

01/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA No. 6/2002

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal :: Guwahati Bench
Guwahati

ORDER SHEET

APPLICATION NO. 6/2002

Applicant(s) Piyali Chakraborty.

Respondent(s) CCOT 2 and 3.

Advocate for Applicant(s) Mr B. K. Sharma, S. Sarma,

Advocate for Respondent(s) U. Nain & U. Das.

Case -

| Notes of the Registry | Date | Order of the Tribunal |
|---|---|--|
| <p>This is application in form C. F. for Rs. 50/- deposited vide IP No. 6478852 Dated 28/11/2001 Dy. Registrar NS 9/10/02</p> <p>Sele's letter, Notice prepared and sent to the respondent the respondent No. 1 to 3 by Regd A/D 16/1</p> <p>D/No 175 k179 Dtd 25/1/02</p> <p>① Service report are still awaited My 14-3-02</p> | <p>10.1.02</p> <p>mb</p> <p>11.2.02</p> <p>mb</p> | <p>Order of the Tribunal</p> <p>Heard Mr. S. Sarma, learned counsel for the applicant. Issue notice as to why the application shall not be admitted. Meanwhile, the status quo shall continue.</p> <p>List on 11.2.2002 for admission</p> <p>ICU Sharma Member</p> <p>Vice-Chairman</p> <p>Heard learned counsel for the parties. The application is admitted. Call for the records. List on 15.3.2002 for order. In the meantime, interim order dated 10.1.2002 shall remain operative.</p> <p>ICU Sharma Member</p> <p>Vice-Chairman</p> |

Order dtd 13/3/02
Communicated to the
Parties Counsel.

Dr
20/3/02

15.3.02

Heard Mr. A. Deb Roy, learned Sr.
C.G.S.C. for the Respondents and also
Mr. S. Sarma, learned counsel for the
applicant.

No written statement so far is filed.
List again on 22.4.2002 for order.

In the meantime, interim order
dated 10.1.2002 shall continue.

No written statement
has been filed.

Dr
19.4.02.

mb

22.4.2002

List the case on 16.5.2002 to
enable the respondents to file written
statement.

Interim order dated 10.1.2002
shall continue.

Order dtd 22/4/02
Communicated to the
Parties Counsel.

Dr
23/4/02

bb

16.5.02

Written statement has been filed.
List the case for hearing on 11.6.2002.
The applicant may file rejoinder, if
any, within two weeks from today.

W/s submitted by
The Respondents.

No rejoinder has been
filed.

Dr
10.6.02

mb

11.6.02

Pass over for the day on the prayer
of learned counsel for the
applicant. List on 12.6.2002 for
hearing.

17.6.2002

Rejoinder submitted
by the applicant in reply
to the W/s.

mb

12.6.02

Mr. S. Sarma learned counsel for
the applicant has sought for adjourn-
ment to obtain further instructions.
Accordingly, case adjourned and to be
posted for hearing on 24.6.02.

LM

K. K. Sharma
Member

K. K. Sharma
Vice-Chairman

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O.A. 6/2002

3

Notes of the Registry

Date

Order of the Tribunal

Adjourned . list . on 6.8.02

By order


6.8.2002

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

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

1111 Shary
Member


Vice-Chairman

Judgment dtd 6/8/02
Communicated to
the hearing commn
& the applicant


pg

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

✓ O.A./R.A.No.....6.....of 2002.

DATE OF DECISION.....6-8-2002.

Smt Piyali Chakraborty (Roy)

APPLICANT(S)

Sri S.Sarma

ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE 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.

h

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 6 of 2002.

Date of Order : This the 6th Day of August, 2002.

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

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

Smt Piyali Chakraborty (Roy),
Wife of Sujit Kr. Roy,
Hailakandi Road (Link Road)
Silchar-5, Cachar.

...Applicant

By Advocate Shri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Information & Broadcasting,
New Delhi-1.
2. The Chairman,
Prasar Bharati (Broadcasting Corporation of India),
Akashbani Bhawan, Parliament Street,
New Delhi.
3. The Chief Engineer (Civil),
All India Radio, New Delhi.
4. The Superintending Engineer(Elect)
Civil Construction Wing, All India Radio,
Doordarshan Complex, T.V.Tower,
Kolkatta-700045.
5. The Asstt.Engineer (Elect)
Civil Construction Wing, All India Radio,
Silchar, Dist. Cachar.

...Respondents

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

O R D E R

CHOWDHURY J.(V.C)

This is an application under Section 19 of the
Administrative Tribunals Act 1985 seeking for a direction
on the respondents to allow the applicant to work under
the respondents as Clerk cum Typist on casual basis and

to regularise her service as per law.

2. Facts - Applicant pleaded that she was appointed by the respondent No.5 after considering her testimonials. It was also stated that she shouldered higher responsibility and worked diligently under the respondents. It ^{was} further pleaded that the respondents at one time took steps for regularisation of her service but it did not materialise and finally in the last week of December 2001 the respondent No.5 advised her not to attend office but despite that she ^{was} attending office and moved this Tribunal by way of this application for regularisation of service. The applicant also assailed the verbal order of termination.

3. The respondents submitted its written statement denying and disputing the allegations. The respondents in the written statement stated that the applicant was never appointed as a Casual Typist cum Clerk. The respondent No.5 in the capacity of Assistant Engineer utilised her services as and when necessity arose by duly paying her wages as per rules. It was also stated that respondent No.5 was not the appointing authority and even the appointing authority could only appoint a person in the post of clerk cum typist being a Group 'C' post from amongst the candidates selected by the Staff Selection Commission. The respondents stated that the applicant was never assured for regularisation in the post as the Assistant Engineer had no authority to appoint clerk cum

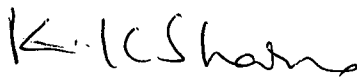
typist. The respondents cited about the ban on engagement of casual workers for duties of Group 'C' post and stated that she was utilised for some work purely as a temporary arrangement and she ceased to attend office after 31.12.2001.

