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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 85/2002.....

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Original No. 85/2002
 Misc. Petition No.
 Contempt Petition No.
 Review Application No.

Applicant(s) Kiron Ch. Borah.

Respondent(s) Union of India & Ors.

Advocate for Applicant(s) Mr. P. C. Brajagohain, Mr. N. Borah, & Mr. D. Borah.

Advocate for Respondent(s) Mr. B. C. Pathak, Addl. C.G.S.C.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
<p>This is an application in form C. F. No. 50/- deposited vide IP No. 076-548295 Dated 4/9/2002. Dy. Registrar</p> <p><i>Steps taken, Notice prepared, call log w/ Ms for intg the respondent No 1 to 5 by Regd. Adl.</i></p> <p><i>D/No 848 w/ 852 Dtd 20/3/02</i></p>	<p>14.3.2002</p> <p>bb</p> <p>3.4.02</p>	<p>Heard Mr. N. Borah, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.</p> <p>The application is admitted, call for the records. List on 3.4.2002 alongwith the C.P. 48/2002. The respondents may file written statement, if any, within that period.</p> <p><i>K. U. Sharma</i> Member</p> <p><i>Vice-Chairman</i></p> <p>Mr. B. C. Pathak, learned Addl. C.G.S.C. for the respondents states that reply has been filed in C.P. No. 48/2001 and they will not file written statement in fresh in this O.A.</p> <p>List the matter for hearing on 7.5.02 alongwith C.P. No. 48/2001.</p> <p><i>K. U. Sharma</i> Member</p>
	mb	

7.5.02 List again on 21.5.2002 so as to enable the learned Addl.C.G.S.C to obtain necessary instruction.

IC Ushary
Member

[Signature]
Vice-Chairman

pg

21.5.02 List again on 23.5.2002 for hearing

IC Ushary
Member

[Signature]
Vice-Chairman

pg

23/5. List up on 4/16/2002 along with other connected cases.

AK [Signature] 23/5

4.6.02 List for hearing on 9.7.02. The reply filed in the C.P. shall be treated as written statement.

IC Ushary
Member

[Signature]
Vice-Chairman

lm

9.7.02 Mr.B.C.Pathak, learned Addl. C.G.S.C. prays for time to produce relevant records in connection with this case. List on 29.7.02 for ~~orders~~ hearing.

IC Ushary
Member

[Signature]
Vice-Chairman

lm

29.7.2002 None appears. Put up again on 1.8.2002 for hearing.

IC Ushary
Member

[Signature]
Vice-Chairman

bb

1.8. None appears by the applicant. List again on 22/8/2002

22/8/02

31.7.02

W/S submitted by Department No. 1, 2, 3, 4 and 5.

[Signature]

2

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Notes of the Registry	Date	Order of the Tribunal
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3.9.2002

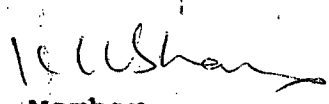
Heard counsel for the parties.
 Hearing concluded. Judgment delivered
 in open Court, kept in separate sheets
 The application is allowed, & in
 terms of the order. No order as to
 costs.

27/9/2002

Copy of the Judgment
 has been sent to
 the Office for issuing
 the writ to the
 applicant as well
 as to the ADD. COST.
 for the Respondt.

HS

pg


 Member


 Vice-Chairman

4

Notes of the Registry	Date	Order of the Tribunal
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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No.....85.....of 2002.

DATE OF DECISION.....3-9-2002.....

Sri Kiron Chandra Boro APPLICANT(S)

Sri N. Borah ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Ors. RESPONDENT(S)


Sri B.C.Pathak, Addl.C.G.S.C ADVOCATE FOR THE
RESPONDENT(S)

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

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

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



X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.85 of 2002.

Date of Order : This the 3rd Day of September, 2002.

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

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

Sri Kiron Chandra Boro
Vill- Nagaon,
P.O. Garshuk Chariali,
Guwahati-35

. . . Applicant

By Advocate Sri N.Borah,

- Versus -

Union of India and others

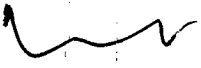
. . . Respondents.

By Sri B.C.Pathak , Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V:C)

The issue relates to conferment of temporary status. By our earlier order dated 7.3.2001 in O.A.42/2001 we ordered the respondents to take the matter for consideration of the case of the applicant for absorption in the light of the scheme of "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme announced by telecom department. It was stated that pursuant to the direction, the respondents considered his case but found that applicant did not complete 240 days and therefore his case was rejected. The applicant filed Contempt petition before us for compliance of the judgment and order and the respondents in the C.P. stated that the case of the applicant was sent to the Verification Committee and the Verification Committee found that the applicant never worked for 240 days in a year and he was disengaged from 30.9.97.



contd...2

2. We have gone through the Verification Committee's report which indicated that the applicant was working under the respondents for some period in May 1994 and similarly he worked some time in 1995, 1996 and in 1997. According to the respondents the applicant worked upto 201.5 days till September 1997 and he was retrenched with effect from 30.9.97 as per D.E.,C.T.O's order dated 30.9.97. According to the department the applicant rendered service for 201.5 days and did not complete 240 days in 1997. Admittedly it was a case in which the applicant was retrenched. Had he been allowed to work then he would have complete 240 days. If it is counted on prorata basis the applicant complete 240 days which entitled him for conferment of temporary status. There was no justification on the part of the respondents for overlooking the case of the applicant for conferment of temporary status. The materials produced before us clearly established that applicant completed 240 days from September 1996 to September 1997 also.

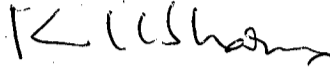
3. Mr B.C.Pathak, learned Addl.C.G.S.C. for the respondents though took a plea of maintainability we are not impressed upon with the issue since the impugned action is a follow up action pursuant to the order dated 7.3.2001 and the authority pursuant to the direction of the Tribunal in O.A.42/2001 verified his case and found him ineligible. Apparently the order was passed overlooking the relevant consideration which affected his ultimate decision. The findings reached by the Committee is also perverse.

4. In the circumstances we set aside the recommendation of the verification committee and the respondents are directed to take up the case of the applicant for consideration of his case for conferment of temporary status to the applicant on the basis of the materials on record

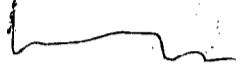
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as well as the findings of the Tribunal.

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

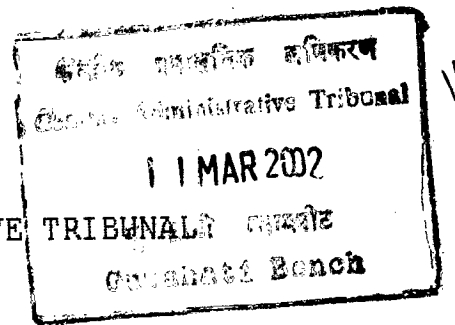


(K.K.SHARMA)
ADMINISTRATIVE MEMBER



(D.N.CHOWDHURY)
VICE CHAIRMAN

pg



DISTRICT: KAMRUP

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH

O.A NO..85../2002

BETWEEN

Sri Kiran ch. Boro

...Applicant.


- Versus -

The Union of India and others.

...Respondents.

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4.	Notice	


(NIRAN BORA)
Signature of the
Advocate.

