

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

ORDER SHEET

Original Application No. \_\_\_\_\_

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant(s) Shri. Mon Bahadur

Respondent(S) R. Ganeshan & ORS.

Advocate for the Applicants K.S. Kynjia, K. Suman and B.M. Joshi  
and F. Begum

Advocate for the Respondent(S) Micell. Das Add-GGSC  
Rly St. Counsel

Notes of the Registry | Date | Order of the Tribunal

This Contempt petition has been filed by the counsel for the petitioner praying for non-compliance and wilful disobedience to the order dated 18.7.2003 passed by this Honble Tribunal in O.A 373/02.

Laid before the Honble Court for further orders.

N. Sanyal  
14.12.05  
Section Officer  
App.

15.12.05

No representation on behalf of the applicant. Post on 2.1.2006.

[Signature]  
 Vice-Chairman

bb

2.1.06

The counsel for the applicant is absent. Post the matter on 17.1.06.

[Signature]  
 Member

[Signature]  
 Vice-Chairman

1m  
 17.1.06.

None for the parties. Post the matter on 23.1.06.

[Signature]  
 Vice-Chairman

1m

23.1.2006

None appeared for the applicant today also. On the 3 consecutive occasions i.e. 15.12.2005, 2.1.2006 and 17.1.06 applicant was absent. The petition for contempt has been filed for non-compliance of the order passed in O.A.373/2002. The matter was taken before the Hon'ble Gauhati High Court by the respondents in WP(C) No.23(SH)/2004. The matter was disposed by dismissing the appeal. However, three months time was granted to the respondents to disposed of the representation as directed by the Tribunal. This order is dated 10.2.2005.

NOW Ms.U.Das, learned Addl.C.G.S.C. has produced a letter/order dated 20.4.2005/2.5.2005 and contended that the order of the Tribunal has already been complied with as directed by the Hon'ble High Court and there is no contempt exists.

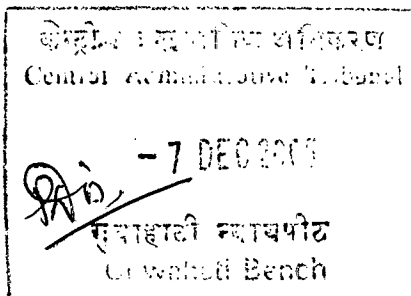
Considering the said order I am of the view that contempt proceeding against the alleged contemnors will not stand and the same has only to be dismissed. Hence I dismiss the same. However, liberty is given to the applicant to approach the appropriate forum if he is still aggrieved by the said order.

  
Vice-Chairman

bb

27.1.06

Copy of the order has been sent to the office for stamp & to the applicant as well as to the Adl. CGSC for the Regd.  
Ak



*Filed by the  
Petitioner through -  
Farida Begum  
Adhwate  
24.8.05*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

Contempt Petition 33 /05

In original Application No.373/2002

IN THE MATTER OF :

An application under Section 12 of  
Contempt of Court Act 1971 read  
with Article 215 of the  
Constitution of India.

- AND -

IN THE MATTER OF :

Non-compliance and willful  
disobedience to the Order dated  
18.7.2003 passed by this Hon'ble  
Tribunal in Original Application  
No.373/02

- AND -

IN THE MATTER OF :

Sri Mon Bahadur  
C/O Late Bhim Bahadur Chetri  
Part time Mali  
Rynjah Post Office  
Umpling, Shilling, Meghalaya

- Petitioner

- VERSUS -

1. Sri *R. Ganeshan*  
Secretary, Ministry of  
Communication, New Delhi
2. Mr. A. Ghosh Dastidar  
Chief Post Master General, NE  
Circle, Meghalaya, Shillong
3. Mr. Joseph Lanrinsailova  
Superintendent of Post Office,  
Meghalaya, Shillong
4. Smti. Samalika Banerjee  
Senior Post Master, GPO,  
Shillong, Meghalaya
5. Smti. Gauri Bhattacharjee  
Asstt. Post Master, Umpling Post  
Office, Shillong, Meghalaya

- Respondents/  
Contemners

The humble petition of the above  
named petitioner

MOST RESPECTFULLY SHEWETH :

1. That this is an application for initiating and drawing up of a contempt proceeding against the respondents/contemners for their non compliance to the Order dated 18.7.2003 passed by this Hon'ble Tribunal in O.A.No. 373/2002.