4. We have heard Mr S.Sarma, learned counsel appearing for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents. Mr S.Sarma, the learned counsel referred to a certificate issued by the Assistant Engineer dated 14.9.2001 which indicated that the applicant worked under the department as casual typist cum clerk since December 1998. Learned counsel submitted that atleast by virtue of her long service she was entitled for conferment of temporary status. Mr A.Deb Roy, learned Sr.C.G.S.C on the other hand submitted that there is/was no provision for conferment of temporary status in Group 'C'. Therefore the question of conferring her temporary status did not arise. Mr Sarma, the learned counsel for the applicant stated that the applicant was willing to accept a lower post other than Group 'C' to enable her to earn her livelihood. The learned counsel also brought our attention to the Government of India's order at Appendix to FR 26. As per the memorandum certain exemptions were given for passing typewriting test and those exemptions were related to granting increments. As a matter of fact more exemptions were provided which are not necessary to go into by us since those are not relevant for the purpose of

adjudication of this proceeding. On consideration of all the aspect of the matter we do not find any justifiable ground for issuing directing the respondents to consider her case for regularisation did not arise, more so, when there was no appointment of the applicant. The applicant is seeking appointment in a public post which can only be filled up on adhering the norms or rules of recruitment. If the applicant worked as a casual typist cum clerk under the respondents by itself will not confer her any right for regularisation. Appointment to those posts are to be made as per the recruitment rules, other methodology are forbidden. Mr Sarma lastly referred to the office memorandum dated 2.8.1993 which pertains to regularisation of adhoc/daily rated/casual LDCs/Stenographers Grade III/'D' in various central Government offices. The aforesaid memorandum was relatable to those persons who were covered by the said notification. By the aforesaid notification the Government of India took an one time measure for regularisation of adhoc LDCs in various Central Government and subordinate offices by allowing them to appear in a special qualifying examination conducted by the Staff Selection Commission in December 1993. The said notification was issued as per decision of the Government as one time measure. The said notification in the facts of the case shall not come for the rescue of the applicant.

In the circumstances stated above there is no merit in the application and accordingly the same is dismissed.

There shall, however, be no order as to costs.



(K.K.SHARMA)
ADMINISTRATIVE MEMBER



(D.N.CHOWDHURY)
VICE CHAIRMAN

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Branch BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O. A No. 6 /2002

BETWEEN

Smt. Piyali Chakraborty

... Applicant.

- AND -

Union of India & Ors.

... Respondents

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Filed by *Alsha Das.*
Advocate:

File:- CI\WS\SS\02

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Filed by
the applicant through
Alsha Das.
Advocate
9/01/02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

O. A No. 6 12002

BETWEEN

Smt Piyali Chakraborty (Roy),
wife of Sujit Kr. Roy,
Hailakandi Road (Link Road)
Silchar-5, Cachar.

... Applicant.

- AND -

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Information & Broadcasting, New
Delhi-1.
2. The Chairman, Prasar Bharati
(Broadcasting Corporation of India),
Akashbani Bhawan, Parliament Street,
New Delhi.
3. The Chief Engineer (Civil) (All India
Radio), New Delhi.
4. The Supdt. Engineer (Elect) Civil
Construction Wing, All India Radio,
Doordarshan Complex, T.V. Tower,
Kolkatta-700045.
5. The Asstt. Engineer (Elect) Civil
Construction Wing All India Radio,
Silchar, Dist-Cachar.

File Review
in order
- a)
LPR

(b) (over) 1/2/93
Status
in 4/7/93

... Respondents

DETAILS OF THE APPLICATION.

OM 2/8/93
over by
4/7/93

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

This application is not directed against any

particular order but has been directed against the action of the Respondents terminating the service of the Applicant by an oral order. The Applicant was working as a casual typist-cum-clerk since 1998 in the office of the Assistant Engineer (Elect.) Civil Construction Wing, All India Radio, Silchar. Now the Respondents have asked her not to attend office any further with effect from 31.12.2001. No formal order of termination issued to her.

2. LIMITATION

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

3. JURISDICTION OF THE TRIBUNAL

The Applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE

4.1 That the Applicant is a citizen of India and as such she is entitled to all the rights and privileges as guaranteed under the Constitution of India and laws framed thereunder.

4.2 That the Applicant possesses all the required qualification to hold the post of typist-cum-clerk under the Respondents. After passing her H.S.I.C.

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examination, she acquired diploma in type writing in English and after that having come to about the vacancy occurred in the office of the Respondent No. 5 she applied for the same. The Respondent No. 5 after considering all the testimonials and taking into consideration the vacancy position appointed her as casual typist-cum-clerk.

Copies of the H.S.L.C. pass certificate, diploma certificate and certificate regarding her casual appointment are annexed as Annexures-1, 2 and 3 respectively.

4.3 That the Applicant after her aforesaid appointment was performing duties to the satisfaction of all concerned and being satisfied with her work and efficiency she was asked to soldier even higher responsibilities on need basis apart from her regular work. The Respondents used to pay her salary against hand receipt which is the format prescribed for such payment.

Some of the payment receipt are annexed as Annexure-4 colly.

4.4 That the Applicant begs to state that she possess all the required qualification as prescribed for the post of clerk-cum-typist and as such her case for regularisation is required to be considered taking into consideration her length of service and experience. The Respondents are very much in need of her service as there is no other qualified person to hold the said

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post. In fact the Respondents assured her for her regularisation in the said post of typist-cum-clerk but same never materialised inspite of her repeated persuasion.

4.5 That the Applicant begs to state that during her service tenure she used to work as a clerk-cum-typist in addition to despatch works. Process for her regularisation of service initiated at the level of Respondent No. 5 but finally nothing came out in positive. However, said Respondent No. 5 kept on assuring her regarding regularisation of her service. Suddenly in the last week of December, 2001 the Respondent No. 5 asked her not to attend office any further. But the Applicant kept on attending the office and till date she is attending the office regularly.

4.6 That the Applicant begs to state that the action on the part of the Respondents is per se illegal and arbitrary in terminating her service in a manner not prescribed under the law.

4.7 That the Applicant begs to state that service rendered by her was upto the mark and at no point of time she has been served any short of complaint, Memorandum etc. In fact she had an unblemished service career and there is a regular need of her service because there is no other person to look after the post of clerk-cum-typist. It is pertinent to mention here that there are vacancies in the office of the Respondent No. 5 and the Applicant being qualified

person for the said post could have been regularised instead of discontinuing her service in an illegal manner.

4.8 That the Applicant begs to state that in the office of the Respondent No.5 there are more than one vacancy in the cadre of clerk-cum-typist. It is noteworthy to mention here that till date no regular appointment has been made in the said post of clerk-cum-typist and in fact there is no qualified person to hold the said post except the Applicant who is in possession of diploma in type writing. On the other hand work load of the office indicates the need of the service of the Applicant. The Respondents ought to have regularised the service of the Applicant taking into consideration her past service and educational qualification.