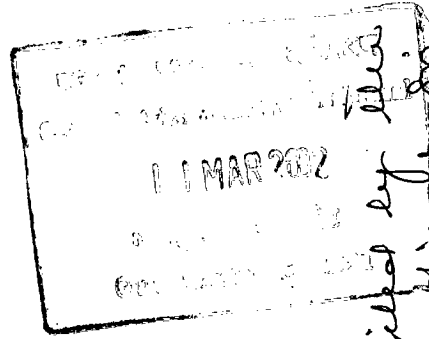
For use in the Tribunals' Office.

Date of filling:

Registration No.:

Signature.

DISTRICT: KAMRUP.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI.

O.A. No..... /2002

IN THE MATTER OF:

Sri Kiran Ch. Boro.

S/o Late Bhaktaram Boro

Vill.- Nawagaon

P.O.- Garshuk Chariali.

Guwahati -35

LAST EMPLOYED:

As an night guard in the office of the Divisional Engineer, Telegraph Office at Guwahati Circle, Gauhati, Assam.

...Applicant.

- Versus -

1. The Union of India.

(Represented by the Secretary, Telecommunication, Sanchar Bhawan, New Delhi.)

2. The Chairman-Cum-Managing Director, Bharat Sanchar Nigam Ltd. Government of India Enterprises, New Delhi.

Contd..

Kiran Ch. Boro
Nirab Boro
Advocate

3. The Chief General Manager,
Telecom, Bharat Sanchar Nigam
Ltd., Assam Telecom Circle,
Ulubari, Guwahati-7.

4. The General Manager,
Telecommunication, Kamrup
Telecom District, Gauhati-7.

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

...Respondents.

Copy Kigam Ch. Bora

1. DETAILS OF APPLICATION:

Particulars of the order : 1. Retrenchment order dated
against which the application 30.9.1997 bearing No. STA
is made. -51/CL/96-97/18 issued
by the Divisional Engin-
eer CIC, Guwahati-1
without serving any
copy, thereof to the
petitioner nor giving
any show cause or
opportunity of being
heard or payment of 1
month salary in lieu of
notice.

2. Jurisdiction of the : The applicant declares
Tribunal. that the subject matter
of the order against
which he wants redressal
is within the Jurisdic-

Contd..

tion of the Hon'ble Tribunal.

3. Limitation : The applicant further declares that the application is within the Limitation Period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE: -

- a) That, the applicant is a Citizen of India and he is permanent resident of village Nawagaon, P.O. Garshuk Chariali in the District of Kamrup, Assam. He belongs to the Schedule Tribe (Boro) Community.
- b) That, the petitioner was appointed since 1.4.1994 as a Casual Mazdoor/Labour (Night Guard) in the office of the Telecommunication, Kahilipara under the Divisional Engineer, Telegraph Office, Gauhati Circle for the last several years and received regular salaries from the aforesaid office under the Telecom Department.

(The Engagement of the Casual Labours vide memo No.STA-51/CL/96-97/04 dated 30.10.1996 will produce when as an necessary)

- c) That, similarly situated Casual Labours of the Department of Telecommunication has moved this Hon'ble Tribunal for regularization of their services by filling O.A.184/1999 (Probin Doley and others -Vs- Union of India). The Hon'ble Tribunal by Judgment and Order dated 18.8.1999, has discussed the relevant Notifications issued by the

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Gopi Kiran Ch. Boro

Department of Telecommunication proposing to confer status of Temporary Employees and confirm them phasewise, and also relied on the Judgment of the Apex Court. Daily Rated Casual Labourers employed in postal Department -Vs- Union of India and others, reported in 1988(i) Section 122 and held as follows:

"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 on Telecommunication. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Posts as per Annexure-3 (in O.A.302/96) and Annexure-4 (in O.A. No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt of copy of this Order."

(The copy of the Judgment dated 18.8.1997 passed in O.A.299/96 will be produced when as an necessary.)

- d) That, the petitioner/applicant beg to state that after the pronouncement of the above Judgment dated 18.8.97 in O.A.184/99, the Deputy General Manager, Administration has issued a office Memorandum dated 16.10.98 bearing No.STES-21/160/26 for implementation of the Hon'ble CAT/Guwahati order passed in similar cases namely O.A.107/98, 100/97, 142/98, 120/98, 145/98, 131/98, 112/98, 141/98 and

Contd..

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Smt. Kiran Ch. Boro,

118/98. The said office Memorandum has specified that the casual labours like the petitioner who has worked for more than 240 days in a year are entitled to one month notice or payment of salary of one month in lieu of notice as provided U/S 25(F) of the Industrial dispute Act, 1947 before termination/retrenchment order. It is further indicated in the said office Memorandum that if any Casual labour who worked more than 240 days in a year, is terminated without notice or payment of salary in lieu of notice, the termination could be illegal ab-initu and the casual labour is liable to be re-instated with immediate effect. It may be mention that the petitioner has dully worked for more than 240 days as casual labour and therefore his termination without notice or without payment of salary, as has been done by the Respondents, is illegal and the applicant is liable to be re-instated with immediate effect.

(The copy of the Office Memorandum dated 16.10.98 will be produced when necessary).

- e) That, it may be mentioned that the judgment dated 11.6.99 passed in O.A.184/99 is similar to that of the Judgment dated 18.8.97 passed in O.A.299/96 and 302/98.

(The Judgment dated 11.6.99 passed in O.A.184/99 will be produce as and when necessary).

- f) That, it may be mentioned that some of the similarly situated casual labours who are engaged later than the petitioner in the Department are being re-instated on the instruction of the legal Advisor by the Divisional Engineer, CIO, Guwahati, by his order dated 18.11.98 being Memo No.STA-51/CL/98-99/Loose/05 and as many as 12 numbers of

Contd..

Epi Kiran Ch. Bora.

casual labourers who were terminated along with the petitioner and some of who has joined the Department later than the petitioner are re-instructed/re-engagement passed by the Hon'ble CAT Guwahati. But for some unknown reason the petitioner was left over and he was not re-instated till date.

(The copy of the re-instructed order dated 18.11.98 will be produce when necessary).

- g) That, thereafter, the applicant has filed several representations before the Chief General Manager, Assam Telecom Circle for regularisation of the service of the applicant as regular casual employee in the Department on the basis of his engagement as casual labour for more than 240 days in one year, including one which he has filed on 3.11.99. But there is no positive response from the respondents and the petitioner has not been re-instated or regularise as a regular Casual Employee.

(The copy of the representation dated 3.11.99 will be produce when necessary).

- h) That, it may further mentioned that some of the Casual Labourers who are appointed along with the petitioner and later that the petitioner are reinstated after allowing them to appear before the Scrutiny Committee on 12.4.2000 vide Order dated 7.4.2000 issued by the Divisional Engineer, C.O.P. Guwahati and subsequently re-instated as regular Casual Employee. But in spite of his representations the petitioner was not call to appear before the Committee and left out of considerations for some unknown reasons. The applicant has been harassed and discriminated by the Respondents without any reasons. Contd..

Cpi Kizom Ch. BDR.

(The copy of the letter dated 7.4.2000 will be produce when necessary).

- i) That, it may be further mentioned that there are still 172 posts of Casual Labour is still there unfilled after accommodating about 672 casual labourers, who are situated similarly to that of the applicant/petitioner.

(The copy of the letter dated 9.2.2000 issued by the Assistant Divisional General (STN) will be produce when necessary).