2. That the petitioner had filed the above mentioned original application before this Hon'ble

Tribunal stating inter-alia that the petitioner was appointed as a Mali in the year 1982 under the establishment of the respondents in the year 1982 and since then he has been working and due to the non-conferment of temporary status and subsequent regularization of his service the petitioner had approached the Hon'ble Tribunal vide Original Application No.373/02 and Hon'ble Tribunal after hearing on length of all the parties was pleased to dispose of the case on 18.7.03 directing the respondents to consider the case of the applicant for conferment of temporary status and consequent regularization in terms of Scheme 1989 and further pleased to direct to complete the exercise as expeditiously as possible preferably within three months from the date of receipt of the Order.

A copy of the Order dated 18.7.03 passed by this Hon'ble Tribunal in Original application No.373/02 are annexed herewith and marked as ANNEXURE-1.

3. That the petitioner obtained the certified copy of the aforesaid Order dated 18.7.03 passed in O.A.No.373/02 and submitted the same to the respondents/contemners along with a forwarding letter dated 29.7.03 to all the respondents for their information and necessary action. It may be mentioned here that the registry of this Hon'ble Tribunal had also communicated

the aforesaid Order dated 18.7.03 to the respondents by 1st week of August/2003 for their information and necessary action.

A copy of the such representation dated 29.7.03  
Is annexed herewith and marked as  
ANNEXURE-2.

4. That the respondents had received the aforesaid Order dated 18.7.03 passed in O.A.No.373/03 both from registry of this Hon'ble Tribunal and from the petitioner alongwith representation dated 29.7.03 but instead of complying the Order of Hon'ble Tribunal dated 18.7.03 the respondents/contemners preferred an appeal by way of Writ Petition before Hon'ble Gauhati High Court at Shillong Bench which was being numbered as W.P.(C)No.23(SH)/04 on 10.2.05 . The Hon'ble Division Bench of Shillong Bench rejected the Writ Petition after hearing all the parties and further redirected to consider the case of the petitioner within a period of three months from 10.2.05 as directed by Hon'ble Tribunal.

Be it stated that the respondents/contemners being reluctant did not comply with the Order of both Hon'ble Tribunal as well as Hon'ble High Court. Now elapsed more than six months from the date of passing Order of the Hon'ble High Court, Shillong Bench dated 10.2.05 as such the respondents/contemners have violated Orders of the Hon'ble Tribunal as well as Judicial Forum

for which they shall be dealt strictly by way of awarding punishment Order under Contempt of Court Act, 1971 as well as other provisions of law for their willful and deliberate disobedience /disrespect of the Order of Hon'ble Tribunal dated 18.7.03.

A copy of the Order dated 10.2.05 passed in W.P. (C) No.23(SH)/04 are annexed herewith and marked as ANNEXURE-3.

5. That the respondents at present sitting tight and reluctant after dismissal of their appeal W.P. (C) NO.23(SH)/04 dated 10.2.05. The respondents remained unmoved and deliberately re sitting not to comply with the direction of the Hon'ble Tribunal till date.

It is pertinent to mention here that the respondents/contemners themselves approached before the Hon'ble High Court and they have fully aware of the result of the case. The respondents/contemners thereby deliberately flouted the Order passed by this Hon'ble Tribunal and remained in their earlier stand as it was prior to filling of the Original Application.

6. That the petitioner has approached the respondents on several occasions for compliance the Order passed by this Hon'ble Tribunal as well as Hon'ble High Court. The respondents in spite of complying with the Order passed by this Hon'ble Tribunal very tactfully remained silent over the matter saying that the appointment made by the Officials of the respondent which

will be looked into on the pleasure of the Govt. Official of the establishment as such interference of this Hon'ble Tribunal is required for ends of justice. Despite of the having order of the highest authority of the State the petitioner found himself to be in secured. The petitioner further found the respondents are not complying with the Order passed by the Hon'ble Tribunal which have been kept intact. As such non compliance of the Order of this Hon'ble Tribunal are willful, deliberate and intentional which are also contemptuous in nature for which they are liable to be punished in accordance with law.

Be it stated that the petitioner rendered more than 20 years of satisfactory service with a hope that one day his service will be regularized and he will get all the benefits but in fact the petitioner is maintaining his livelihood with one thousand rupees per month.

7. That in spite of the receipt of the Order of the Hon'ble Tribunal/Hon'ble High Court respondents/contemners did not comply with the Order of Hon'ble Tribunal/Hon'ble High Court and shown their reluctance to comply with the Order and further said to this petitioner on this approaches that they are not duty bound to comply with the Order of Hon'ble High Court/Hon'ble Tribunal and, as such, contemners has violated Order dated 18.7.03. *and they are liable to be prosecuted.*

8. That the respondent/contemners willfully violated the Order of the Hon'ble Tribunal and they did

not carry out the Hon'ble Tribunal. The petitioner approached before the authority concerned and requested them to comply with the Order of Hon'ble Tribunal and to do needful in terms of aforesaid Order.