4.9 That the Applicant begs to state that the Respondents instead of regularising of her service sought to dis-engage her from her service in an arbitrary manner without following the due process of law. Admittedly the Applicant was appointed as casual typist-cum-clerk under the Respondent No. 5 after following the due process of law and as such the manner and method of terminating her service indicates malafide intention of the Respondents. The Applicant from a reliable source could come to know that the oral order of termination has been issued by the Respondent No. 5 as per dictation of higher authority and same has been done without following the due process of law.

4.10 That the Applicant begs to state that admittedly she was duly employed by the Respondent No. 5 in the capacity of a clerk-cum-typist and as such without serving any prior notice of termination the said Respondent No. 5 could not have discontinued her service as has been sought to be done in the present case. Presently she is attending the office of the Respondent No. 5 but there is every likelihood that finally her service will be discontinued/terminated. In the aforesaid facts and circumstances the Applicant has come before this Hon'ble Tribunal at the earliest opportunity praying for a appropriate relief. The Applicant further prays for a interim protection from this Hon'ble Tribunal apprehending discontinuation of her service. The Applicant is still continuing in her post and she is attending the office regularly as such the principle of balance of convenience lies very much in favour of the Applicant and it is a fit case wherein Your Lordships would graciously be pleased to pass an appropriate interim order protecting the interest of the Applicant.

4.11 That this application has been filed bonafide and to secure ends of justice.

5. GROUNDS WITH LEGAL PROVISIONS

5.1 For that the action/inaction on the part of the Respondents are illegal, arbitrary and violative of the principles of natural justice and hence same is liable

to be set aside and quashed.

5.2 For that the Respondent have acted illegally in terminating the service of the Applicant by an oral order without following the due process of law. The Applicant being a holder of civil post under the Respondents the protection under Article 311 of the Constitution of India is required to be extended to her. 5.3 For that there being number of vacancy under the Respondents, the Respondents ought to have regularise her service taking into consideration various scheme issued by the Government of India. Having not done so the Respondents have acted illegally and arbitrarily violating Article 14 and 16 of the Constitution of India and laws framed thereunder. 5.4 For that the Respondents ought to have issued show cause notice to the Applicant before terminating her service and having not done so the Respondents have violated Article 14 and 16 of the Constitution of India and on this score alone the oral order of termination is liable to be set aside and quashed.

5.5 For that in any view of the matter the action/inaction on the part of the Respondents is not sustainable in the eye of law and liable to be set aside and quashed.

The Applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF THE REMEDIES EXHAUSTED.

That the Applicant declares that they have exhausted all the possible departmental remedies towards the redressal of the grievances in regard to which the present application has been made and presently they have got no other alternative than approached this Hon'ble Tribunal.

7. MATTER PENDING WITH ANY OTHER COURTS

That the applicants declares that the matter regarding this application is not pending in any other Court of Law or any other authority or any other branch of the Hon'ble Tribunal.

8. RELIEF SOUGHT:

Under the facts and circumstances stand above the Applicant prays that the instant application be admitted, records be call for and upon hearing the parties on the cause or causes that may be shown and on perusal of records be pleased to grant the following reliefs.

8.1 To set aside and quash the impugned oral order of termination and to direct the Respondents to allow the Applicant to continue in the post of clerk-cum-typist on casual basis.

8.2 To direct the Respondents to regularise the service of the Applicant taking into consideration various guidelines issued by the Government of India and to extend her all consequential service benefits after her such regularisation.

8.3 Cost of the application.

8.4 Any other relief/reliefs to which the present Applicant are entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

During the pendency of this OA the Applicant prays for an interim order directing the respondents not to give effect the operation of the impugned oral order of termination and to allow her to continue in the post of clerk-cum-typist until further order.

10. THE APPLICATION IS FILED THROUGH ADVOCATE:

11. PARTICULARS OF THE POSTAL ORDER :

(I) I.P.O. No.: 66 788852

(ii) Date: 28/11/2001

(iii) payable at Guwahati

12. LIST OF ENCLOSURES :

VERIFICATION

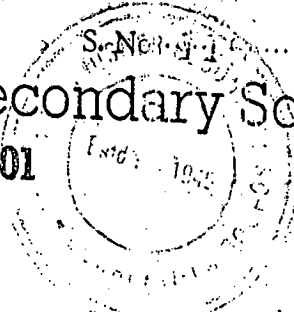
I, Smt. Piyali Chakraborty (Roy), wife of Sujit Kr. Roy, aged about 27 years, resident of Hailakandi Road (Link Road), Silchar-5, Cachar, do here by solemnly affirm and state that the statement made in this application from paragraph 1,2,3,4, 44-45 & 56 are true to my knowledge and those made in paragraphs 42, 43 are matters records of and informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 9th day of January 2002.

Piyali Chakraborty

Book No. 3

Assam Railway Higher Secondary School
Guwahati-781 001



Certified that Sri/Smti Piyali Chakravorty
of Guwahati appeared in the H.S.L.C., H-S: (Special Compartmental)
Examination, 1992 of S.E.B.A., A-H-S-E.C. Guwahati as a Regular/
Private candidate under Roll S2-165 No. 877
Passed & was placed in III (Third) division.

His/Her date of birth is 30-12-74

He/She bears/bore a good moral Character.
I wish him/her success in life.

Principal

ASSAM RAILWAY HIGHER SECONDARY SCHOOL
GUWAHATI
Guwahati-1.

Date... 10-7-92

Attested

hda
Advocate

Govt. Aided
JYOTI VOCATIONAL TRAINING CENTRE

Estd. — 1983.

Noonmati, GUWAHATI — 20 (Assam)

Final Diploma Examination

Sl. No. 855



This is to Certify that Miss Piyali Chakravarty Son/Daughter/Wife
of Sri Bishu Bhushan Chakravarty Village/Town Section-11 P. O. Noonmati
Pin 781020 Dist Kamrup State Assam has attended in this Training
Centre during the session 1992 a full course of training in Assamese/English
Hindi Type-writing/Stenography and has appeared in the Final Diploma Examination
which he/she has successfully passed attaining the speed 5
words per minute in Type-writing, and 5 words per minute
in Stenography.

I consider him/her qualified to undertake the duties of a Steno-Typist.

Guwahati, Assam

Date 08 February, 1993

PRINCIPAL

Jyoti Vocational Training Centre,

Guwahati-20, (Assam)

Attested

[Signature]

Advocate

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ANNEXURE - 3

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE ASSISTANT ENGINEER (ELECT)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
SILCHAR.