- j) That, it may further be mentioned that the Divisional Engineer (Administration) issued a letter on 7th November, 2000 indicating there in that almost majority of the casual labourers are regularised given temporary status or regularise and instructed the Field Officers for completion of a list so that all the eligible casual labours are regularise or giver temporary status bur however, the petitioner/applicant apprehend his case may not be considered by the Authority Concern, there is no one to forward his case as he belongs to poor and down trodden family. Having no other service holder in the family and he lost his father recently. There is no breadwinner in the family of the applicant now.

- k) That, the applicant was served with a copy of the affidavit in apposition in the contempt No.48/2001 where in the Telecom Department enclosed a document as Annexure-C in regards to engagement of particulars of the applicant Sri Kiran Ch. Boro. The given document reveals that the applicant in the year 1997 from January to September has worked for 201.5 days and he has been retrenched w.e.f.

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Boro.
Ch.
Kiran
Ch.
Boro.

30.9.97. According to the said document the applicant get at least 92 days for the year 1997, if he would have been engaged for October, November and December, 1997. According to their own calculation the applicants complete more than 240 days on pro-rata basis and this will entitle to be appointed Temporary Status. The applicant has suffered for no fault of his own. In similarly situated labourers this Hon'ble Tribunal has directed to give Temporary status, in several cases on pro-rata basis. The applicant also prays to give him Temporary basis on the aforesaid principle.

- 1) That, the applicant only desirous to get adequate relief as aforesaid and he is not interested in pursuing the contempt petition.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that, prima-facie the action/inaction on the part of the respondent is illegal so far as termination of the service of the applicant is concerned that too without assigning any reason and hence the same is liable to be set aside and quashed.

5.2. For that, the denial of benefit of the scheme to the casual workers whom the applicant union represent in the instant case is prima-facie illegal and arbitrary and same is liable to be set aside and quashed.

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

Contd..

Sri Kisan Ch. Basha

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5.4. For that, discrimination meted out to the member of the applicant is not obtaining the benefit of the scheme and in not treating his at par with Posted employee is violative of Article 14 and 16 on the Constitution of India.

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

5.6. For that, the issuance of the order dated 30.9.97 by the respondents so far it relates to retrenchment of the services of the applicant is illegal, arbitrary and violative of the principles of natural justice.

5.7. 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.

6. DETAILS OF REMEDIES EXHAUSTED:

That, the applicant declares that she had exhausted all the remedies available to him and there is no alternative remedy available to him.

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

That, the applicant further declare that some similarly situated casual labours of the Department of Telecommunication has moved this Hon'ble Tribunal for regularisation of this services by filling O.A. 184/99 (Sri Probin Doley and others - Vs - Union on India). The Hon'ble Tribunal by Judgment and order dated 18.8.97, has

Contd..

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Sri Kishore Ch. Bada.

discussed the relevant notification issued by the Department of Telecommunication proposing to confer status of Temporary employees and confirm them phasewise and also relied on the Judgment of the Apex Court. Thereafter, the some of the employees were regularised by terminating services of the applicant in a most illegal and arbitrary manner. The applicant due to the sudden death of his father could not file any case earlier along with some of his colleagues. But still the petitioner is not late in preferring the appeal as he is pursuing the matter with the Department. The applicant petition was disposed at the Admission stage in O.A.42/2002.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be submitted, 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 relieves to the applicant: -

8.1. To set aside and quash the retrenchment order dated 30.9.98 in case the respondents terminate his service in the light of the said order.

8.2. To direct the respondents to extend the benefits of the applicant and to regularise his service.

8.3. To direct the respondents to allow the applicant to continue in his respective service.

8.4. To direct the respondents to extend the benefits of the scheme to the applicant particularly who have joined in the year 1994 taking into consideration the Hon'ble Ernakulam Bench Judgment and to regularise his service.

8.5. Case of the applicant.

Contd..

Sri K. Ram Ch. Bose.

8.5. Any other relief/relieves to which the applicant is entitled to under the facts and circumstances of the case and deem fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicant pray for an interim order directing the respondents to allow the applicant to continue in his post of casual labour in the Telecommunication Department as Night Guard till the disposal of this Original Application.

10.

11. PARTICULARS OF IPO:

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

12. LIST OF ENCLOSURE:

As stated in the "INDEX".

Copy Hi Team Ch. BATA

Contd.. VERIFICATION.

VERIFICATION:

I, Sri Kiran Ch. Boro, S/o Late Bhaktaram Boro, aged about 28 years, working as Casual Mazdoor in the Office of the Telecommunication Department, Kahilipara under the Divisional Engineer, Telegraph Office, Guwahati, do hereby verify and state that statements made in paragraphs...1, 2, 3, 4 (a, b, c, d, e, f, g, h, i, j) and those in paragraphs...4 (k)..... are matters of records, which I believe to be true, and rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the day of 11th Mar, 200..., at Guwahati.

Sri Kiran Ch. Boro,

Signature of the applicant.

Sri Kiran Ch. Boro

21.11.2002
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI.

O.A.No.85/2002

Filed by -

Borbor

29/7/02

(B. C. Path.k)

23
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

Shri Kiran Ch. Boro

- Applicant

- Vs -

Union of India & Ors.

- Respondents

(Written Statements for and on behalf of the
Respondent No. 1, 2, 3, 4 and 5)

The Written Statements of the above-noted
respondents are as follows :

1. That a copy of the O.A.No.85/2002 (referred to the "application") has been served on the Respondents. The respondents have gone through the same and understood the contents thereof. The interest of the respondent No.1 and the respondent No. 2 to 5 are not similar and common ; however, it has been decided to file the common written statements for all of them jointly. The respondents crave the leave of this Hon'ble Tribunal to allow the respondents to file or amend the written statements in case any difference or conflict of such interest arises during the course of hearing of the matter.
2. That the statements made in the application which are not specifically admitted, are hereby denied.
3. That before traversing the various paragraphs made in the application, the answering respondents hereby raise the following preliminary objections against the

maintainability of the application and jurisdiction to adjudicate the matter in this Hon'ble Tribunal. The

objections are as follows :

(A) That the Govt. of India in pursuance to the New Telecom policy 1999, in order to corporatise the functions of Department of Telecom, created a Company named and styled as "Bharat Sanchar Nigam Ltd." (referred as "BSNL") with effect from 15-9-2000. This Company has been duly registered under the Companies Act, 1956. In accordance with the said policy, the Govt. of India has transferred all the business, assets and liabilities of Department of Telecom Services (DTS) and Department of Telecom Operations (DTO) to the said new Company w.e.f. 1-10-2000. The Department of Telecom, Ministry of Communications, Govt. of India, retained the matter of policy formulation with them. This was done vide Office Memo No.2-31/2000-Restg. dated 30-9-2000.

By the said O.M. dated 30-9-2000, The Govt. of India also made it clear by Clause-4, that for the period of transition and transfer, the cases pending before the Courts/Tribunals/Arbitrators etc. were to be defended by the Company as assignee/successor in interest of the Govt./Department of Telecom and such arrangement were made limited upto 31-12-2000. By clause-5, it was also made categorically clear that in the matter relating personnel (Government Servants) pending before various Tribunal, High Courts and Supreme Court, the Company will defend as assignee or successor in interest as per existing Rules till the time employees are on deemed

deputation with the Company. By Clause-6, it was also made clear that so far as the judgement/order/award already delivered prior to 1-10-2000, such judgement/order/award etc. would be implemented in letter and spirit by the Company in accordance with the Rules, Regulations, directions and statutes. All these instructions came into force with effect from 1-10-2000. The Department of Telecom also on 23-1-2001 issued the Notification of the "Resolution" which was published in the Gazette of India, Part-I, Section-I dated 17-3-2001.

