order: This the 10th Day of Sept' 2002.

HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN

1. Birendra Sah,
Son of Sri Mangal Sah,
Army supply Depot Road,
Near Canteen Store Department
P.O.Dimapur, Nagaland. Applicant.

By Advocate Mr.A.Ahmed

-Vs-

1. Union of India
Represented by the Secretary
to the Government of India,
Ministry of Defence, New Delhi
2. The General Manager,
Canteen Store Department.
ADELPHI, 119 Maharshi Karve Road,
Mumbai-400020.
3. The Regional Manager(East)
Canteen Store Department
P.O. Satgaon, Narangi
Guwahati.
4. The Area Manager,
Canteen Store Department,
Area Depot, Army Supply Depot Road,
P.O. Dimapur, Nagaland. Respondents.

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

O R D E R.

D.N.CHOUDHURY, VICE-CHAIRMAN:

The matter pertains to regularisation and absorption of Mazdoor. The applicant moved this Tribunal by filing an application which was registered in O.A.No.449 of 99 dated 3.5.2001. The Tribunal found that the applicant was empanelled for the post of Mazdoor at serial No.5 of the panel drawn. The applicant was entitled for regular appointment after the four candidates who were senior to the applicant were given regular appointment. During the validity

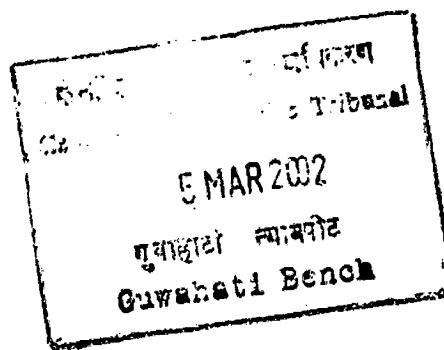
contd/-

of panel there is no vacancy, the applicant could not accommodate by the respondents.

2. I have heard Mr.A.Ahmed learned counsel for the applicant and Mr.A.Deb Roy, learned Sr.C.G.S.C. at length. From the records and materials it appears that the applicant rendered his service under the respondents as a daily rated employee and such persons are entitled for consideration for their regularisation. The Respondents have filed their written statement and stated that because of the pruning of vacancies the Respondents were unable to consider the case of the applicant for regular appointment. The name of the applicant is in the panel. But in the absence of vacant post there is/was no scope to accommodate the applicant. Our earlier order to consider the case of the applicant against any future vacancy as per law on the Respondent stands. In the circumstances there is no scope for issuing fresh directions on the Respondents. Accordingly, the application stands dismissed. There shall however, be no order as to costs.


(D.N.CHOUDHURY)
VICE-CHAIRMAN

LM



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

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

ORIGINAL APPLICATION NO. 75 OF 2002.

Sri Birendra Sah - Applicants

-Versus-

The Union of India & Others

- Respondents

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Filed by
Advocate
(Abdul AHMED)

Birendra Sah

Filed by
Sri Birendra Sah
Applicant
Through J.J. D.
(Adv. Advocate)

- 1 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. OF 2002

BETWEEN

Sri Birendra Sah,
Son of Sri Mangal Sah,
Army Supply Depot Road,
Near Canteen Store Department,
P.O. Dimapur, Nagaland.

Applicant.

AND

- 1] Union Of India,
represented by the Secretary
to the Government of India,
Ministry of Defence, New Delhi.
- 2] The General Manager,
Canteen Store Department,

Birendra Sah.

'ADELPHI' 119 Maharshi Karve Road,
Mumbai-400020.

3] The Regional Manager (East)
Canteen Store Department,
P.O. Satgaon, Narengi,
Guwahati.

4] The Area Manager,
Canteen Store Department,
Area Depot, Army Supply Depot Road,
P.O. Dimapur, Nagaland.

Respondents.

DETAILS OF THE APPLICATION:

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

This application is made against the Ref. No. 3/PERS/A-1/1107 (Dimapur) 5879 dated 4th October 2001 issued by the Office of the Respondent No. 2 rejecting the Applicant's Case of appointment as regular mazdoor in Canteen Store Department as per direction given by this

Hon'ble Central Administrative Tribunal, Guwahati Bench,
Guwahati in O.A. No. 449 of 1999.

2] JURISDICTION OF THE TRIBUNAL

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

3] LIMITATION

The applicants further declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4] FACTS OF THE CASE

Facts of the case in brief are given below:

- 4.1 That your humble applicant is a citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India. The applicant is read up to

— 6 —

Class-IX and he could not prosecute further studies due to financial hardships.