NO. CWS/AE(E)/37/2001-2002/1488


Dated:- 14/9/01

TO WHOM IT MAY CONCERN

This is to certify that Smt. Piyali Chakrovarty (Roy),
Daughter of Late Bidhu Bhushan Chakrobarty of Link Road, H.K.D.
Road, Silchar -6. is working as a casual typist-cum-clerk in
this office since December '1998.

She is sincere, energetic and of pleasant character.

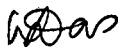
I wish her every success in life.


(A.B. DAS)

ASSISTANT ENGINEER (ELECT)
CCW ::: AIR ::: SILCHAR.

Assistant Engineer (Electrical)
C.C. V. AIR & TV, Silchar

Attested



Advocate.

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ANNEXURE

4 Colly²⁸

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE ASSISTANT ENGINEER (ELECT)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
SILCHAR.

NO. CWS/AE(E)/48/99-2000/680

Dt. 3/2/2000

TO,
The Executive Engineer (Elect),
Civil Construction Wing,
All India Radio,
GUWAHATI.

SUB:- Submission of Hand-receipt in respect of self.

Sir,

Please find herewith 1(one) no. Hand-Receipt
Dated 3-2-2000 for Rs.1,747.00 alongwith 15(fifteen)
Nos. Supporting vouchers as listed below, are being
submitted for necessary pass and payment please.

| S/vr.no. | Date | Amount. | Chargeable to. |
|----------|------------|-----------|--------------------|
| 1/1 | 13-12-1999 | Rs.134.00 | Office Contingency |
| 1/2 | 13-12-1999 | 5.00 | - do - |
| 1/3 | 11-01-2000 | 15.00 | - do - |
| 1/4 | 12-01-2000 | 441.00 | - do - |
| 1/5 | 18-01-2000 | 18.00 | - do - |
| 1/6 | 21-01-2000 | 68.00 | - do - |
| 1/7 | 24-01-2000 | 9.00 | - do - |
| 1/8 | 24-01-2000 | 15.00 | - do - |
| 1/9 | 24-01-2000 | 441.00 | - do - |
| 1/10 | 24-01-2000 | 80.00 | - do - |
| 1/11 | 28-01-2000 | 37.00 | - do - |
| 1/12 | 28-01-2000 | 9.00 | - do - |
| 1/13 | 31-01-2000 | 10.00 | - do - |
| 1/14 | 02-02-2000 | 150.00 | - do - |
| 1/15 | 03-02-2000 | 315.00 | - do - |

Total 1,747/-

Encls : As above,

Your's faithfully

(A.B.DAS)

ASSISTANT ENGINEER (ELECT)
CCW : : : AIR : : : : SILCHAR.

Advocate.

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ANNEXURE- 4 copy

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE ASSISTANT ENGINEER (ELECT)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
SILCHAR.

NO. CWS/AE (E)/48/99-2000/748

/Dt. 8/3/2000

TO,
The Executive Engineer (Elect),
Civil Construction Wing,
All India Radio,
GUWAHATI.

SUB:- Submission of Hand-Receipt in respect of self.

Sir,

Please find herewith 3 (three) Nos. Hand-Receipt
alongwith Supporting vouchers as listed below, are being
submitted for necessary pass and payment please.

H.R./No.1 S/Vr.NO and Date Amount. Chargeable to.
Dt. 3-3-2000

| | | | |
|------|---------|------------|----------|
| 1/1 | 10-1-00 | Rs. 10.00 | |
| 1/2 | 25-1-00 | Rs. 28.00 | |
| 1/3 | 2 -2-00 | Rs. 6.00 | |
| 1/4 | 4 -2-00 | Rs. 441.00 | |
| 1/5 | 12-2-00 | Rs. 10.00 | |
| 1/6 | 25-2-00 | Rs. 441.00 | |
| 1/7 | 28-3-00 | Rs. 49.00 | |
| 1/8 | 1 -3-00 | Rs. 441.00 | Office |
| 1/9 | 2 -3-00 | Rs. 150.00 | Expences |
| 1/10 | 2 -3-00 | Rs. 14.00 | |
| 1/11 | 2 -3-00 | Rs. 24.00 | |
| 1/12 | 2 -3-00 | Rs. 478.00 | |
| 1/13 | 3 -3-00 | Rs. 30.00 | |
| 1/14 | 3 -3-00 | Rs. 25.00 | |
| 1/15 | 3 -3-00 | Rs. 550.00 | |
| 1/16 | 3 -3-00 | Rs. 140.00 | |

Total Rs. 2834.00

H.R./No.2
Dt. 8-3-2000

| | | | |
|-----|---------|------------|---------------|
| 2/1 | 8 -2-00 | Rs. 150.00 | C/O (4+1) AGD |
| 2/2 | 18-2-00 | Rs. 500.00 | for AIR at |
| 2/3 | 8 -2-00 | Rs. 125.00 | Agartala. |

Total Rs. 725.00

H.R./NO.3
Dt. 8-3-2000

| | | | |
|-----|---------|-------------|-------------|
| 3/1 | 19-2-00 | Rs. 800.00 | C/O 10KW FM |
| 3/2 | 20-2-00 | Rs. 1400.00 | XTR for AIR |
| 3/3 | 23-2-00 | Rs. 1545.00 | at Imphal. |

Total Rs. 3745.00

Encls :- As above, alongwith
BIB No. 179/Cat-CEB

Your's faithfully

Attested,
Advocate.

Assistant Engineer (Elect)
CCW, AIR, Silchar.

Received Rs. 1,323/-
(Rupees one thousand three
hundred twenty three only)
8-3-2000

paid vide
entry no. 61
paid vide
entry no. 59/3

paid vide
entry no. 59/2

paid vide
entry no. 61

- 16 -

ANNEXURE

4 Colly
C/C

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE ASSISTANT ENGINEER (ELECT)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
SILCHAR.

No. CWS/AE(E)/48/2000-2001/1261

Dt. 5/2/2001

TO,
The Executive Engineer (Elect),
Civil Construction Wing,
All India Radio,
GUWAHATI.

SUB:- Submission of Hand-receipt in
respect of self.