Thereafter, the management of BSNL discussed with trade unions about the modality of absorption of Group 'C' and 'D' employees including casual labours in BSNL. The decision adopted were placed before the Board meeting held on 9-11-2000. The Board of Directors empowered the management of BSNL to negotiate with the Trade Unions bodies. Accordingly, the management and the Trade Union Bodies approved certain proposal on its meeting held on 2-1-2001. The minutes of the said meeting was circulated under No.BSNL/4/SR/2000 dated 2-1-2001. By the said settlement, the case of Casual labours were also decided. According to Clause-3 of the said settlement it was resolved that Left and out cases of casual labourers would be settled by BSNL in accordance with Order No.269/94/98-STN-II dated 29-9-2000. As per condition laid down in the letter dated 29-9-2000 all the left ^{out} and cases of casual labourers were to be referred to Headquarter separately for consideration for regularisation.

(B) That the instant OA No.85/2002 has been filed after 1-10-2000 when the BSNL came into existence. Moreover, the O.M. dated 30-9-2000 is silent about the matter of casual labourers. However, BSNL by its own decision dated 2-1-2001 has agreed to settle the pending cases in terms of Circular/^{letter} dated 29-9-2000. Under such circumstances, BSNL being a registered Company, a body Corporate, can sue or be sued by its name for its claims and liabilities and others rights and duties. On formation, the BSNL will not come automatically within the jurisdiction of Central Administrative Tribunal as provided under the central Administrative Tribunal Act, 1985 and Rules framed thereunder. A Corporation, a Society or other body, may be brought under the jurisdiction of the Central Administrative Tribunal only by separate notification as provided as a condition precedent under Sub-Section 2 of Section 14(3) of the CAT, Act, 1985. The Calcutta Bench of Hon'ble CAT in O.A.No.198/2001 (Biswanath Banerjee Vs VOL & Ors.) took a similar view and held vide order dated 1-3-2001 that unless BSNL is notified that Court had no jurisdiction to entertain such petition.

Under these facts and circumstances and the legal provisions, the applicants had no locus standi to file the instant case and at the same time this Hon'ble Tribunal also shall not exercise its jurisdiction and Power as it has no jurisdiction to adjudicate such matter. Hence, the application is liable to be dismissed with cost.

The copies of the O.M. dated 30-9-2000, Gazette Notification dated 17-3-2001, Minutes dated 2-1-2001, letter dated 29-9-2000, Order dated 1-3-2001 are annexed as Annexure

- R1, R2, R3, ^{R4} and R5_h respectively.

(C) That subject to the provisions of restrictions as stated above, the Bharat Sanchar Nigam Ltd. (BSNL) has been implicated as a party in this case with the authorities under BSNL. As indicated hereinabove, the Govt. of India has not issued any such notification as required under Section 14(2)(3) of the CAT Act, 1985, and hence this Hon'ble Tribunal has no jurisdiction to adjudicate this matter and also the applicant has no locus standi to implicate the Bharat Sanchar Nigam Ltd. with its authorities particularly in this case before this Hon'ble Tribunal. Therefore, the application is liable to be dismissed as not maintainable.

4. That with regard to the statements made in paragraph 1, the respondents state that the applicant was not in engagement with effect from 30-9-97 for non-availability of work. A casual labour who has not been conferred with temporary status is not entitled to any such notice or show cause of termination of his services/engagement. Notice is necessary only in case when a casual labour with temporary status is to be terminated from such engagement. Law has been laid down by the Hon'ble Apex Court with Department of Telecom (as it was prior to 1-10-2000) is not an industry and therefore the provisions of Industrial Dispute Act, 1947 does not apply in such cases. Therefore, there is no such cause of action to bring this case before this Hon'ble Tribunal.

5. That with regard to the statements in paragraph 2 of the application, the respondent re-assert the

statements made in paragraph 3 and 4 above and state that the application is liable to be dismissed with cost for want of jurisdiction.

6. That with regard to the statements made in paragraph 3 and 4(a) of the application, the respondents have no comments to offer.

7. That with regard to the statements made in paragraph 4(b), the respondents state that prior to filing of this instant application, the applicant also filed O.A.No.42/2001 raising the similar issue before this Hon'ble Tribunal. This Hon'ble Tribunal after hearing the parties ^{finally} ~~findings~~ disposed of the said O.A. No.42/2001 vide order dated 7-3-2001 and directed the respondents to consider the case to give similar benefit as in the case of O.A.No.302/96 and 299/96. While the matter was under scrutiny and consideration through the process of verifying of the service antecedents, payment vouchers and other records with the department and there was some delay, the applicant filed a Contempt petition in this Tribunal vide Contempt petition No.48/2001. The said Contempt matter is also subjudice and being heard along with the present application. During the pendency of the whole matter, the verification committee constituted by the competent authority verified all the service antecedents of the applicant and found the applicant could not complete 240 days in any calender year during the period of the engagement. The verification committee submitted their report on 7-11-2001. According to the findings of the

said verification committee, the applicant rendered services for 46.5 days, 59 days, 65.5 days and 201.5 days in the year 1994, 1995, 1996 and 1997 respectively. From the report/findings, it is also revealed that the applicant was not in engagement or re-engaged after 30th September, 1997.

The copies of the verification committees and the communications thereof are annexed as Annexure - 6 (series).

8. That with regard to the statements made in paragraph 4(c) and 4(d) of the application, the respondents state that a number of cases of casual labours came up before this Hon'ble Tribunal including cases as in O.A.No.302/96 and 299/96. In O.A.No.107/98 (series), this Hon'ble Tribunal after considering all the facts and circumstances particularly on veracity, multiplicity and insufficiency of evidence passed an order on 31.8.99 and directed the respondents to examine each and every such cases of labour individually and to allow them to submit such representation with proof, if any, and also to give them personal hearing. Direction was also given to the respondents to pass such order after such scrutiny and to communicate to the applicants. After the said order the respondents have considered huge number of cases and those who were found eligible as per requirements of the Scheme of 1989 were conferred with temporary status and the other cases in which the applicants could not fulfill the criteria as required under the Scheme were rejected by communicating such order of such reasons for rejection. The case of the applicant was also

similarly scrutinized with all the available records and it was found that he could not come within the zone of consideration to get the benefit under the Scheme. As stated hereinabove in ^{the} instant case the benefit under Section 25(F) read with Section 25(B) of the Industrial Dispute Act, 1947, does not apply for the purpose of notice or pay in lieu of.

9. That with regard to the statements made in paragraph 4(e), the respondents ~~re-assert~~ ~~from~~ the foregoing statements made in the written statements. These are matter of records. Hence, nothing is admitted beyond such records.

10. ~~That~~ with regard to the statements made in paragraph 4(f) the respondents state that after 1985 and more particularly from 1988 the engagement of casual labourer was strictly prohibited and after coming ~~of~~ of Scheme 1989, all the procedure regarding engagement, termination etc. of casual labourer were regulated by the provision of the said Scheme. Therefore, any re-engagement after 1989 was only done as provided by the Scheme or in compliance with Court/Tribunal's order. In view of the fact, nothing is admitted which are not borneon record or supported by evidence.