4.2 That your applicant begs to state that he was working as Mazdoor since 1986 as daily rated employee in the Canteen Store Department under the Ministry of Defence, Dimapur, Nagaland.

Annexure-A is the photocopy of the personal details of daily rated Group-C & D Staff of the Canteen Store, Department issued by the Respondent No. 4 dated 30-04-1987.

4.3 That your applicant begs to state that the Respondent No. 4 issued a call letter to your applicant vide reference No. DPD/Est/649 dated 21st October, 1988 for recruitment of regular Mazdoor in the Canteen Store Department, Dimapur, Nagaland. It is pertinent to mention here that the Candidature of the applicant was sponsored by the Employment Exchange, Kohima, Nagaland vide their letter No. ORD/113/86/1268 dated 6th September, 1988. The recruitment test was held on 27-10-88. After that, your

Bi gendera soft.

applicant was again called by the Respondent No. 4 on 8th November, 1988 along with all necessary documents for further action but nothing has been done in this matter, though some of Junior persons have been appointed as Mazdoor.

Annexure-B is the photocopy of reference No. DPD/Est/649 dated 21st October, 1988.

Annexure-C is the photocopy of letter dated 2nd November, 1988.

4.4 That your applicant begs to state that as per list of daily rated employee engaged as Mazdoor in Canteen Store Department, Dimapur, Nagaland applicant's Serial Number is 12. In this Proforma the applicant's name was shown as working since 03-11-86. Now almost all the daily rated Mazdoor who are junior to the applicant have been appointed as regular Mazdoor in Canteen Store Department, Dimapur, Nagaland. But surprisingly, the applicant's service has not been regularised or the applicant has not been appointed as regular Mazdoor while all other Junior persons who were working as Mazdoor while all other all the

applicants are serving under the Area Manager, Canteen Store Department, Area Depot, Army Supply Depot Road, P.O. Dimapur, Nagaland. But surprisingly, the applicant's service has not been regularized or the applicant has not been appointed as regular Mazdoor while all other junior persons who were working as Mazdoor their services has been regularized by the Respondents.

Annexure-D is the photocopy of Proforma of details of daily rated employees engaged as Mazdoor issued by the Respondent No. 4.

4.5 That your applicant begs to state that being aggrieved by the action of the Respondents for not appointing the applicant as regular Mazdoor your applicant filed an Original Application No. 449 of 1999 before this Hon'ble Tribunal. The Respondents also filed Written Statements in the above-mentioned Original Application. The Respondents in their Written Statements stated that the applicant was only appointed for a short period of 8(eight) months from November 1986 to June 1987 and the Respondents also stated in their Written Statements that after this the applicant was never appointed or engaged by the Respondents. Your applicant filed rejoinder to the Written

Statements and submitted necessary records of his proof of engagement as Mazdoor by the Respondents. The applicant also submitted the pay slips dated June 1992 and July 1992. The Original Application was finally heard by the Hon'ble Tribunal on 3rd May 2001 and allowed the Original Application No. 449/99 and was also pleased to direct the Respondents to consider the case of the applicant against any future vacancy as per law.

Annexure-E is the photocopy of pay Slip of the applicant issued by the Respondent for the month of June 1992 and July 1992.

Annexure-F is the photocopy of Judgment and order dated 3rd May 2001 passed in Original Application No. 449/99 by this Hon'ble Court.

4.6 That your applicant begs to state that he submitted the certified copy of Judgment and order dated 3rd May 2001 passed in O.A. No. 449/99 before the Respondents but the Respondent No. 2 rejected the case of the applicant for appointment as Mazdoor by passing a mechanical and whimsical order vide Ref No. 3/PERS/A-

1/1107(Dimapur)/5879 dated 4th October 2001. In this Order the Respondents have simply stated that the applicant's case for appointment has been examined but since no new appointments are being considered as per Government directive as such they are unable to consider the case of the applicant for appointment in the Canteen Store Department. Hence, finding no other alternative your applicant is compelled to approach again before this Hon'ble Tribunal for seeking justice.

Annexure-G is the photocopy of Ref. 3/PERS/A-1/11007(Dimapur)/5879 dated 04-10-2001.