But the respondents/contemners asked the petitioner not to disturb them and <sup>not</sup> to force them to comply with the Order of the Tribunal and further said to the petitioner that they are not bound to comply with the Order of this Hon'ble Tribunal and showing their disrespect to the Hon'ble Tribunal's Order dated 18.7.03. The authority willfully did not comply with the Order of Hon'ble Tribunal admittedly and as such non-compliance put the petitioner into financial hardship who is very much legally entitled to receive confirmment of temporary status and subsequent regularization. The respondents/contemners made up their mind not to obey/comply with the Order of Hon'ble Tribunal Order dated 18.7.03.

9. That it is a fit case where Your Lordships may kindly be awarded/accorded a strict punishment to the respondents/contemners after drawing proceeding under Contempt of Courts Act, 1971 for willful disobedience shown by the respondents/contemners to the Order of the Hon'ble Court.

10. That the above ~~occasion~~ of the respondents/contemners have shown great disrespect and dishonour to the Hon'ble Tribunal as such it is a fit case where Your Lordships

may kindly draw a proceeding under the Contempt of Courts Act, 1971 by directing the respondents/contemners to appear in person before this Hon'ble Court to show cause as to why punishment shall not be awarded by this Hon'ble Court to the respondents for violating the Order of the Hon'ble Tribunal dated 18.7.03 passed in O.A.No.373/02.

11. That this petition is filed bonafide and for the ends of justice and equity.

It is therefore most earnestly prayed that Your Lordships would be graciously pleased to issue notices upon the respondents/contemners and directing them to be present personally before this Hon'ble Tribunal as to why contempt proceeding shall not be drawn up against them for their willful and deliberate disobedience in complying with the Order dated 18.7.2003 passed in O.A.No.373/02 by this Hon'ble Tribunal and after cause or causes being shown by the respondents/contemners for non-compliance to the Order passed by this Hon'ble Tribunal dated 18.7.03 passed in O.A.No.373/02 dated 18.7.03 and punish them in

accordance with law/ or otherwise  
secure compliance to the Order passed  
by this Hon'ble Tribunal and/or pass  
any other Order/Orders as Your  
Lordship may deem fit and proper.

And for this act of kindness, the petitioner as in duty  
bound shall ever pray.

- Affidavit

A F F I D A V I T

I Sri Mon Bahadur ,Son of Late Bhim Bahadur Chetri, aged about 48 years, serving as part time Mali in Rynjah Post Office, Umpling, Shillong, Medhalaya do hereby solemnly affirm and state as follows :

- 1) That I am Petitioner in the instant case and as such I am well conversant with the facts and circumstances of the case.
- 2) That the statements made in this affidavit and in paragraphs are true 1, 5 to 9 to my knowledge, those made in paragraphs 2, 3, 4 being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal

And I sign in this affidavit on this 5<sup>th</sup> day of December, 2005 at Guwahati.

Identified by :

J. I. Barbhuiya .

Advocate's ~~clerk~~

मम बाहुरे

DEPONENT

Solemnly affirmed and declared before me by the deponent who is identified by J. I. Barbhuiyan, Advocate on this the 5<sup>th</sup> day of December, 2005 at Guwahati.

Parinda Byar

Advocate, Guwahati

Draft Charge

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the respondent/ contemners for wilful disobedience and deliberate non-compliance of the Hon'ble Tribunal dated 18.7.03 passed in O.A.No.373/02 and Hon'ble High Court's order dated 10.2.05 passed in Writ Petition (C) No.23(SH)/04 and to impose punishment upon the alleged contemners for wilful disobedience and deliberate non-compliance of the aforesaid orders.

J. J. Baidya  
Ad.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.373 of 2002

Date of decision: This the 18th day of July 2003

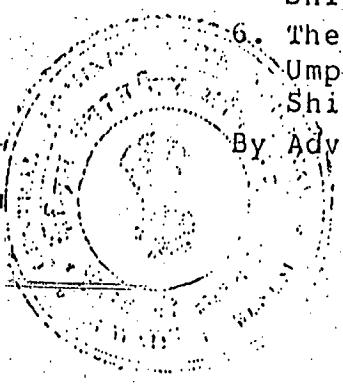
The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

Shri Mon Bahadur  
S/o (L) Bhim Bahadur Chettri  
Resident of Rynjah,  
Umpling, Shillong. ....Applicant

By Advocates Mr K.S. Kynjing,  
Mr K. Sunar and Ms B.M. Joshi.