11. That with regard to the statements made in paragraph 4(g), 4(h), 4(i) and 4(j), the respondents state that as mentioned hereinabove the case of the applicant has not been considered as he could not fulfill the required criteria under the Scheme. Only those who came within the zone of consideration, by completing 240 days in engagement, were considered for conferment

of temporary status. It is not a fact that there are any post of casual labourer as alleged by the applicant but it is a fact that the competent authority in headquarter approved a proposal to engage certain "number" of casual labourer as per requirements of the Assam Circle with SSAs.

12. That With regard to the statements made in paragraph 4(k) and 4(l), the respondents state that the case of the applicant fell short in the year 1997 also as he completed only 201.5 days during the year. There is a short-fall of 38.5 days. This Scheme provides that for conferment of temporary status, a casual labourer must complete at least 240 days in a calender year and he must be in engagement as on the specified date as required under the Scheme. The applicant could not fulfill this criteria and hence his case was not considered.

13. That with regard to the statements made in paragraph 5(1) to 5(7) of the application, the answering respondents state that the grounds show to support the claim and the legality, are no ground under the facts and circumstances and the provisions of law and rules as indicated above and such ground cannot sustain ~~any~~ in law. Therefore, the application is liable to be dismissed with cost.

14. That with regard to the statements made in paragraph 6 and 7 of the application, the respondents have no comments to offer.

15. That with regard to the statements made in paragraph 8.1 to 8.5 and also 9 of the application,

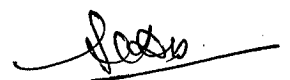
the respondents state that in view of the facts illustrated hereinabove and the provisions of law, the applicant is not entitled to any such relief whatsoever as prayed for and the application is liable to be dismissed with cost as ~~is~~ devoid of any merit.

In the premises aforesaid, it is, therefore, prayed that Your Lordship would be pleased to hear the parties, peruse the record and after hearing the parties and perusing the records shall also be pleased to dismiss this application with cost.

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

I, Shri S. C. Das, presently working as the Asstt. Director (Legal), in the Office of the Chief General Manager, Bharat Sanchar Nigam Ltd., Ulubari, Guwahati-7, being duly authorised and competent to sign this Verification, do hereby solemnly affirm and state that the statements made in Paragraph 1, 2, 3A, 3C, 4, 5, 6, 8 to 14 and 15 - are true to my knowledge and belief, those made in Paragraph 3B, 7 - 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 facts.

And I sign this Verification on 29th day of July, 2002 at Guwahati.



(S. C. Das)

DEPONENT T. 1000 W. Leg. 1
O. P. 1000 W. Leg. 1
Assistant Director (Legal)
O/o the Chief General Manager
Assam Telecom Circle, Guwahati-7

No. 2-51/2000-Resig.
Government of India
Ministry of Communications
Department of Telecommunication Services

New Delhi, the 30th September, 2000.

OFFICE MEMORANDUM

Subject:- Transfer and assigning of existing and subsisting contracts, agreements and Memoranda of Understanding of the Department of Telecommunications, Department of Telecom. Services and Department of Telecom. Operations to Bharat Sanchar Nigam Limited.

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision, functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom. Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom. services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain the functions of policy formulation, licencing, wireless spectrum management, administrative control of PSUs, standarisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission.

3. Government of India has decided to transfer all assets and liabilities, (except certain assets which will be retained by Department of Telecommunications required for the units and offices under control of DoT, to be worked out later on), to the Company with effect from 1st October 2000. All the existing contracts, agreements and MoUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and

individuals in respect of supply of apparatus and plants, materials, purchase of land and buildings and supply of services, subsisting on date of transfer of business and/or required for operations of the Company and with subscribers of all types of services to be provided by the Company, will also stand transferred and assigned to the Company with effect from 1st October, 2000. The Company will be solely responsible for honouring these contracts, agreements and MoUs for their due performance and in case of disputes to sue and be sued as the successor/assignee under the contract, agreement and MoU.

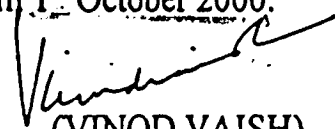
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4. The Company, Bharat Sanchar Nigam Limited will file suitable required appearances/memos in all pending cases before the Courts, Tribunals, Arbitrators, Adjudicators in all matters except issues of licensing; and policymaking which are with the Department of Telecommunications. The Company may get substituted or become an additional party as the case may be, or just conduct the cases as assigns or successor in interest of the Government/Department of Telecommunications, as permissible. This may, in so far practicable, be completed by 31st December 2000.

5. In respect of matters relating to personnel (Government servants) pending before various Administrative Tribunals, High Courts and Supreme Court the Company will defend as assigns or successor in interest as per existing rules till the time employees are on deemed deputation with the Company.

6. Any judgement/order/award delivered by an Authority/Tribunal/Court/Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the Company, in accordance with rules, regulations, directions and statutes.

7. These instructions will come into force with effect from 1st October 2000.


(VINOD VAISH)

Secretary to the Government of India

To

To

1. The Secretary DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DTO and Member(Prodn.) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology), Telecom Commission.
7. Additional Secretary(T) and Secretary Telecom Commission
8. Joint Secretary(T), DoT.

9. Joint Secretary(A), DoT.
10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.
11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles, Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
12. All Principal Chief Engineers / Chief Engineers - Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.
13. Chief Architects - Chennai, Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.
14. All Chief General Managers - Telecom Factories, with request to communicate these orders to all units working under their administrative control.
15. Sr.DDG(TEC)
16. Sr.DDsG- (BW)/(ARCH.)/(ELECT.)
17. Sr.DDG(ML) - with request to communicate these orders to all PSUs working under their administrative control.
18. Sr.DDG(IC & A)
19. Executive Director, C-DOT.
20. Sr.DDG(Vigilance), DoT
20. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. Bharat Sanchar Nigam Limited.

[भारत के राजपत्र, भाग-I—खण्ड-1 दिनांक 17 मार्च 2001 को प्रकाशित]
[Published in the Gazette of India, Part-I, Section-1, dated 17th March 2001]

संचार मंत्रालय
(दूरसंचार विभाग)
नई दिल्ली, दिनांक 23 जनवरी 2001
संकल्प

समझौता-जापन के सहित उत्तराधिकारी/अधिन्यासी के बतौर मुकदमा चलाने और मुकदमा चलाने संबंधी विवादों के मामले में बीएसएनएल पूर्ण रूप से जिम्मेदार है और किसी तरह की चूक होने, बिलंब होने अथवा कार्य निष्पादित न कर पाने के लिए भी वह स्वयं जिम्मेदार होगा।

सं० 2-31/2000-पुनर्गठन--भारत के राष्ट्रपति (सचिव, भारत सरकार, संचार मंत्रालय, दूरसंचार विभाग के माध्यम से) और भारत संचार निगम लिमिटेड के बीच 30 सितम्बर 2000 को हुए समझौता जापन की हैसियत से, देश में दूरसंचार सेवाएं प्रदान करने, दूरसंचार नेटवर्क का अनुरक्षण करार/दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा दूरसंचार फीस/दिवानों को चलाने संबंधी कार्य (इहोले दूरसंचार विभाग द्वारा किए जाते थे) 1 अक्टूबर 2000 से नवगठित कंपनी भारत संचार निगम लि० (बीएसएनएल) को हस्तांतरित कर दिए गए हैं।