Sir,

Enclosed please find herewith 1 no. H.R. of
Rs. 1,702.00 (Rupees one thousand seven hundred and two) only
along with supporting vouchers as listed below are being
submitted for necessary pass and payment please.

| H.R./NO. 1 S/Vr. Dt. 03/02/2001. | NO. & Date. | Amount. | Chargeable to. |
|-------------------------------------|-------------|--------------|---------------------|
| | 1/1 3/2/01 | Rs. 12.00 | |
| | 1/2 3/2/01 | Rs. 441.00 | |
| | 1/3 3/2/01 | Rs. 33.00 | |
| | 1/4 3/2/01 | Rs. 441.00 | |
| | 1/5 3/2/01 | Rs. 10.00 | |
| | 1/6 3/2/01 | Rs. 18.00 | |
| | 1/7 3/2/01 | Rs. 10.00 | Office expences. |
| | 1/8 3/2/01 | Rs. 10.00 | |
| | 1/9 3/2/01 | Rs. 111.00 | |
| | 1/10 3/2/01 | Rs. 441.00 | |
| | 1/11 3/2/01 | Rs. 175.00 | |
| | Total | Rs. 1,702.00 | |

Enclo :- As above,

Your's faithfully

(A.B.DAS)

ASSISTANT ENGINEER (ELECT)
CCW ::: AIR ::: SILCHAR.

Received
Rs. 1323/- (Rupees one thousand three hundred and twenty three) only
Rupees one thousand three hundred and twenty three only
Rupees one thousand three hundred and twenty three only

Attested

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

O.A.NO. 6 OF 2002

Smt. Piyali Chakraborty.

-vs-

Union of India & Ors.

- and -

In the Matter of ::

Written statement submitted by the
respondents.

The respondents beg to submit written statements
as followd :-

1. That with regard to para - 1 of O.A., the respondents beg to state that the respondent No-5 never appointed the applicant to work in the office of the Asstt. Engineer(Elect), CCW, AIR, Silchar as a casual typist-cum- clerk and hence no question arises to terminate the service of the applicant by an oral order with effect from 31.12.2001. The respondent No- 5 in the capacity of Asstt. Engineer(Elect.), CCW, AIR, Silchar used her services as and when necessity arises duly paying her wages as per rules.
2. That with regard to paras, 2,3,& 4.1 the respondents beg to offer no comments.
3. That with regard to para - 4.2, the respondents beg to state that it is not correct that the applicant had submitted application to the respondents No-5 having

Contd....P/2.

Filed by

29
23/4/02
(A. DEBROY)

Sr. C. G. S. C.

C. A. T., Guwahati Bench

come to know about the vacancy occurred in the office of the respondent No.5 as no advertisement/notice has been issued by the respondents No- 5. The post of clerk-cum - typist is of Group 'C' cadre and the respondent No- 5 is not the appointing authority. Even the appointing authority can also appoint a person in the post of clerk-cum- typist being a Group 'C' post from amongst the candidates selected by the Staff Selection Commission. Hence, the applicant filed her application before the Hon'ble Tribunal with a malafied and misleading intention for absorption in a Group 'C' Post under the Prasar Bharati, Broadcasting Corporation of India setting aside all the departmental recruitment rules.

Copies of certificate regarding her casual appointment-Annexure - 2 & 3 are not true. Annexure 2 is a copy of Final Diploma Examination issued by the Govt. ~~xxxxx~~ aided Jyoti Vocational Training Centre, Noonmati, Guwahati -20 and Annexure - 3 is a copy of certificate issued by the respondent No- 5 without having any support/record. There is no record that the applicant was engaged in 1998.

4. That with regard to para -4.3, the respondents beg to state that no appointment was made as stated by the applicant. It is not ~~xx~~ true that the applicant was asked to shoulder higher responsibility on need basis from regular ~~responsibility~~ ~~xx~~ work. In fact she performed her duties only when necessity of typing works arises in the office of the respondent No- 5 and it is fact that her wages were paid through the Hand-Receipt

(CPWA-28) for the period as per payment receipts she actually worked.

Copy of payment receipt annexed as Annexure -
3,4,5,6&7.

5. That with regard to para ~~4.4~~ 4.4, the respondents beg to state that the respondent No- 5 is not the appointing authority in the Group 'C' Post and there are plenty of candidates possessing the required qualification and it is not true that there is no other qualified person to hold the post of clerk -cum - typist. In fact the respondent No- 5 never assured the applicant for regularisation in the post of clerk -cum- typist as she has no authority to appoint clerk-cum-Typist. Moreover there is a Ban on engagement of casual workers for duties of Group 'C' post. -Extract from page - 298 (Swamy's Hand Book - 2002) Para - 8 annexed as Annexure - 8.

6. That with regard to para - 4.5, the respondents beg to state that she works only when necessity of typing works arises and hence statement of the the applicant is not true. It has already been stated in a para - 4.2 that for appointment in a post of clerk-cum-typist in a Group 'C' cadre, the appointing authority is supposed to obtain candidate from amongst the selected list of staff selection Commission, hence statement of the applicant that "Process for her regularisation of service initiated at the level of the respondent No-5 " is totally incorrect and baseless as well as misleading. There was no advertisement or requisition in the Employment Exchange calling candidates for appointment to the post of Clerk-Cum-Typist. Moreover, it is also not true that the respondent No- 5 suddenly during the last week of December 2001 asked the applicant

not to attend office any further but the applicant is attending office regularly. In fact by the end of December 2001 no typing works were there and it ~~ixx~~ has already been stated earlier that she actually worked on the basis of necessity only. The statement of the applicant is therefore not true and correct. ✓

7. That with regard to para - 4.6 the respondents beg to state that the statement of applicant is therefore not at all acceptable as no question of illegal/arbitrary action on the part of the respondents arise.

8. That with regard to para - 4.7 & 4.8, the respondents beg to state that the applicant was not appointed as an employee in the office of the respondent No-5 and question of service upto the mark or issue of any Memorandum for short complain against her performance not at all arises. The Respondents beg to state that the appointing authority is ~~xx~~ in constant initiation with the Staff Selection Commission for filling up of the vacancy of Clerk-Cum - Typist, the only permissible channel. At present there is no typing works and the work of the applicant is not necessary.

9. That with regard to para - 4.9, the respondents beg to state that as no appointment in the post of Clerk-Cum-Typist was made to the applicant in any manner, question of engagement/disengagement following the due process of law does not at all arise. It is also brought to the knowledge of the Hon'ble Court that there is no question of termination her services as per the dictation of higher authority since no appointment was made.

- 5 -

10. That with regard to para -4.10, the respondents beg to state that there is no question of being duly employed by the respondent No-5 in the vacancy of Clerk-Cum-Typist as such no question of serving any prior notice or termination to her arises and also no question of discontinuance arise in the instant case. As such it is places before the Hon'ble Tribunal that relief sought for by the applicant is baseless and question of interim protection apprehending discontinuation of her service is totally illegal and misleading as at no point she was appointed in any manner and she is not in engagement as no typing works were there by the end of December 01. The applicant was not working after 31.12.01, attending of office regularly by the applicant as stated in her application is not true, as she had not worked after 31.12.2001.