- versus -

1. The Union of India, through the Secretary, Ministry of Communication, New Delhi.
  2. The Chief Post Master General, N.E. Circle, Meghalaya, Shillong.
  3. The Superintendent of Post Offices, Shillong.
  4. The Senior Post Master, G.P.O., Shillong.
  5. The Post Master B.P.O., Umpling, Shillong.
  6. The Assistant Post Master, Umpling Post Office, Shillong. ....Respondents
- By Advocate Mr B.C. Pathak, Addl. C.G.S.C.



ORDER

CHOWDHURY. J. (V.C.)

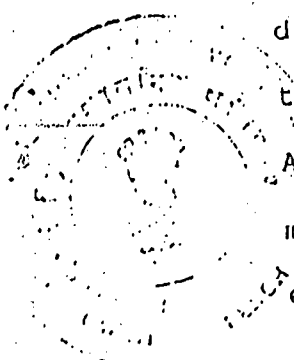
The subject matter of this application pertains to public employment. A thumb nail sketch leading to the institution of the O.A. is given hereinbelow:

According to the applicant he had joined in the Office of the respondent No.6- Assistant Post Master, Umpling Branch, Shillong as Mali in the year 1982 at a

*Certified to be true copy,  
Per  
[Signature]*

monthly salary of Rs.950/- per mansam. He worked as such and from time to time moved the authority for regularisation of his service. He was assured by the respondents for regularisation, but it did not come. Instead by an oral order dated 1.7.2002 the applicant was advised not to attend to his duty in a most arbitrary fashion. Being aggrieved, the applicant moved the Hon'ble Gauhati High Court by way of an application under Article 226 of the Constitution of India seeking for an appropriate writ and/or direction upon the respondents to reinstate him in service and for regularisation of his service. By order dated 19.7.2002 in WP(C) 233(SH)/2002 a notice of motion of motion was issued by the Hon'ble High Court and as an interim measure the respondents were directed to allow the applicant to continue in service till the returnable date. The respondents filed a Misc. Application No.177 (SH)/2002 assailing the maintainability of the Writ Petition in view of the express bar contained in Section 14 of the Administrative Tribunals Act, 1985. Considering the respective pleas the Hon'ble High Court dismissed the petition leaving it to the party to move the Tribunal with his grievances for appropriate relief. The applicant thereafter moved this O.A. before this Tribunal seeking for an appropriate direction as well as for regularisation of his service.

2. In reply to the averments of the applicant, the respondents contended that the applicant was engaged as a part-time contingent staff as and when his service was required. The material part of the averments are quoted hereinbelow:.....



hereinbelow:

..... Neither any appointment letter nor engagement offer had ever been issued nor any termination order was issued to the applicant by the respondents. A contingent worker is not a member of the regular establishment and he is not guided by the conditions of service. A contingent worker does not hold a civil post and is not a civil servant. It is also not specified as to how many hours the applicant worked in a day and when he was asked to work. In absence of any such particular, the claims of the applicant is not tenable in law. As such there is no cause of action to justify any right for filing of the instant application.

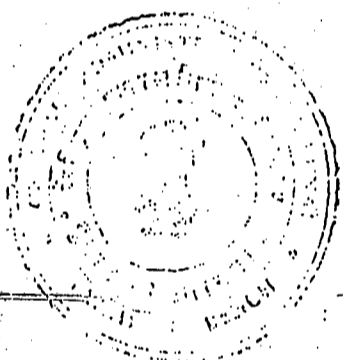
In this connection it is pertinent to mention here that as a follow up action to maintain austerity measure and to cut down extra expenditure, the competent authorities of the respondents are reviewing the contingent expenditures from time to time with to view to arrest the unnecessary expenditures or to cut down the same. Similarly, a review was done in which the contingent expenditures of part time contingent worker engaged from time to time in the Rynjah Sub-Office including other such expenditures was found as not justified on the basis of volume of works and requirement. Accordingly, the engagement of any contingent worker by the said office was withdrawn with effect from 1.7.2002. This was done vide order No.A1-12/Rig/corr/Pt-IV/98-99 dt.23.6.2002 issued by the Sr. Supdt. Of POst Offices, Shillong. However, instruction was given to engage occasional Mali once or twice a month based on actual requirement of the work.

.....  
.....

That with regard to the statements made in paragraph 2 of the application, the respondents state that a contingent part time worker is not a member of regular establishment and also not a casual labourer. A contingent part time worker is also not a civil servant holding any civil post. Therefore, he can not come under the jurisdiction of the Hon'ble Tribunal. A contingent part time worker does not come within the meaning of casual labourer and a part time job can not be even converted to full time in absence of the particulars of engagement per day on hourly basis.

.....  
.....