5. 1 अक्टूबर 2000 से पूर्व दूरसंचार सेवा विभाग अथवा दूरसंचार प्रचालन विभाग का कोई पत्राचार बिल, नोटिस और अन्य दस्तावेज भले वह दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा जारी किया गया हो, 1 अक्टूबर 2000 से जहाँ कहीं भी ऐसा संदर्भ आए, उसे बीएसएनएल के हवाले के रूप में पढ़ा जाए।

2. दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग को सभी परिसंपत्तियाँ और देयताएं (दूरसंचार विभाग द्वारा दी जाने वाली कतिपय उच्च परिसंपत्तियों को छोड़कर जो दूरसंचार विभाग के नियंत्रणधीन यूनिटों और कार्यालयों के लिए अर्पित हैं) उक्त तारीख से बीएसएनएल में अन्तर्गत हो जाएंगी।

6. 1 अक्टूबर 2000 से बीएसएनएल द्वारा जारी किसी बिल नोटिस अथवा अन्य दस्तावेज जिसके सम्बन्ध में दूरसंचार सेवा विभाग अथवा दूरसंचार प्रचालन विभाग का कोई इशारा दिया गया हो वहाँ कहीं भी ऐसा संदर्भ आए, उसे बीएसएनएल के हवाले के रूप में ही पढ़ा जाए।

3. उपकरणों और संयन्त्र, सामग्री की आपूर्ति भूमि और भवन की खरीद तथा सेवाओं की आपूर्ति के संबंध में दूरसंचार विभाग, दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा अतिरिक्त आरक्षणों, ठेकेदारों, विक्रेताओं, कानूनों और अलग-अलग व्यक्तियों से किए गए सभी मौजूदा ठेके, करार और समझौता जापन, कारोबार के हस्तांतरण की तारीख को वैसे के वैसे बने रहेंगे और/अथवा बीएसएनएल के प्रचालनों के लिए अर्पित ठेके, करार, आदि 1 अक्टूबर 2000 से बीएसएनएल को हस्तांतरित तथा माने गए माने गए हैं।

7. 1 अक्टूबर 2000 से सभी चर्चों/ड्राफ्टों/अन्य दस्तावेजों, जिनके तहत दूरसंचार सेवा विभाग और/अथवा दूरसंचार प्रचालन विभाग को दी जाने वाली धनराशि के सम्बन्ध में भारत सरकार के पक्ष में भुगतान किया जाता है, जहाँ कहीं ऐसा संदर्भ आए, धन-राशि भारत संचार निगम लि० के पक्ष में जाहिर होगी।

आदेश

यह आदेश दिया जाता है कि इस संकल्प की एक प्रति सभी राज्य सरकारों, सभी मंत्रालयों और भारत सरकार के विभागों को संप्रेषित की जाए।

यह आदेश दिया जाता है कि इस संकल्प की सामान्य सूचना हेतु भारत के राजपत्र में प्रकाशित किया जाए।

श्रीश कुमार
मिनिस्टर (पुनर्गठन)

MINISTRY OF COMMUNICATIONS
(DEPARTMENT OF TELECOMMUNICATIONS)
New Delhi, the 23rd January 2001

RESOLUTION

No. 2-31/2000-Resg.- by virtue of the Memorandum of Understanding dated 30th. September

2000 entered into between the President of India, [acting through the Secretary to the Government of India, Ministry of Communications, Department of Telecommunications (DoT)] and Bharat Sanchar Nigam Limited, the business of providing telecom services in the country, maintaining the telecom network, running the telecom factories by the Department of Telecom Services (DTS) and the Department

of Telecom Operations (DIO) [which were earlier provided by Department of Telecommunications (DoT)] has been transferred to the newly formed company viz. Bharat Sanchar Nigam Limited (BSNL) with effect from 1st October 2000.

2. All assets & liabilities (except certain assets which will be retained by DoT required for the units and offices under control of DoT) of the Department of Telecom Services (DTS) and the Department of Telecom Operations (DIO) stand transferred to BSNL w.e.f. the said date.

3. All the existing contracts, agreements and MOUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and individuals in respect of supply of apparatus and plants, materials, purchase of land and building and supply of services, subsisting on date of transfer of business and/or required for operations of BSNL also stand transferred and assigned to BSNL w.e.f. 1st. October 2000.

4. BSNL is solely responsible for honouring these contracts, agreements and MOUs for due performance and in case of disputes to sue and be sued as the successor/assigned under the said contract agreement and MOU and shall be liable for any defaults, delays or non-performance.

5. With effect from 1st October 2000 any reference in any correspondence, bills, notices, and other

documents to the Department of Telecom Services or the Department of Telecom Operations having been issued before 1st October 2000 by either the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read as reference to the BSNL.

6. With effect from 1st October, 2000 any bill, notice or other document issued by the BSNL bearing any reference to the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read to be a reference to the BSNL.

7. With effect from 1st October, 2000 all cheques/drafts/other instruments under which payment is to be made in favour of the Government of India in respect of monies owed to the Department of Telecom Services and/or the Department of Telecom Operations shall, wherever the context so permits and allows, be drawn in favour of 'Bharat Sanchar Nigam Limited.'

ORDER

ORDERED that a copy of this resolution be communicated to all State Governments, all Ministries and Departments of Govt. of India.

ORDERED that the resolution be published in the Gazette of India for general information.

HARISH KUMAR
Director (Resg.)

DOCUMENT - 2

(4)

(4)

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ANNEXURE - R
3

Bharat Sanchar Nigam Limited,
(A Government of India Enterprise)

No. BSNL/4/5R/2000
Dated the 2nd January, 2001

SUB:- Record of discussions held on 2.1.2001 in the meeting with the three Federations presided by CMD, BSNL regarding terms and conditions for absorption of Group C & D staff in BSNL.

In connection with the absorption of Group C & D staff working in BSNL, preliminary meetings were held with the three Federation(s). The decisions taken were discussed in the BSNL Board meeting held on 09.11.2000, which empowered the Management to negotiate with Unions. Accordingly, a meeting was held with the three Federations on 2.1.2001 and the following proposals were approved.

1. IMPLEMENTATION OF STANDING ORDERS OF THE INDUSTRIAL EMPLOYMENT ACT, 1946:

BSNL service rules are to be finalized after discussion with the recognized union formed by the optees of BSNL and the standing orders of Industrial Employment Act, 1946.

2. SERVICE RULES

In the meantime, it was agreed that Government will continue to apply existing rules / regulations. This is in line as per the provision of Rule 13B of Standing Orders of Industrial Employment Act, 1946. However, certain provisional terms and conditions for absorption are enclosed at Annexure I.

3. ABSORPTION OF CASUAL LABOURERS

* Orders have been issued by DoT for regularizing Ayahs & all casual labourers including part time casual labourers. Left out cases, if any, will be settled by BSNL in accordance with order No. 269-94/98-STN-II dated 29.9.2000.

4. OPTION OF STAFF FOR ABSORPTION IN BSNL

The BSNL will absorb the optees on as is where is basis. A list of optees will be made available to the three federations/unions.

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5. OPTIONS OF STAFF FACING DISCIPLINARY CASES

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. Their pending cases will be expedited on a fast track mode by DOT. The appeal / petition cases for these employees will also be decided by DOT authorities.