11. That with regard to para 4.11, the respondents beg to state that the application of the applicant can not be termed as bonafide and may there fore be quashed ~~xx~~ and set aside.

12. That with regard to para 5.1 of O.A. the respondents beg to state that there is no question on the part pf the respondents for committing any illegal, arbitrary and violating action for prevailing natural justice. It is therefore prayed before the Hon'ble Court to set aside the application.

+Contd....P/6

13. That with regard to para - 5.2, 5.3, 5.4 & 5.5 the respondents ~~xxx~~ ~~xxx~~ beg to state that as she was not appointed at any time in any manner as already stated earlier, hence question of violating articles 14 & 16 of Constitution of India does not arise, hence the application is liable to be set aside and quashed.

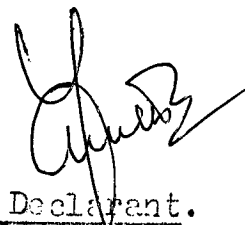
14. That with regard to para - 8 & 9 the respondents ~~g~~ beg to state that in view of the statements made above the applicant is not entitled to get any relief and the application may kindly be set aside.

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

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

I, Shree N.I. Yanthan, Executive Engineer(Elec)
A I R, Guwahati being authorised do hereby solemnly
declare that the statements made in paras-1,2,6 to 10
are true to my knowledge and statements made in paras
3,4 and 5 are true to my information and I have not
suppressed any material fact.

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



Declarant.

Executive Engineer (Electrical)
G. C. W. A. I. R. Guwahati

8
-12-

96
ANNEXURE— 2

Govt. Aided
JYOTI VOCATIONAL TRAINING CENTRE

Estd. — 1983.

Noonmati, GUWAHATI — 20 (Assam)

Final Diploma Examination

Sl. No. 855



This is to Certify that Miss Piyali Chakravarty Son/Daughter/Wife
of Shri Bidy Chandra Choudhary Village/Town Section-11 P. O. Noonmati
Pin 781020 Dist Kamrup State Assam has attended in this Training
Centre during the session 1992 a full course of training in Assamese/English
Hindi Type-writing/Stenography and has appeared in the Final Diploma Examination
which he/she has successfully passed attaining the speed 50
words per minute in Type-writing, and 40 words per minute
in Stenography.

I consider him/her qualified to undertake the duties of a Steno-Typist.

Guwahati : Assam

Date 08 February, 1993

PRINCIPAL

Jyoti Vocational Training Centre.

Guwahati-20, (Assam).

-13-

ANNEXURE-3

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE ASSISTANT ENGINEER (ELECT)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
SILCHAR.

NO. CWS/AE (E) 437/2001-2002/1488

Dated:- 14/9/01

TO WHOM IT MAY CONCERN

This is to certify that Smt. Piyali Chakrovarty (Roy),
Daughter of Late Bidhu Bhushan Chakrobarty of Link Road, H.K.D.
Road, Silchar -6. is working as a casual typist-cum-clerk in
this office since December '1998.

She is sincere, energetic and of pleasant character.

I wish her every success in life.

(A.B.DAS)

ASSISTANT ENGINEER (ELECT)
CCW ::: AIR ::: SILCHAR.

Assistant Engineer (Electrical)
C.C. W. AIR & TV, Silchar

10

38

- 14 -

ANNEXURE - 4 Colly

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE ASSISTANT ENGINEER (ELECT)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
SILCHAR.

NO. CMS/AE(E)/48/99-2000/680

/Dt. 3/2/2000

TO,
The Executive Engineer (Elect),
Civil Construction Wing,
All India Radio,
GUWAHATI.

SUB:- Submission of Hand-receipt in respect of self.

Sir,

Please find herewith 1(one) no. Hand-Receipt
Dated 3-2-2000 for Rs.1,747.00 alongwith 15(fifteen)
Nos. Supporting vouchers as listed below, are being
submitted for necessary pass and payment please.

| S/vr.no. | Date | Amount. | Chargeable to. |
|----------|------------|-----------|--------------------|
| 1/1 | 13-12-1999 | Rs.134.00 | Office contingency |
| 1/2 | 13-12-1999 | 5.00 | - do - |
| 1/3 | 11-01-2000 | 15.00 | - do - |
| 1/4 | 12-01-2000 | 441.00 | - do - |
| 1/5 | 18-01-2000 | 18.00 | - do - |
| 1/6 | 21-01-2000 | 68.00 | - do - |
| 1/7 | 23-01-2000 | 9.00 | - do - |
| 1/8 | 24-01-2000 | 15.00 | - do - |
| 1/9 | 24-01-2000 | 441.00 | - do - |
| 1/10 | 28-01-2000 | 80.00 | - do - |
| 1/11 | 28-01-2000 | 37.00 | - do - |
| 1/12 | 28-01-2000 | 9.00 | - do - |
| 1/13 | 31-01-2000 | 10.00 | - do - |
| 1/14 | 02-02-2000 | 150.00 | - do - |
| 1/15 | 03-02-2000 | 315.00 | - do - |

Total 1,747/-

Enclo : As above,

Your's faithfully

(A.B.DAS)
ASSISTANT ENGINEER (ELECT)
CCW ::: AIR ::: SILCHAR.

received
7/10 (Rupees one
thousand seven only)
10-2-2000
no. 56

- 15 -

ANNEXURE - 4 copy 39

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE ASSISTANT ENGINEER (ELECT)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
SILCHAR.

NO. CWS/AE(E)/48/99-2000/748

/Dt. 8/3/2000

TO,
The Executive Engineer (Elect),
Civil Construction Wing,
All India Radio,
GUWAHATI.

SUB:- Submission of Hand-Receipt in respect of self.