4.7 That your applicant begs to state that he was working on daily rated Mazdoor for years together but his service has not been regularized by the Respondents. There were numbers of Central Government Schemes for regularization of casual workers who continued for long time as casual workers. Some of these schemes were issued under the O.M. dated 07-06-88 and also some schemes are issued by the Government of India for grant of temporary status and subsequent regularization of the casual workers who are working for a long period.

- 4.8 That your applicant begs to state that his service was utilized by the Respondents for many years and he was sponsored by the Employment exchange, Dimapur, Nagaland to the Canteen Store Department, Dimapur. He was selected by the Respondents for regular Mazdoor in the Canteen Store Department.
- 4.9 That your applicant begs to state that the service record of the applicant has not been maintained properly by the Respondents and break in service was being done in verbal order. The Respondents have not issued any formal engagement letter to the applicant but till now the Respondents occasionally provide some temporary works to the applicant.
- 4.10 That your applicant begs to state that if the Hon'ble Tribunal do not interfere immediately in this matter than irreparable loss will be caused to the applicant and applicant will be over aged for any Government Service.
- 4.11 That your applicant submits that many of his juniors have already been appointed as regular Mazdoor by the

Respondents but the applicant's case is left out by the Respondents and the reasons are best known to the Respondents.

- 4.12 That your applicant submits that the act of the Respondents in case of the applicant is improper, mala fide, illegal, with a motive behind and without jurisdiction.
- 4.13 That your applicant submits that the Respondents have resorted the colourable exercise of power to deprive the applicant. The actions of the Respondents are arbitrary and whimsical.
- 4.14 That this application is filed bona fide and for the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

- 5.1 For that, the applicant having worked as a daily rated Mazdoor and subsequently he was sponsored by the Employment Exchange and selected by the Respondents hence, Respondents cannot deny the same

and as such he is entitled for appointment as regular Mazdoor in the Canteen Store Department.

- 5.2 For that action of the Respondents in *prima facie* is *mala fide*, illegal, arbitrary and without jurisdiction.
- 5.3 For that the Respondents are being model employer cannot be allowed to adopt a discriminatory treatment to the applicant.
- 5.4 For that the nature of work entrusted to the applicant are permanent nature and therefore he is entitled for permanent appointment as Mazdoor.
- 5.5 For that the applicant has become over aged for other employment as such, he should be appointed by the Respondents.
- 5.6 For that the juniors to the applicant has already given the benefit of permanent appointment and as such, the Respondents cannot deny to this to the applicant.

5.7 For that the applicant's name was sponsored through local employment exchange and he was selected for this in the existing vacancies available in the Canteen Store Department. Hence, the applicant should be appointed as regular Mazdoor.

5.8 For that the applicant was not selected by any backdoor policy he was selected through proper procedures and rules. Hence, the Respondents cannot deny the benefit of appointment as Mazdoor to the applicant.

5.9 For that, it is settled proposition of law that when the same principle have been laid down in given cases all the persons who are similarly situated should be granted the said benefit.

5.10 For that in any view of the matter the action of the Respondents are not sustainable in fact and law.

The applicant craves Leave of the Hon'ble Tribunal to advance further grounds at the time of hearing of the instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that your Lordship may be pleased to admit this petition, call for the records and issue rule to show cause as to why the relief prayed for should not be granted to the applicant and if any cause or causes are shown by the

21

— 14 —

Respondents then after hearing the application this Hon'ble Tribunal may be pleased to pass any order or orders as your Lordships may deem fit and proper and may be pleased to direct the respondents to give the following reliefs.

- 8.1 to give appointment to the applicant to the post of Mazdoor in the Canteen Store Department, Dimapur, Nagaland.
- 8.2 to give the benefit of all service benefits to the applicant including monetary benefit from the date when the juniors to the applicant are appointed as Mazdoor.
- 8.3 To pass any other relief or reliefs which the applicant may be entitled and as may be deemed fit and proper by the Hon'ble Tribunal.
- 8.4 Cost of the case.

- 15 -

9. INTERIM ORDER PRAYED FOR:

Pending final decision of this application the applicants seek issue of the interim order:

9.1 That the respondents may be directed to appoint the applicant as Mazdoor in the Canteen Store Department, Dimapur, Nagaland.

10. Application Is Filed Through Advocate.

11. Particulars of I.P.O.:

I.P.O. NO. 76547803

Date Of Issue 26.2.2002

Issued from Guwahati G.P.O.

Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated above.

- Verification.

Bijendra Sah.