That with regard to the statements made in paragraph 4(a), the respondents state that there is no proof or any record maintained by the respondents to show that the applicant had ever was appointed as Mali (IV Grade) from the year 1982 as claimed by the applicant. The respondents also deny the claim that the applicant was paid a monthly salary of Rs.950/. It is pertinent to mention.....



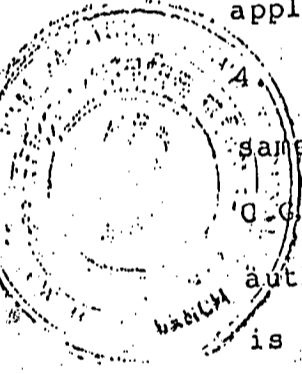
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mention here that the respondents had the practice to engage contingent worker on a part time basis on day to day basis as and when such requirement arose. In such cases no record of payment is maintained. The normal practice is to draw some money by the competent authority and to meet such expenditure against contingent payment. The payments are made by contingent expenditure vouchers without indicating any name of any persons. Therefore, the claim of the applicant is baseless and not borne on records of the respondents. The respondents deny the authenticity and genuineness of the so called letter as in Annexure-1 and state that the said letter does not speak anything about the nature of duty or any status of the applicant rather it speaks against the applicant as to how the applicant has falsified his own statements made in the application. The respondents crave the leave of this Hon'ble Tribunal to direct the applicant to produce the original letter dt. 23.5.1997 as in Annexure-1 in the application."

3. I have heard the learned counsel for the parties at length. Mr K.S. Kynjing, the learned Sr. counsel for the applicant assisted by Mr K. Sunar and Ms B.M. Joshi, contended that the respondents acted unlawfully by arbitrarily terminating the applicant by an oral order instead regularising his service. The learned Sr. counsel placed before me numerous Government instructions pertaining to absorption and regularisation of service, more particularly the O.M.No.49014/18/84-Estt.(C) dated 7.5.1985, Department of Posts letter No.65-24/88/SPP.I dated 17.5.1989, the policy regarding engagement of casual workers in Central Government offices following the judgment of the Supreme Court delivered on 17.1.1986 in Surinder Singh and another Vs. Engineer-In-Chief, C.P.W.D. and others, reported in (1986) 1 SCC 639, leading to the formulation of 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989', which was extended from time to time. Referring to the pleadings the learned Sr. counsel for the applicant submitted that the applicant's engagement as a Mali under the respondents since 1982 at a consolidated salary of

Rs.950/-.....

Rs.950/- was not refuted by the respondents. On the other hand the respondents contended that the applicant was engaged as a part time contingent staff. The respondents themselves admitted that no engagement order or appointment order was issued. The respondents also admitted that no termination order was issued by the respondents. The respondents, the learned Sr. counsel for the applicant contended, showed highhanded officiousness and asserted that a contingent worker was not a regular member of the establishment and there is nothing wrong in following the hire and fire policy. The respondents are the custodians of the records and they failed to justify their stand by producing the records. The learned Sr. counsel in course of the hearing placed before me the original communication referred to at Annexure-I. In para 7 of the written statement the respondents even questioned the authenticity and genuineness of Annexure-I dated 23.5.1997 and inslsted for its production by the applicant.



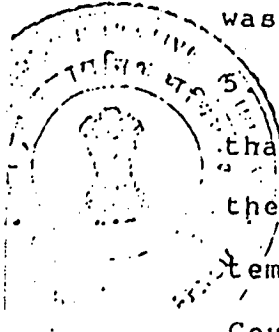
4. I have perused the original of Annexure-1 and the same was also shown to Mr B.C. Pathak, learned Addl. C.O.S.C. who appeared on behalf of the respondents. The authenticity of Annexure-I is not in dispute. Annexure-I is only a communication to the applicant indicating his absence from attending his daily duty as a result of which the office compound became dirty and filled with grass. The said communication dated 23.5.1997 was the index of the engagement of the applicant where his absence was showed as unauthorised. However, the respondents continued with the service of the applicant till he was dissuaded to render service as per the oral order which was seemingly admitted by the respondents as to withdrawal of the contingent work. The assertion of the respondents.....

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respondents in the written statement as to its engagement of contingent staff on day to day basis as and when such requirement arose runs counter to the fact recorded in the Memo dated 23.5.1997. The said Memo at least reflected that a Mali was to render his duty daily. The assertion made in para 7 to the effect that no record of payment was maintained is difficult to accept. It is a payment made from the public exchequer and as per the normal practice record of payments are to be maintained. The said averment was made by the deponent the Officer-In-Charge, Legal Cell of the Office of the Chief Post Master General, N.E. Circle, Shillong, on the basis of his knowledge. How an Officer Incharge of the Legal Cell could base such statement on the basis of his knowledge was not properly explained.