Sir,

Please find herewith 3 (three) Nos. Hand-Receipt
alongwith Supporting vouchers as listed below, are being
submitted for necessary pass and payment please.

| H.R./No.1 Dt. 3-3-2000 | S/Vr. NO and Date | Amount. | Chargeable to. |
|---------------------------|-------------------|---------|----------------|
|---------------------------|-------------------|---------|----------------|

| | | | |
|-------|---------|-------------|----------|
| 1/1 | 10-1-00 | Rs. 10.00 | |
| 1/2 | 25-1-00 | Rs. 28.00 | |
| 1/3 | 2 -2-00 | Rs. 6.00 | |
| 1/4 | 4 -2-00 | Rs. 441.00 | |
| 1/5 | 12-2-00 | Rs. 10.00 | |
| 1/6 | 25-2-00 | Rs. 441.00 | |
| 1/7 | 28-2-00 | Rs. 49.00 | |
| 1/8 | 1 -3-00 | Rs. 441.00 | Office |
| 1/9 | 2 -3-00 | Rs. 150.00 | Expences |
| 1/10 | 2 -3-00 | Rs. 14.00 | |
| 1/11 | 2 -3-00 | Rs. 24.00 | |
| 1/12 | 2 -3-00 | Rs. 478.00 | |
| 1/13 | 3 -3-00 | Rs. 30.00 | |
| 1/14 | 3 -3-00 | Rs. 25.00 | |
| 1/15 | 3 -3-00 | Rs. 550.00 | |
| 1/16 | 3 -3-00 | Rs. 140.00 | |
| Total | | Rs. 2874.00 | |

H.R./NO. 2
Dt. 8-3-2000

| | | | |
|-------|---------|-------------|---------------|
| 2/1 | 8 -2-00 | Rs. 150.00 | C/O (4+1) AGD |
| 2/2 | 18-2-00 | Rs. 500.00 | for AIR at |
| 2/3 | 8 -2-00 | Rs. 125.00 | Agartala. |
| Total | | Rs. 725.00 | |
| 3/1 | 19-2-00 | Rs. 800.00 | C/O 10KW FM |
| 3/2 | 20-2-00 | Rs. 1400.00 | XTR for AIR |
| 3/3 | 23-2-00 | Rs. 1545.00 | at Imphal. |
| Total | | Rs. 3745.00 | |

H.R./NO. 3
Dt. 8-3-2000

Encls :- As above, alongwith
100 Rs. 100/- each

Yours faithfully

Assistant Engineer (Elect)
CCW, AIR, Silchar.

Received Rs. 1,323/-
(Rupees one thousand three
hundred twenty three only)
8/3/2000

paid vide
entry no. 11
paid vide
entry no. 50/3
paid vide
entry no. 22/2
paid vide
entry no. 61

40
ANNEXURE - 4 Colly
C/C

12
-16-
PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE ASSISTANT ENGINEER (ELECT)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
SILCHAR.

NO. CWS/AE(E)/48/2000-2001/1261

/Dt. 5/2/2001

TO,
The Executive Engineer (Elect),
Civil Construction Wing,
All India Radio,
GUWAHATI.

SUB:- Submission of Hand-receipt in
respect of self.

Sir,

Enclosed please find herewith 1 no. H.R. of
Rs. 1,702.00 (Rupees one thousand seven hundred and two) only
alongwith supporting vouchers as listed below are being
submitted for necessary pass and payment please.

| H.R./NO. 1 S/Vr. Dt. 03/02/2001. | NO. & Date. | Amount. | Chargeable to. |
|-------------------------------------|-------------|--------------|-------------------|
| | 1/1 3/2/01 | Rs. 12.00 | |
| | 1/2 3/2/01 | Rs. 441.00 | |
| | 1/3 3/2/01 | Rs. 33.00 | |
| | 1/4 3/2/01 | Rs. 441.00 | |
| | 1/5 3/2/01 | Rs. 10.00 | |
| | 1/6 3/2/01 | Rs. 18.00 | Office |
| | 1/7 3/2/01 | Rs. 10.00 | expences. |
| | 1/8 3/2/01 | Rs. 10.00 | |
| | 1/9 3/2/01 | Rs. 111.00 | |
| | 1/10 3/2/01 | Rs. 441.00 | |
| | 1/11 3/2/01 | Rs. 175.00 | |
| | Total | Rs. 1,702.00 | |

Encls. as above.

Your's, faithfully

(A.B.DAS)

ASSISTANT ENGINEER (ELECT)
CCW ::: AIR ::: SILCHAR.

Received
Rs. 1323/- (Rupees one thousand three hundred and twenty three) only
10/2/01

25

File No. C-18011/1/2001-PB Cell

OFFICE MEMORANDUM

The Ministry of I&B have written to the CEO Prasar Bharati that it has been observed in many Court Cases that petitioners working either with Akashvani or Doordarshan continue to implead Secretary I&B as a respondent and Secretary I&B is invariably impleaded as a respondent in Contempt petitions. Ministry of I&B have advised that all legal proceedings in which Central Government and Prasar Bharati have been impleaded be attended by Prasar Bharati particularly in cases where no specific relief is sought from Ministry of I&B. In this connection a copy of Ministry of I&B letter No. 2/10/98-PBC-dated-22-5-1998 addressed to Prasar Bharati is enclosed (Annexure I).

2. It is requested that all Sections defending any court cases filed against Prasar Bharati may kindly ensure that at the initial stage of Institution of such a suit/proceedings, the record may be got corrected in the court/tribunal by making a suitable submission in this regard. The Ministry of I&B will however continue to provide assistance to Prasar Bharati wherever it is sought.

3. It is also requested that a list of court cases filed against Prasar Bharati pending as on date where Secretary I&B has also impleaded as one of the respondents may also please be furnished to Prasar Bharati Section, in the enclosed Proforma (Annexure II).

(C.A. SUBRAMANIAN)
Deputy General Manager (Personnel)

Encl: As above.

To

1. DG:DD (S-I(A), S-III, S-IV, A&T Sections)
2. DG:AIR (S-II, S-III, S-IV(A), S-IV(B), S-VIII Sections)

Copy to:

- Copy to:
1. Shri D.V.S. Ranga, DDG(A), DG:DD
 2. Shri Babulal, DDG(A), DG:AIR

1/21
202/4700/0555

334/364/01
16/1

भारत सरकार
GOVERNMENT OF INDIA ANNEXURE-I

सूचना और प्रसारण मंत्रालय

MINISTRY OF INFORMATION & BROADCASTING

ए' विंग शास्त्री भवन, नई दिल्ली - 110 001

'A' Wing Shastri Bhavan, New Delhi - 110 001

A. 115011/21/2011-CP-1

6 N 2 (R)

तारीख
Date

2/10/98

संख्या/No.

27

PB 6

20.5.98

To

The Secretary to the Board
Prasar Bharati (Broadcasting
Corporation of India)
Doordarshan Bhawan,
Mandi House
New Delhi.

Subject : Court cases involving the Central Government
and the Prasar Bharati.

Sir,

I am directed to state that according to section 16(d) of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990, all suits and other legal proceedings instituted or which could have been instituted by or against the Central Government immediately before the appointed day for any matter in relation to Akashvani or Doordarshan or both may be continued or instituted by or against the Corporation.