VERIFICATION

I, Sri Birendra Sah, Son of Sri Mangal Sah, Army Supply Depot Road, Near Canteen Store Department, P.O. Dimapur, Nagaland do hereby solemnly verify that the statements made in paragraphs 4.1, 4.7, 4.8, 4.9 — 4.2 to 4.6 are true to my knowledge, those made in paragraphs 4.2 to 4.6 are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this 5th day of ^{March} 2002 at Guwahati.

Birendra Sah

Declarant.

- 17 -

सार्वजनिक दुकान
Sarva Jniki Dukhan
गोपनीय नं 701 रोड
Post Box No. 19
दिनांक 15/03/87
Dimapur - 793112
असम (Nagaland)

DPD/EST/0248

30 April '87.

Head Office
Section - 3
CSD BOMBAY

SUB: PERSONAL DETAILS OF DAILY RATED STAFF

Reference your circular No. 3/A-1/1146/2311 of 19/3/87.

Enclosed please find herewith the forms duly filled in submitted by the following Daily Rated Group 'C' & 'D' Staff.

- 1) Miss Sabitri Bhattacharjee.
- 2) Shri Alex P.S.
- 3) Shri Lalit Gogoi.
- 4) Shri Manoj Kanti Das.
- 5) Shri Sibendra Sarkar.
- 6) Shri Gour Acharjee.
- 7) Miss Tapashi Biswas.
- 8) Shri Sankar Chakraborty.
- 9) Shri Debasish Deb.
- 10) Shri Hirjhar Choudhary.
- 11) Miss Sukla Chakraborty.
- 12) Shri Subodh Chandra Malakar.
- 13) Shri Tushar Karti Das.
- 14) Shri Badrinath Subedi.
- 15) Shri Vidya Rai.
- 16) Shri Tribhuvan Rai.
- 17) Shri Subash Chandra Gouda.
- 18) Shri Sundar Rai.
- 19) Shri Mohan Lal Gour.
- 20) Shri Satya Narayan Sahoo.
- 21) Shri Ram Prasad.
- 22) Shri Krishna Bahadoor Chetri.
- 23) Shri Nand Kishor Rai.
- 24) Shri Prayag Sharma.
- 25) Shri Ramchandra Shaw.
- 26) Shri Birender Sah.
- 27) Shri Lakhsman Rai.
- 28) Shri Surendra Panday.
- 29) Shri Wakhil Rai.


Manager
(THOMAS VARGHESE)

After
1/1
Amrita

GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
CANTEEN STORES DEPARTMENT
DIMAPUR, NAGALAND

Ref. No. DPD/EST/649/

Date : 24 Oct 1988

(UNDER CERTIFICATE OF POSTING)

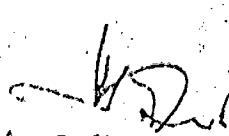
To,

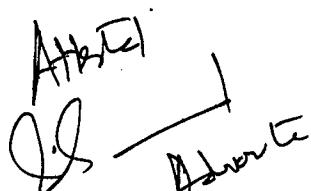
Shri. Birendra Saha
C/o Lhonthi Colony
Dimapur
Nagaland

SUB : RECRUITMENT OF Mazdoor

As sponsored by the Employment Exchange, Kohima(Nagaland)
via letter No. ORD/113/88/1228 dated 6 Sept 88
you are hereby asked to appear in the test/interview at 10.00 hrs
on 27-10-88 in this Office/Depot for selection of
Mazdoor. You are also asked to bring all the original
Certificate in relation with your personal records i.e. Educational
qualification/ Technical qualification, Date of birth and any past
experience in the trade or any other Certificate in relating to
past services rendered to Government.

The initial basic pay of the post is Rs. 750/-
PM. Plus all other allowances as applicable to the Central Government
Employees.


Arun Manager
(Thomas Vargheese)
CSD Depot, Dimapur Nagaland


Addl Manager

— 19 - ANNEXURE C

Govt of India
Ministry of Defense
Central Stores Dept.
Pimpri, Wardha, Distt. 440 110

DPO/EST/

2 Nov 88

2 Nov 88

To:

Haji Bismilla Shaik
Ch. Bimla Colony
Damapur Nagpur

SUB : INTERVIEW

You are hereby instructed to report this office
within 8th Nov 88 alongwith all your necessary testimonials
for further action.