Mr B.C. Pathak, learned Addl. C.G.S.C., submitted that the applicant at best was a contingent worker and therefore, he was not entitled for conferment of any temporary status and for regularisation in terms of the Government of India O.M. The learned Addl. C.G.S.C. asserted that the applicant was a contingent worker utilised from time to time as against exigency of the situation and on the basis of the Government policy such engagement was withdrawn. Therefore, there was no illegality on the part of the respondents.

6. The assertion of the applicant as to his engagement as Mali in the year 1982 at a consolidated salary of Rs.950/- is not seriously contested by the respondents. The respondents, the custodians of the records failed to counter the assertion of the applicant by placing the records. The communication bearing No.B2/Gen/Com/Umpling dated 23.5.1997 issued by the Sub

Post Master.....

Post Master referred the applicant as Mali, Umpling Post Office. The subject was the unauthorised absence. The communication itself indicated the absence of the applicant from duty which affected the administration. By the same communication the applicant was asked to give in writing as to his unwillingness to attend duty in order to enable the authority to make alternative arrangement. The full text of the aforementioned communication is reproduced below:

"To

Shri Mon Bahadur  
Mali Umpling P.O.

No.B2/Gen/Com/Umpling

Dated at 23.5.1997

Subject

Unauthorised absence

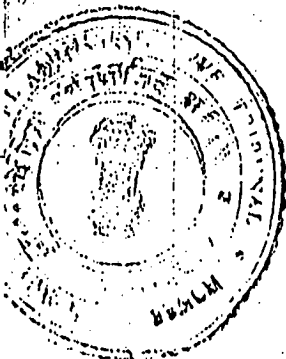
It is found that you are not coming to do your duty daily even once in a month as a result garden as well a office compound has become dirty and full of grasses.

So you are hereby requested to give written if you are unwilling to come office daily so that we can make another arrangement.

If you are not coming in this office within 3 days it may be treated as your unwillingness to do this duty.

....."

A copy of the above communication was sent to the SSP, Meghalaya Division for information and necessary action. If an appointment letter was not issued nor any termination order, the applicant cannot be blamed. In the written statement the authority described him as a contingent worker, but the same was not substantiated. No records were also produced. The respondents are silent as to the nature and volume of the work rendered by the applicant. The communication dated 23.5.1997, however, insisted for daily attendance. After the communication dated 23.5.1997 the applicant was allowed to work till he was.....



: 8 :

was terminated. According to the respondents the engagement was withdrawn with effect from 1.7.2002.

7. The respondents are a part of the Government of India. As per the 1985 policy indicated vide Memo dated 7.5.1985 a duty was cast upon the authority to consider such cases for regular appointment to Group 'D' posts in terms of the general instructions, even those who were recruited otherwise than through the employment exchange. In the Department of Posts there was/is a provision for part time and full time casual labourers who are working on daily wages. A person who rendered service for less than eight hours a day is described as a full time casual labourer and those who are engaged for less than eight hours a day are described as part time casual labourers. There was no provision for contingent labourer as mentioned in the written statement. As per Government of India, Department of Posts Lr.No.65-24/88-SPB.I dated 17.5.1989 all other designations were discontinued. As per the Scheme for granting temporary status there was also provision for readjustment as part time casual labourer as full time casual labourer. The whole object was to do away with unfair labour practice. Continuance of the applicant as Mali since 1982 at a consolidated salary of Rs.950/- without taking any measure of whatsoever manner for regularisation of service is devoid of fairness and justice. The purported act of the respondents in terminating his service in the name of withdrawal instead of regularising his service is not sustainable under the circumstances. It appears that the applicant is nearing the age of superannuation. The impugned act on the part of the respondents for withdrawal of the post of Mali at Rynjah is not supported by any valid reason. At

any.....

rate the ~~going-away~~ with the service of the applicant who rendered service from 1982 without any just cause is not sustainable on the face of Articles 14 and 16 of the Constitution. In a democratic set-up such action on the part of the respondents in not regularising the service of the applicant on the face of the policy is seemingly arbitrary.