2. In view of the provisions in the Act, this Ministry had been examining the issues connected with the procedure to be adopted while handling legal suits/proceedings involving the Central Government and the Prasar Bharati. Ministry of Law, Deptt. of Legal Affairs, whose advice in the matter was sought have sent their advice in relation to two specific situations as envisaged in the Act :-

- i) All suits and other legal proceedings instituted by or against the Central Government immediately before the appointed day for any matter in relation to Akashvani or Doordarshan may be continued by or against the Prasar Bharati; and
- ii) Suits and legal proceedings which could have been instituted by or against the Central Government before the appointed day may be instituted by or against the Prasar Bharati.

contd...2/-

263
5

With regard to (i) above, the Ministry of Law, Govt. of Legal Affairs have stated that in such a suit/legal proceedings Prasar Bharati would not have been impleaded before the establishment of the Corporation. Therefore, they have advised that in such cases, the Ministry of Information and Broadcasting may file an application in the concerned Court drawing its attention to section 16(d) of the Act requesting it to substitute Prasar Bharati in its place and to continue the proceedings against Prasar Bharati. Simultaneously, Prasar Bharati would also be requested by this Ministry to file a similar application. Further action will be taken as per the direction of the Court.

4. With regard to (ii) in para 2 above, it has been expressed that the Ministry of Information & Broadcasting may not have itself instituted any case after the establishment of the Corporation. However, there may be a case instituted against the Central Government or against the Central Government as well as Prasar Bharati or against Prasar Bharati only. A case filed solely against Prasar Bharati would no doubt be defended by Prasar Bharati themselves. Where a case has been instituted against the Central Government without impleading Prasar Bharati, Ministry of Information and Broadcasting has been advised to file an application in the court drawing its attention to section 16(d) and requesting it to substitute Prasar Bharati for Central Government. Prasar Bharati will also have to file a similar application and further action may be taken as per direction of the Court. Further, the Ministry of Law has advised that where both the Central Government and the Prasar Bharati have been impleaded, it may not be necessary for the Ministry of Information & Broadcasting to file a counter affidavit or to defend the case unless so directed by the Court. Instead, the Ministry of Information & Broadcasting would request Prasar Bharati to defend the case as well as the interests of Central Government also in that case. These cases would be left to be handled by Prasar Bharati.

5. It may also be mentioned here that with the establishment of Prasar Bharati it becomes the responsibility of the Prasar Bharati to conduct and defend legal proceedings in relation to Akashvani and Doordarshan. The Ministry of Information & Broadcasting will provide assistance to Prasar Bharati either in terms of past facts of the case or otherwise on a reference from Prasar Bharati to the Ministry.

X

6. The contents of the advice of the Ministry of Law is being communicated to you for facilitating appropriate actions wherever required in future. Similarly, the concerned sections in this Ministry will also take appropriate action in handling suit and legal proceedings.

Yours faithfully,

(Pravin Srivastava)
Director (BP)

Copy for information and necessary action to :

1. DG, AIR/DG, Doordarshan
2. All officers and sections in the Broadcasting wing in the Ministry.

(Pravin Srivastava)
Director (BP)

SO (TVP-I)/SO (TV-II)/SO (VP-III)/SO (TVD)/SO (TVD2)/
SO (TV A)/SO (PRESS)/SO (BP)/SO (BD)/SO (BA)

Not connected
with Informative
wing (Press Section)

25/5

12

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

OA NO.6/2002

Piyali Chakraborty

....Applicant

-VERSUS-

U.I.O & Ors

.... Respondents

Rejoinder to the Written Statement filed
by the Respondents

1. That the applicant has received a copy of the Written Statement and has gone through the same. Save and except the statements which are specifically admitted herein below rests, may be treated as total denial.

2. That the applicant for the sake of gravity begs to place her reply to the Written Statement in a consolidated manner against the issues raised by the Respondents.

Following are the issues raised by the Respondents :-

- A) The applicant was never appointed by the Respondent No.5.
- B) For the appoint to Grade 'C' post Staff Selection Commission is the recruiting agent.

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- C) There is no record that the applicant was engaged in the year 1990.
- D) She was engaged on necessity basis only

Reply of the applicant

A) In para 1 of the Written Statement the Respondents have admitted the fact that the Respondent No.5 utilized her service making payment as per Rules. It is stated that since the service of the applicant is of casual in nature, so question of appointment taking into consideration the fact situation of the case was as per Rule. It is not a case of the Respondents that she never performed duty under the Respondent No.5, rather the certificate and the official communications indicate the fact that she was a bonafide employee of the Respondents.

B) The applicant in respect of the issue regarding the regular selection procedure through SSC states that under the Respondents there are still regular Group-'C' employees who got their educational qualification not to speak of sponsoring their name through SSC or any other alike recruiting agencies. Admittedly, the applicant is a bonafide employee of the Respondents and as per provisions her case for regularisation as a departmental candidate is required to be regularised. As per the rule guiding the field

departmental candidates working on temporary basis can be regularised in 'Group'-C posts relaxing the normal rule for recruitment. In the instant case, admittedly, the applicant is a departmental candidate and her case is required to be regularised relaxing the normal rules required for direct recruitment instead of dispensing with her service as has been sought to be done in her case.

C) As regard to the issue of non-availability of record w.e.f 1990 the applicant states that she got her initial engagement in the year 1998 and hence the question of availability of records pertaining to service in the year 1990 does not arise. The applicant is in possession of all the records including the hand receipts and other communication and she craves leave of this Hon'ble Tribunal to produce the same at the time of hearing of the case.

D) As regard to the last issue regarding the mode of employment the applicant begs to state that basically, under the Respondents, there are two modes of employment namely (i) direct recruitment (ii) temporary appointment. The appointment made to the applicant falls under the second category which is an appointment on temporary basis, pending finalisation of regular selection. Since the applicant is in possession of all the required qualification for direct recruitment and

she being a departmental candidate, the Respondents instead of resorting to cumbersome process of selection ought to have taken up her case for regularisation even without dispensing her service.

3) That the applicant begs to state that she being a qualified person to hold post of typist-cum-clerk under the Respondents her case is required to be considered for regularisation taking into consideration various office memorandums issued by the government of India in the subject of absorption of casual workers .

...VERIFICATION

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

I, Smt. Piyali Chakraborty (Roy), wife of Sujit Kr. Roy, aged about 27 years, resident of Hailakandi Road (Link Road), Silchar-5, Cachar, do hereby solemnly affirm and state that the statement made in this application from paragraph 1-3 are true to my knowledge and those made in paragraphs — are matters records of and informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

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

Piyali Chakraborty