K.D.
Manager
(Thomas Verghese)

Attested
Advocate

DETAIL OF DAILY RATED EMPLOYEES LISTED AS MAZDOOR/DRIVER
FOR THE MONTH OF

ANNEXE A — D

No.	Name & Designation.	Date of Birth.	Working Since.	Whether Sponsored By Exchange	Exchange Registration No.	Qualification.	Present Address.	Permanent Address.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Shri E. Kumar, Masdoor	20/8/56	1/03/73	'No' locally Koh 2813/84	VII	CSD Coleney, D-1	S/C. Late Rsm Bahadur.	
							1mapur.	Vill. & PO Thara, Dist. Gutri (West Nepal)
2.	Shri Ramchandra, - do -	23/1/63	9/1/73	- do -	Koh 2813/84	III	CSD Depot, Dist. -	Vill. Araila, P.O. Nagadevari, Dist. Arra
							apur.	Bojpur, Bihar.
3.	Shri Tribhivan Rai, - do -	2/6/56	9/1/73	- do -	Ech/2768/84	III	C/O. Vedar Rai, -	Vill. Charanchak, P.P.O. Debedan, Dist. Chhapre,
								Nagaland. (Piber).
4.	Badri Nath, - do -	21/6/60	30/4/84	- do -	E-5576/85	Class-III	C/O. Vedar Nath, S/O. Surya P. Subedi,	
							CSD Depot, Dist. Vill. Pahari P.T.O. Schn-	
5.	Shri Mahanlal, - do -	5/3/62	19/4/82	- do -	K-546/82	Class-III	C/O. Signal Pas- Vill. Dharikuli Gar-	
							ti, Dimapur. Basti, P.O. Silakutti,	
6.	Shri S. Panday, - do -	31/12/65	8/1/85	- do -	143195/85	I	C/O. R. N. Panday, Vill. & P.O. Nisharpur,	District. Sibsagar, Assam.
					x 0210		LDC CSD Depot, Thane Baartpur, Dist	
7.	Shri Kishor Kumar, - do -	1/2/65	15/3/85	- do -	Discontinued	Class-X	Disapur. Nagaland. Sivam Nhar.	
							C/O Signal Basti, Vill. Phandul Herdesti	
8.	Shri Amarjeet, - do -		15/10/84	- do -			Disapur. Nagaland, P.O. Sitalutti Sibs-	
							azar, Assam.	
9.	Shri Ram Prasad, - do -	1/1/67	1/4/86	- do -	K-5185/86	Class-IX	C/O. Shri Raj Nath	
10.	Shri Satyanarayan, - do -	20/10/65	1/4/86	- do -	K-5184/86	Class-VI	Rafaiwala, CSD Depot	
							Disapur. Nagaland.	
11.	Shri Exx Akhil Rai, - do -		: Since Resigned.				C/O. CSD Depot, Vill. Pains, Dist.	
12.	Shri Narendra Sha, - do -	27/9/65	3/11/86	- do -			Disapur. Nagaland. Deoria, (MP)	
X13.	Shri Nand Kishore, - do -	3/9/58	3/11/86	- do -	K-2814/86		C/O. CSD Depot, Dheminala, Disapur.	
							Disapur. Nagaland.	
X14.	Shri Prayag Sharma, - do -		: Since Resigned.				C/O. CSD Depot, Vill. Uadla P.O. Pavli	
15.	Shri Subash Ch. Gur, - do -	9/10/67	8/12/86	- do -	K-2036/86	Class-VI	Disapur. Nagaland.	Vill. Sahanapader, Dist. Gajrija, Orissa.
16.	Shri Bidya Rai, - do -	4/12/67	1/2/86	- do -	K-2828/86		C/O. Vedar Rai, CSD Depot, Dhemalur	CSD Coleney, Dist. N.I.K.
							Nagaland.	
17.	Shri Sunder Rai, Driver.	12/5/61	29/1/87	- do -	519/86	Class-VI	C/O. Dhan Bahadur Rai, P.O. Disapur.	Signal Hemali Basti, Disapur.
							Nagaland.	
18.	Shri Laxman Rai, Masdoor.	1/6/1966	7/4/86	- do -	K-2757/84	III	C/o. Sa'nidevi Safaiwali CSD Depot, Disapur	Vill. Chitanagar, Dist. Madarsa, Dist. Nihar.

Statement of Payment made for Grass Cuttings at D

Passenger list in the month of June 1952

④ Rs 42.75 per day (Basic+DA)

Auth H.O. Telegram dated 22/5/1912

• Dk. 11-7-52

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John F. Hart

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PASSED FOR PAYMENT

(S. V. P. - D. 1949)

Carriean Stores Department
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W. D. Duncanson

Statement of Payment made for Grass Cultivation Dept.