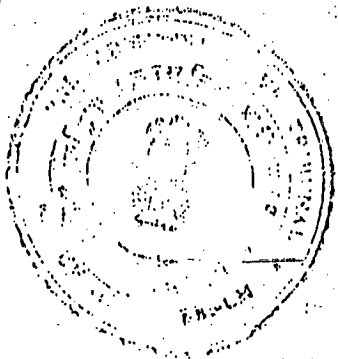
8. Even if one accepts the plea of the respondents that the applicant was only a contingent worker even then he remained as a casual labourer as is reflected in the Government of India, Department of Posts letter No.65-24/88-SPB.I dated 17.5.1989. The full text of the said letter is reproduced below:

"1. Part-time and Full-time Casual Labourers- It is hereby clarified that all daily wagers working in Post Offices or in RMS Offices or in Administrative Offices or PSDs/MMS under different designations (mazdoor, casual labourer, contingent paid staff, daily wager, daily-rated mazdoor, outsider) are to be treated as casual labourers. Those casual labourers who are engaged for a period of not less than 8 hours a day should be described as full time casual labourers. Those casual labourers who are engaged for a period of less than 8 hours a day should be described as part-time casual labourers. All other designations should be discontinued.

Substitutes engaged against absentees should not be designated casual labourer. For purposes of recruitment to Group 'D' posts, substitutes should be considered only when casual labourers are not available. That is, substitutes will rank last in priority, but will be above outsiders. In other words, the following priority should be observed-

- (i) .....
- (ii) .....
- (iii) Casual labourers (full time or part-time. For purpose of computation of eligible service, half of the service rendered as a part-time casual labourer should be taken into account. That is, if a part-time casual labourer has served for 480 days in a period of 2 years he will be treated, for purposes of recruitment, to have completed one year of service as full time casual labourer).

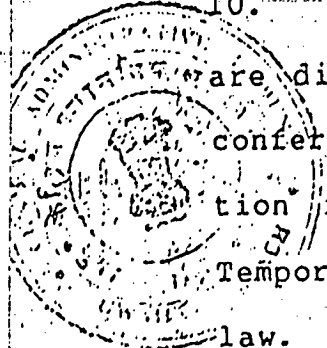
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9. As per the norms mentioned above at Clause (iii), the applicant even if he be treated as a part-time casual labourer who had rendered more than 480 days of service in the period of years, he was to be treated for the purpose of recruitment as if he had completed one year of service as full time casual labourer. There was no justification in the set of circumstances for denying at least the benefit of the Scheme of granting temporary status and regularisation. No reasons are discernible for not conferring the benefit of the 1989 Scheme by conferring temporary status and regularisation of service in spite of the fact that the applicant was rendering service under the respondents since 1982.



10. For all the reasons set out above the respondents are directed to consider the case of the applicant for conferment of temporary status and consequent regularisation in the light of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 as per law. The respondents are directed to complete the exercise as expeditiously as possible, preferably within three months from the date of receipt of the order. Till completion of the exercise the interim measure which was continuing as per the order passed by the High Court shall continue.

10. The application is allowed to the extent indicated. In the facts and circumstances of the case there shall, however, be no order as to costs.

S/D  
VICE-CHAIRMAN

22/7/83  
Hon'ble V.C.  
Administrative  
Cawhati Res.

nkm

From : Shri Mon Bahadur,  
S/O. Late Bhim Bahadur Chetri,  
R/O. Rynjah, Umpling, Shillong.

To : 1. The Union of India, through the  
Secretary, Ministry of Communication,  
New Delhi.

2. The Chief Post Master General,  
N.E. Circle, Meghalaya, Shillong.

3. The Superintendent of Post Offices,  
Shillong.

4. The Senior Post Master,  
G.P.O. Shillong.

5. The Post Master,  
B.P.O. Uplong, Shillong.

6. The Assistant Post Master,  
Umplong Post Office, Shillong.

Sub : Judgment and order dated 18.7.2003 passed  
in O.A. No.373/02.

Sir,

Please find herewith copy of the order  
dtd. 18.7.2003 passed in O.A. No.373/2002 by the  
Hon'ble Tribunal, Guwahati for your kind perusal and  
necessary action.

Thanking you,

Yours faithfully,

*(Handwritten signature)*

( MON BAHADUR )  
Shillong.

Dtd. 29.7.2003.

*Certified to be true copy.*

*(Handwritten signature)*

.....

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Annexure - 3

Copy for	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamp and folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
10-2-05	10-2-05	11-2-05	11-2-05	11-2-05

**IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM, NAGALAND,  
MEGHALAYA, MANIPUR AND TRIPURA)  
SHILLONG BENCH  
CIVIL APPELLATE SIDE**