6. PROMOTIONAL AVENUES

After absorption there will be negotiations with the newly formed recognized union regarding promotional avenues. Pending adoption of Standing Orders on promotional policy, the present OTBP/BCR/ACP (whichever is applicable) etc. will continue to be followed by BSNL.

7. CHANGE OVER TO IDA PAY SCALES

The pay scales and fitment formula will also be adopted through Standing Orders after negotiations with the recognized union in respect of non-executives. After detailed discussions, it was mutually agreed that pending fitment in the IDA pay scales, the Group C & D optees will continue in the Central Government (CDA) pay scales. In addition to this, they will also be paid an adhoc amount of Rs.1000/- per month w.e.f. 1.10.2000 which will be adjusted from their IDA emoluments, perks and benefits on fixation of the same in revised IDA scales. The revised negotiated IDA pay scales will be applicable from the date of absorption i.e. 1.10.2000.

8. TIME FRAME FOR VARIOUS POST ABSORPTION ACTIVITIES

It was agreed that the options will be called in January, 2001 providing about one month time to the employees to give their options and the entire activity is expected to be completed by the end of 28th Feb. 2001. A list of optees of BSNL will be exhibited to rectify inaccuracies, if any.

The existing system of informal meetings with applicant Unions, as on 30.9.2000 and formal meetings with the three Federations shall continue.

9. The employees who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS Pension Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.9.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS(Pension)Rules, in PSU in the IDA pay scales shall be treated as emoluments.

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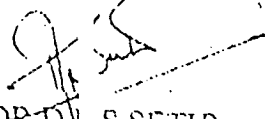
(6)

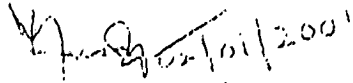
10. DoT has already clarified that the word "formula" mentioned in clause 8 of Rule 37-A means payment of pension as per Government Rules in force at that time. It has also been clarified by the DoT that BSNL will not dismiss / remove an absorbed employee without prior review by the Administrative Ministry / Department.

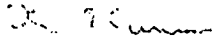
11. The Group C & D employees ~~who appear for any promotional examination~~ whether direct or departmental and qualify in such examinations / outsiders coming through direct recruitment process, would rank junior to all the other employees in the promotional cadre who had already been qualified in earlier examinations even though they get absorbed in BSNL subsequently.

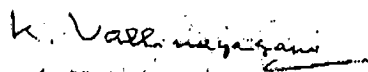
The above modalities have been worked out in consultation with the following three federations for termination of the deemed deputation status in BSNL and the parties have put their signatures in token of their consent and agreement on this date 02.01.2001.

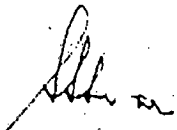
The Proforma for exercising the option is enclosed.

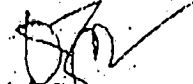

(DR.D) S SETH
CMD, BSNL


(MALLIKARJUN)
SECRETARY GENERAL, BTEF


(KRANTI KUMAR)
DIRECTOR(HRD) BSNL


(K. VALLINAYAGAM)
SECRETARY GENERAL, FNTD


(S.P. PILLAI)
DIRECTOR (FIN.) BSNL


(O.P. GUPTA)
SECRETARY GENERAL, NFTE.

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DOCUMENT-3

No. 269-04/98 STN-II
Department of Telecom. Services
Sanchar Bhawan, 20, Ashoka Road, New Delhi.
(STN-II Section)

ANNEXURE-R₄

(10)

Dated: 29.09.2000

To
All CGMs, Telecom. Circles,
All CGMs, Telephone Districts,
All Heads of Other Administrative Offices,
All the IFA's in Telecom. Circles/Districts and other Administrative Units

Sub: Regularisation of Casual Labourers

Sir,

The employees unions are demanding regularisation of all the casual labourers. This issue was under consideration for quite some time. It has been decided to regularise all the casual labourers working in the Department, including those who have been granted temporary status, with effect from 01.10.2000, in the following order -

- (1) All casual labourers who have been granted temporary status upto the issuance of Orders No. 269-1/93-STN-II dated 12.2.99, circulated vide letter No. 269-13/99-STN-II dated 12.2.99 and further vide letter No. 269-13/99-STN-II dated 9.6.2000.
- (2) All full time casual labourers as indicated in the Annexure.
- (3) All part time casual labourers who were working for four or more hours per day and converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 16.9.99.
- (4) All part time casual labourers who were working for less than four hours per day and were converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 25.8.2000.
- (5) All Ayas and Supervisors converted into full time casual labourers as per order No. 269-10/97-STN-II dated 29.9.2000.

The number of casual labourers to be regularised in categories (2) to (5) above is given in the Annexure enclosed. The figures given in the Annexure are based on information received from the Circles.

The casual labourers indicated from (1) to (5) above are to be Adjusted against available vacancies of Regular Mazdoors. However, Chief General Managers are also authorised to create posts of Regular Mazdoors as per the prescribed norms, and to that extent, the prescribed ceiling for the Circle will stand enhanced.

As per this office letter No. 269-1/93-STN-II dated 12.2.99, vide which temporary status was granted to casual labourers eligible on 1.8.98, no casual labourers were to be engaged after this date and all casual labourers not eligible for temporary status on 1.8.98 were to be disengaged forthwith. Therefore, there should be no casual labourers left without temporary status after 1.8.98 [Other than those indicated in serial nos. (2) to (5) above]. However, if there is still any case of casual labourers left out due to any reasons, that may be referred to the Headquarters separately.

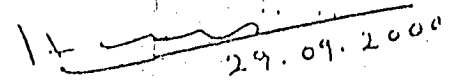
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This issues with the concurrence of Telecom/Finance vide their
Diary No. 3536/2000/FA-I Dated 29.09.2000.

Yours faithfully


29.09.2000

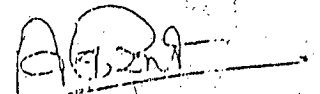
(HARDAS SINGH)

ASSISTANT DIRECTOR GENERAL (STN)

Tel No. : 371 6723 / 303 2531

Copy to :-

- 1) PS to MOC/ MOS(C)
- 2) Advisor (HRD)
- 3) DLG(Pers.)/ (E)/ (EF)/ (SR)
- 4) Dir.(ST-I) / (F-I)
- 5) All recognised Associations/ Unions/ Federations
- 6) TE-II, STN-II/ SR/ SCT Sections
- 7) Guard file.



(Vinod Kumar Sharma)
Section Officer (STN-II)

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

NO. O. A. 198 of 2001

Present: Mr. Justice R.N. Ray, Vice-Chairman
Mr. Justice J.P. Singh, Administrative Member

BLSWANATH BANERJEE

VS.

UNION OF INDIA & ORS.

For the applicant: Mr. A.K. Mandal, counsel

For the respondents: Mr. M.P. Banerjee, counsel

Heard on: 1.3.2001

Order on: 1.3.2001

ORDER

R.N. Ray, V.C.

1. Counsel for both sides are present. This case is relating to the Department of Telecom which has now become a corporate body. Bharat Sanchar Nigam Limited is definitely a corporate body under the Government of India within the meaning of Article 12 of the Constitution. But that has not been notified till today and therefore, this court has no jurisdiction to entertain such petition.