~~Surrounding Area in July 1952~~

SN	Name	1	2	3	4	5	6	7	8	9	10	Total Amount	Amount Paid	Amount Due	Signature
1	Shri Birendra Shah	P	P	P	P	P	P	P	P	P	P	Rs. 385/-	Rs. 305/-	Rs. 80/-	Birendra Shah

Ps 62:75 berulang (Baric + DA)

Author H. O. Telegraphic 22/5/92 3.0

11-113-92

Sh. D. J.

6000

Asses for the year

Message

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23
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE F

Original Application No.449 of 1999.

Date of decision: This the 3rd day of May 2001

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Birendra Sah,
Army Supply Depot Road,
Near Canteen Store Department,
Dimapur, Nagaland.

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by
The Secretary of Defence,
Government of India,
New Delhi.

2. The General Manager,
Canteen Store Department,
Mumbai.

3. The Regional Manager (East),
Canteen Store Department,
Narengi, Guwahati.

4. The Area Manager,
Canteen Store Department,
Area Depot,
Army Supply Depot Road,
Dimapur, Nagaland.

Mr A. Deb Roy, Sr. C.G.S.C. and
Mr B.S. Basumatary, Addl. C.G.S.C.

.....Applicant

.....Respondents

O R D E R (ORAL)

CHOWDHURY, J. (V.C.)

The issue pertains to regularisation and/or absorption of the applicant as Mazdoor under the respondents. In the application it was pleaded that the applicant was working as Mazdoor since 1986 as daily rated employee in the Canteen Store Department under the Ministry of Defence, Dimapur, Nagaland. In the year 1988 a call letter was issued to the applicant for recruitment as regular Mazdoor in the Canteen Store.

After
J. S. Advocate

Department, Dimapur, Nagaland. The applicant was sponsored by the Employment Exchange, Kohima, Nagaland vide letter dated 6.9.1988. The applicant was called by the respondent No.4 on 8.11.1988 along with all necessary documents for further action. According to the applicant, though persons junior to him who were also engaged as daily rated Mazdoor were regularised, he was not regularised.

2. The respondents submitted their written statement denying and disputing the ~~assertions~~ made by the applicant. The respondents even denied the fact that the applicant was working under the respondents, save and except for a brief period of eight months from November 1986 to June 1987 with intermittent breaks. In the written statement the respondents pleaded that the applicant's engagement was purely ^{of} temporary nature to tide over the constraint of deficiency of available manpower. According to the respondents, the applicant was never engaged thereafter. It is difficult to accept the said assertions of the respondents on the face of some of the records pertaining to the statement of payment made to the applicant in the months of June 1992 and July 1992. Be that as it may, on the own showing of the respondents the applicant was subjected to the process of selection on 3.11.1988 for drawal of the panel for Groups 'C' and 'D' employees. The Selection Board had ~~impanelled~~ the applicant for the post of Mazdoor at serial No.5 of the panel drawn. The applicant was entitled for regular appointment after the four candidates who were senior to the applicant were given regular appointment. However, during the validity of the panel, as no vacancy surfaced, the applicant could not be accommodated.

3. We heard Mr. A. Ahmed, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. at length. Mr. Deb Roy took the plea of limitation, which we are not inclined to accept since the application pertains to regularisation of the applicant's service. From the records and materials it appears that the applicant rendered his service under the respondents as a daily rated employee and such persons are entitled for consideration for their regularisation. Admittedly, the applicant

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was found suitable, but he could not be accommodated earlier. In the circumstances we are of the view that ends of justice would be met if a direction is issued to the respondents to consider the case of the applicant against any future vacancy as per law.

4. The application is accordingly allowed. No order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

nk m



Certified to be true Copy
अमांग ग्राहिति

16/5/2011
No. 16/5/2011

Section Officer (S)

अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केंद्रीय न्यायिक अधिकारी
Guwahati Bench, Guwahati
प्रांतीय न्यायिक अधिकारी

16/5/2011

Atto (S)

Jls Atto

— 26 —

भारत सरकार

GOVERNMENT OF INDIA

रक्षा मंत्रालय

MINISTRY OF DEFENCE

कॉन्टीन स्टोर्स विभाग

ANNEXURE - 6



CANTEEN STORES DEPARTMENT

Telegram : CANSIND

Telex : 011-82761/011-85503 CASD IN

Telephones : 203.71.20/40/42/80

"ADELPHI"
119 MAHARSHI KARVE ROAD,
MUMBAI 400 020

Ref.: 3/Pers/A-1/I-107(Dimapur)/5879

Date: 04 Oct 2001

✓ Shri Birendra Sah
Army Supply Depot Road
Near Canteen Store Department
Dimapur, Nagaland

REGISTERED A.D.