Appeal from Sec. P (c) No 23 (84) C 4 of 2005

Civil Rule

Section 4 of Indian Contract Act

Appellant

Petitioner

Versus

Respondent

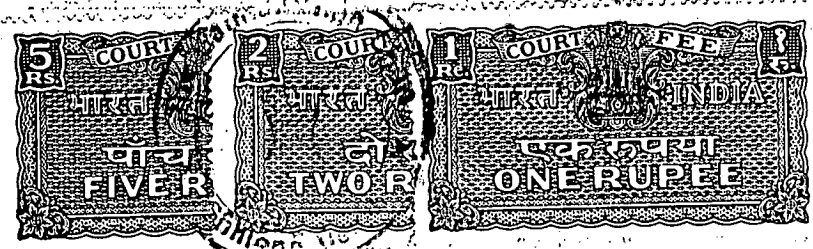
Opposite-Party

Shri Man Bahadur Chetia

For Appellant Shri S. C. Dasgupta  
Petitioner

For Respondent Ms. K. S. Dasgupta  
Opposite-Party Ms. K. Dasgupta  
Ms. B. M. Dasgupta

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4



*Certified to be three copy*

*[Handwritten signature]*

- AND -

IN THE MATTER OF :-

1. Union of India represented by The Secretary to the Government of India, Ministry of Communication, New Delhi -01.

2. The Chief Post Master General, N.E. Circle, Meghalaya Shillong -793001.

3. The Superintendent of Post Office's, Shillong -793001.

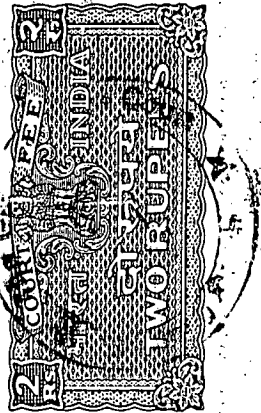
.....Petitioners.

- Versus -

1. Shri Mon Bahadur, S/o (L) Bhim Bahadur Chettri, Umpling, Shillong/

2. The Central Administrative Tribunal, Guwahati Bench, Guwahati.

.....Respondents.



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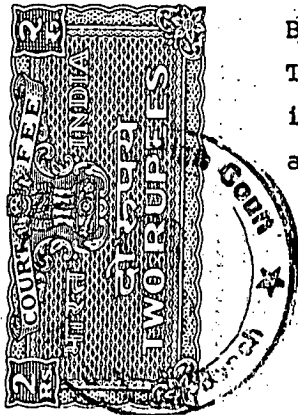
BEFORE

THE HON'BLE MR JUSTICE B LAMARE  
THE HON'BLE MRS JUSTICE A HAZARIKA

10.02.2005

Heard Mr SC Shyam, learned CGSC for the petitioners-respondents. Also heard Mr KS Kynjing, learned senior counsel assisted by Mr K Sunar, learned counsel for the respondent-applicant.

In this petition, the petitioner has assailed the order dated 18.7.2003 passed by the learned Central Administrative Tribunal, Guwahati Bench, in Original Application No. 373 of 2002. The direction as given by the learned Tribunal is at paragraph 10 of the judgment which reads as follows:-



" 10. For the reasons set out above the respondents are directed to consider the case of the applicant for conferment of temporary status and consequent regularisation in the light of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 as per law. The respondents are directed to complete the exercise as expeditiously as possible preferably within three months from the date of receipt of the order. Till completion of the exercise the interim measure which was continuing as per the order passed by the High Court shall continue."

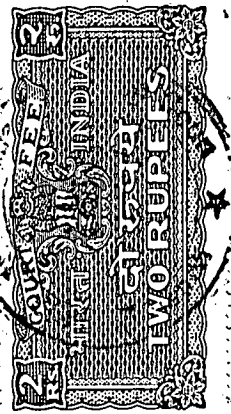
A perusal of the above direction shows that the learned Tribunal has ~~only directed~~ only directed the petitioners-respondents to consider the case of the respondent-applicant for conferment of temporary status and consequent regularisation in the light of the "Casual Labourers (Grant of Temporary Status and Regula-

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4

10.02.2005.....

- 2 -

risation)Scheme, 1989. There is no direction whatsoever to regularised the service of the respondent-applicant passed by the Tribunal. It is for the petitioners-respondents to consider the case of the respondent-applicant under the scheme and pass appropriate orders if the respondent-applicant is found to be eligible under the Scheme.



For the aforesaid reasons, we are of the opinion that since there is no direction passed by the Tribunal to regularised the respondent-applicant but only to consider the case, no interference is called for from this Court.

For the above reasons this petition is rejected. The petitioners-respondents shall consider the case of the respondent-applicant within a period of three months from today as directed by the Tribunal.

*Petition disposed of.*

*24- A. Hazarika  
Judge*

*24- B. Talwar  
Judge*

Typed By .....  
 Read By .....  
 Compared By .....  
 Date .....

**Certified To Be True Copy**  
*Shree 11/2/05*  
 Superintendent,  
 Gauhati High Court  
 Shillong Bench.

*28/4/05*