2. Accordingly, the O.A. is disposed of as 'not maintainable' at the stage of admission. The applicant may approach the appropriate forum in respect of his grievances made in this O.A. No order as to costs.

MEMBER (A)



VICE-CHAIRMAN

1.3.2001
Certified to be true copy
Court Seal
1.3.2001

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22-

Annexure - Rg (Series) 49

BHARAT SANCHAR NIGAM LIMITED
(A GOVT. OF INDIA ENTERPRISE)
O/O THE CHIEF GENERAL MANAGER TELECOM
ASSAM CIRCLE, ULUBARI, GUWAHATI-781007.

No: STES- 21/ 312/ 20

Dated at.GH.23.11.01

To
The General Manager
B. S. N. L.
Kamrup Telecom District,
Guwahati.

Sub: Findings of Verification Committee's report of OA No. 42/ 2001 filed
by Sri K. C. Boro and OA No. 220/ 2000 filed by Sri B. Basfore.

Ref: your office letter no. GMT/ EST- 179/ TSM/ 01-02/ 183
Dtd.12/11/2001.

With reference to the letter on the subject cited above, it is intimated that as per the report submitted by the verification committee, none of the casual labourers in the above noted OA have fulfilled the eligibility criteria for grant of Ty. Status.

Sri Kiron Ch. Boro has not completed 240 days in any calender year and has not been on engagement in the Deptt. since 30-9-97 and has never been re-engaged by the Deptt. for any works thereafter. Sri Birbal Basfore, though completed 240 days or more in a year, he had also been retrenched from the engagement since 30/9/97 and has not been re-engaged thereafter. Thus obviously he was not on engagement as on 1/8/98 and therefore cannot be granted Ty. Status.

I am therefore, directed to request you to intimate both the applicants about their ineligibility for grant of Ty. Status under the provision of the scheme/ rules of the Department for the reasons stated above. The communication should be a reasoned and speaking one with clear terms.

The copy of the communication together with the delivery particulars may be sent to this office at an early date for submission before the Hon' ble Tribunal.

This may be treated most urgent.

(G. C. Sarma) 23/11/01
Assitt. Director. Tlccom. (Legal)

Copy to: File no: STES- 21/316

26/11/01
22/11/01

ofc

BHARAT SANCHAR NIGAM LIMITED
 (A Govt. Of India Enterprise.)
OFFICE OF THE GENERAL MANAGER : BSNL.
KAMRUP TELECOM DISTRICT : GUWAHATI-781007.

No. GMT/ENQ/CL-1/2001-2002/39 Dated at Guwahati-7, the 7th November, 2001.

VERIFICATION COMMITTEE'S REPORT

A verification Committee was constituted to examine and scrutinise the engagement particulars of the Casual labourers in consultation with records. The same Committee has been revised by GMTD/GH vide his office letter No. GMT/EST-179/TSM/01-02/169 dated 08.10.2001 to examine and scrutinise the working particulars of the Casual labourers claimed to have worked under the jurisdiction of Kamrup SSA.

The Committee consists of the following members.


- 1) Shri S. Taid, DE(Admn), O/o the GMTD/GH.
- 2) Shri N. K. Das, CAO, O/o the GMTD/GH.
- 3) Shri G. C. Sarma, ADT(L), Circle office /GH.

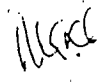
The committee has started functioning and verified various records relating to the payment particulars in respect of the two Casual labourers viz 1) Shri Kiran Chandra Boro and 2) Shri Birbal Basfore.


The Committee after careful examination of the records found that Shri Kiran Chandra Boro, the applicant Casual labourer in OA No. 42/2001 has not completed at least 240 days in any calender year. Also the Casual labourer has been retrenched from the engagement since 30.09.97 and has never been re-engaged for any Departmental work thereafter. The other applicant Casual labourer, Shri Birbal Basfore (applicant in OA No. 220/00) though has completed 240 days or more in a calender year prior to 01.08.98, he had also been retrenched from engagement since 30.09.97 and has never been re-engaged for any Departmental work thereafter.

Considering the above facts and circumstances of the case, and the guidelines of the "Grant of Temporary Status and Registration Scheme, 1989" of the Deptt., the Committee does not find any reason to grant them Temporary Status.

The Committee, therefore, does not recommend the name of Shri Kiran Chandra Boro and Shri Birbal Basfore, to grant Temporary Status.


 (S. Taid)
 D.E. (Admn.)


 (N. K. Das)
 C. A. O.


 (G. C. Sarma)
 A.D.T.(L)

Copy to : The G.M.(BSNL), Kamrup, Guwahati -7.

- 9 -
- 24 -

B/29 D

ANNEXURE 'C' (1988-89)
ENGAGEMENT TABLE LEARS FROM THE DATE OF INITIAL ENGAGEMENT

Shri Kiran Chandra Sharma

YEAR	MONTH	NO. OF DAYS	NO. OF PAYMENT REMARKS ROLL NO. & ID PARTICULARS VOUCHER NOS	AMOUNT	PERIOD BY WHOM	BILLING PASSED AUTHORITY	NAME OF A.O. WHO HAS PAID
1994	May	3	48/3-6-94	148/-	CS/270/Amntrch		
	June	7.5	61/4-7-94	383/-			
	July	16.5	124/8-7-94	854/-			
	Aug	19.5	nil	1530/-			
	Sept	—					
	Oct	16.5					
	Nov	—					
	Dec	—					
	1995	Jan	—				
Feb		—					
March		—					
April		—					
May		—					
June		—					
July		19	ML	1084/-			
Aug		18	ML	1032/-			
Sept		—					
Oct		12	ML	605/-			
Nov		02	ML	111/-			
Dec		08	ML	468/-			
1996	Jan	—					
		59					

SIGNATURE OF THE CONCERNED OFFICIALS

ADT (Chief office Member) S.A.U.

25-10-97

ANNEXURE (I) (Part 2)
 EMPLOYMENT CONTRACTS FROM THE DATE OF INITIAL ENGAGEMENT

Sri Kiran Ch. Rao

YEAR	MONTH	NO. OF DAYS	MODE OF PAYMENT TO MASTER POLICE OFFICERS & POLICE AID & VOUCHER NOS	AMOUNT	REMARKS BY WHOM	BILLING AUTHORITY	NAME OF A O WHO HAS PAID
1996	Sept	—					
	Feb	—					
	March	—					
	April	—					
	May	—					
	June	—					
	July	—					
	Aug	—					
	Sept	13	nil	516/-			
	Oct	18	nil	768/-			
	Nov	19.5	nil	1264/-			
	Dec	21	47/6/1/97	1328/-			
1997	Jan	19.5	nil	1248/-			
	Feb	17.5	nil	1136/-			
	March	22	nil	1392/-			
	April	19	nil	1200/-			
	May	21.5	79/10/97	1376/-			
	June	24.7	nil	1536/-			
	July	35.5	nil	2240/-			
	Aug	28.5	nil	1824/-			
	Sept	23.5	nil	1512/-			
	Oct	22.5	nil	1456/-			
	Nov	201.5					
	Dec	—					

655

The has been rechecked w-o-f A/N 30/9/97
 vide DE CT-0 to M STA - 51/CL/96-97/18 dt 30/9/97
 The has been rechecked w-o-f 30-9-97

SIGNATURE OF THE COMPTROLLER MEMBERS

ADT (Circle Office Member)

ADT (Circle Office Member)

ADT (Circle Office Member)