CAT GUWAHATI ORDER DATED 03/05/2001 IN
OA NO 449/99 FILED BY SIIRI BIRENDRA SAI

Reference CAT Guwahati order dated 03/05/2001 in OA No. 449/99 filed by you.

2. As directed by Hon'ble CAT Guwahati, your case for appointment in CSD has been examined but since no new appointments are being considered as per Government directives, we are unable to consider your case for appointment in this department.

101
—
(NB SINGH)
DY. GENERAL MANAGER (P&A)
FOR GENERAL MANAGER

After
Date

कृपया पत्र व्यवस्थर विभाग को नाम से करें, न किसी व्यक्ति को नाम से।
Please address the communication to the department only and not to any individual by name

19 JUN 2002
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O.A. NO. 75/2002

File No
C.A.Y/1816/02
(A. DEB ROY)
Sr. C.G.S.C.
C.A.T. Guwahati Bench

Sri Birendra Sah.

-vs-

Union of India & Ors.

-End-

IN THE MATTER OF ::

Written statement submitted by
the respondents.

The respondents beg to submit written statement
as follows :-

1. That with regard to para - 1 of OA, the
respondents beg to state that at the outset the
respondents submit that the applicant in this application
is allegedly aggrieved on account of not having granted
appointment as regular Mazdoor in the office of
respondents. The respondents submit that the applicant
had already filed an original Application bearing No.
449/99 before the Hon'ble Tribunal for the same claim
and the same has been disposed of vide order dated
03.05.2001 with the following directions.

We heard Mr. A. Ahmed, Learned Counsel for the
applicant and Mr. A. Deb Roy, Learned Sr. C.G.S.C. at
length. Mr. Deb Roy took the plea of limitation, which
we are not inclined to accept since the application
pertains to regularisation of the applicant's service.

From the records and materials it appears that the ~~app~~ applicant rendered his service under the respondents as a daily rated employee and such persons are entitled for consideration for their regularization. Admittedly, the applicant was found suitable, but he could not be accommodated earlier. In the circumstances we are of the view that ends of justice would be met if a direction is issued to the respondents to consider the case of the applicant against any ~~future~~ future vacancy as per law.

The Hon'ble Tribunal has issued a directions to the respondents department to consider the case of the applicant against any future vacancy as per law. There is no direction to reinstate and regularize the service of the applicant in violation of the law nor can the Hon'ble Tribunal direct the respondents to give regular appointment defers the Rules. In compliance to the direction, the respondents department examined the case of the applicant within the existing rules and regulations but unable to consider him candidate for regular appointment due to the complete ban imposed by the Government on new appointment. Accordingly the inability of the respondents ~~to~~ to offer him regular appointment has been communicated to the applicant in the form of a speaking order bearing No-3 Pers/A-1/1107/ (Dimapur) /5872 dt. 4/10/2001 which is the impugned order in the present O.A. The alleged cause of action of the applicant is, therefore, clearly governed by the principles of res judicata. The present OA is therefore, clearly devoid of merits and deserves to be dismissed ^{on} the above grounds.

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2. That with regard to para - 2 in OA, the respondents beg to ~~sixth~~ ~~that~~ offer no comments.
3. That with regard to para - 3 in OA, the respondents beg to state that ~~with~~ the alleged original cause of action of the applicant seeking regular appointment after a period of 14 years deserves to be dismissed as being clearly barred by limitation. It is obviously and attempt to get a direction from this Hon'ble Tribunal to appoint the applicant defers the Rules.
4. That with regard to para - 4.1 of OA the respondents beg to offer no comments.
5. That with regard to para - 4.2 of OA the respondents beg to state that the statement to the extent that the applicant was, working as Mazdoor since 1986 as daily rated employees. The applicant was in fact working as daily rated GP. D. Employee for a very short period of 8 months w.e.f. Nov 1986 to June 1987 with ~~intermittent~~ breaks in service.
6. That with regard to para - 4.3 of OA the respondents beg to state that the Manager CSD + Depot, Dimapur vide his letter no. DPD/EST/649 dated 21/10/88 had advised the applicant to appear in the test/interview at 1000 hrs on 27th Oct 88 alongwith his testimonials as an outside candidate as he was sponsored by Employment Exchange. He was not on the roll of the respondents as daily rated at the time of test/Interview.

7. That with regard to para - 4.4 of OA, the respondents beg to state that the list referred only a consolidate list of daily rated staff who were working at the CSD Depot, Dimapur and it was not the seniority test as alleged by the applicant. The statement of the applicant that his juniors have been appointed in the department is totally false and misleading. None of the individuals in the panel Junier to the applicant had been appointed on regular basis.

8. That with regard to para - 4.5 of O.A., the respondents beg to state that the statement to the extent that the applicant filed OA No- 449/99 and the respondents also filed written statement. The respondents also submit that the applicant worked for a short period of 8 months from Nov'86 to 11 June'87 and thereafter never engaged as daily rated. Rest of the statements are denied being false and fabricated. The applicant had never filed rejoinder to the written statement. The pay slips dated June'92 and July'92 produced before the Hon'ble Tribunal by the applicant during the course of hearing and also enclosed as ANNEXURE - E. to this OA is that statement of payment made for grass cutting. The applicant was engaged for this specific task only for two months and he was never on the roll continuously from July'87 onwards till 1992 or thereafter. Engaged for a specific duty for a period of two months does not confirm the applicant any right for claiming regular appointment. The grass cutting is not a routine job in the respondents department. The Hon'ble Tribunal has issued ~~order~~ a direction to the respondent department only to consider the case of the

applicant against any future vacancy as per law. There is no direction by the Hon'ble Tribunal to reinstate and regularize the service of the applicant dehors the rules. In other words, the Hon'ble Tribunal cannot give a direction to appoint the applicant on ~~such~~ total violation of the Government Rules. The respondents also submit that the statement enclosed as ANNEXURE-E to the OA is all official documents and it is not accessible to the applicant. By producing such documents the applicant not only trespassed the jurisdiction but also violated the ~~Official~~ ~~Official~~ Official Secretart Act/ Evidence Act, hence the applicant is punishable.

9. That with regard to para - 4.6 of OA, the respondents beg to state that the case of the applicant is accordance with the preveling Government Rules and reassessed the speaking order.

10. That with regard to ~~para~~ para - 4.7 of OA, the respondents beg to state that the applicant was engaged hardly for 8 months from Nov'86 to June'87 hence his case does not fall within any of the Scheme of the Central Government.

11. That with regard to para - 4.8 of O.A., the respondents beg to state that the applicant was enpenelled for the post of Mazdeer in the year 1988 but could not give regular appointment for want of vacancy till the expiry of the panel. The said panel cannot be revived after its expiry.

12. That with regard to para - 4.9 of OA, the respondents beg to offer no comments.

13. That with regard to para - 4.10, 4.11, 4.12 to 4.14 of OA, the respondents beg to offer no comments.

14. That with regard to para - 5.1 ^{to 5.10} of O.A. the respondents beg to state that the contents therein and also submit that in the back drop of the facts explained in the foregoing paragraphs, the grounds brought out in the OA is not maintainable and the same is liable to be dismissed without going into the merit of the case.

15. That with regard to para - 6 of O.A., the respondents beg to offer no comments.

16. That the regard to para - 7 of O.A., the respondents beg to state that this is the second round of litigation in respect of the subject matter, on this score alone the OA is liable to be dismissed.

17. That with regard to para 8 & 9 of OA, the respondent beg to state that in view of what is stated in preceding paragraphs, as well as in view of the fact that the matter is barred by limitation and also the demand is clearly governed by the principles of res judicata, as well as the principles of constitutive res judicata as they have been duly agitated by the applicant in OA No- 449/99, copy of the judgement whereof has already been enclesed by the applicant at Annexure - E in the paper book, the OA ~~thu~~ be dismissed with exemplary cost to the respondents.

18. That with regard to para - 10 to 12 of OA, the respondents beg to offer no comments.

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

I, Shri MOHAR SINGH presently working as REGIONAL MANAGER(EAST) be duly authorised and competent to sign this verification do hereby solemnly affirm ~~the~~ and declare that the statements made in para

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

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

And I sign this verification on this 14th day of June 2002.


Declarant,
MOHAR SINGH
Regional Manager (East)
Canteen Stores Department
Govt. of India, Ministry of Defense
Gwalior-381027