

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. O.A 100/2003

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SECTION OFFICER (Judl.)

Malik
16/12/17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 100/03

Misc Petition No: /

Contempt Petition No: /

Review Application No: /

Applicants: A. Ahmed

Respondents: MoI 2018

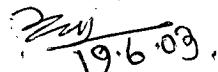
Advocate for the Applicants: - Mr S.Sarma, Mr M.Das

Advocate for the Respondents: - CASE

Notes of the Registry	Date	Order of the Tribunal
In application is in form but not in time Condonation Petition is filed / not filed C.P. for Rs. 50/- deposited vide IPO/P/ No. 89/490/23 Dated 22/4/03	13.5.2003	Heard Mr.S.Sarma, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. Issue notice, returnable by four weeks In the meantime the applicant may accept the re-engagement as Work-charged Seasonal Khalasi under the Work-charged establishment under Upper Brahmaputra Division CWD, Dibrugarh in the scale of pay Rs.2550-55-2660-60-3200/- without prejudice to his claim for regularisation.
1) Steps taken with Emperor. 2) 50 pairs short in Notelatnaman.		Pendency of the application shall not preclude the respondents from considering the case of the applicant for regularisation.
Notice fixed for 8 days to DTS for issuing the Respondent No 1 to S by Regd. A/I D/N. 1043/1047 16/23/5/03	13/5/03	List on 20.6.2003 for admission.
	bb	


Vice-Chairman

① Service report are
still awaited.


19.6.03.

20.6.2003 No reply so far filed by the respondents.

sent via D.N.O 1043 W
1047 dtd. 28/5/03
23/6

The application is admitted.
Call for the records.

Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents prayed for time for filing written statement. Prayer is allowed.

Put up again on 18.7.2003 for orders.

No. Wts has been filed.

My
17.7.03

Vice-Chairman

mb

18.7.2003 The respondents are yet to file written statement though time granted. On the prayer made by Mr. A. Deb Roy, learned Sr.C.G.S.C. further four weeks time is granted to the respondents to file the written statement.

List the case on 22.8.2003 for order.

No. Wts has been filed.

My
21.8.03

Vice-Chairman

bb

22.8.2003 On the prayer of Mr. B.C. Pathak learned Addl. C.G.S.C. for the respondents further four weeks time is allowed to file written statement.

No. written statement has been filed.

My
25.9.03

Vice-Chairman

mb

26.9.2003 Put up the matter on 28.10.2003 to enable the respondents to file written statement.

No. written statement has been filed.

I.C.P. Pradeban
Member

Vice-Chairman

bb

My
27.10.03

(3)

O.A.100/2003

Office Note	Date	Tribunal's Order
No. written statement has been filed.	28.10.2003	<p>Await for written statement. Put up the matter on 19.11.2003 for written statement.</p> <p><i>ICV Prakash</i> Member</p>
<i>30 19.11.03</i>	19.11.2003	<p>Present : The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman The Hon'ble Shri S.K.Naik Administrative Member.</p> <p>Mr. S. Sarma, learned counsel for the applicant through Mr. M.K. Mazumdar, proxy counsel.</p> <p>Mr. B.C. Pathak, learned Addl.C.G.S.C for the respondents.</p> <p>Respondents seek and are allowed further three weeks time to file reply and two weeks to file rejoinder.</p> <p>List the case on 6.1.2004 for order</p>
written statement filed by the respondent.	6.1.2004	<p><i>ICV Prakash</i> Member</p> <p><i>VS</i> Vice-Chairman</p> <p>List the matter on 28.1.2004 for filing of written statement.</p> <p><i>ICV Prakash</i> Member</p>
<i>24.2.04</i>	bb	

Office Note	Date	Tribunal's Order
<u>12.1.04</u> Ms submitted to the Respondents Nos. 1 to 5. <u>RS</u>	25.2.2004	<p>Present: HOn'ble Shri Shanker Raju, Judicial Member</p> <p>Hon'ble Shri K.V. Prahladan, Administrative Member.</p> <p>Heard the learned counsel for the parties. Hearing concluded. Order reserved.</p> <p><u>KV Prahdan</u> Member (A)</p> <p>nkm</p>
<u>11.3.04</u> Copy of the Judgment has been sent to the Office for sending the same to the appellant as well as to the ADD Counsel for the Respondents <u>RS</u>		<p><u>M</u> Member (J)</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.100 of 2003
With

Original Application No.157 of 2003

Date of decision: This the 26th day of February 2004

The Hon'ble Shri Shanker Raju, Judicial Member

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

O.A.No.100/2003

Aibuddin Ahmed
S/o Late Rabiruddin Ahmed
Working as Work Charged Khalasi
Under D(S) K Subdivision,
Central Water Commission,
Nagaon.

.....Applicant

By Advocates Mr S. Sarma and Ms U. Das

- versus -

1. The Union of India,
Represented by Chairman
Central Water Commission,
New Delhi.
2. The Director,
Central Water Commission,
New Delhi.
3. The Superintending Engineer
Hydrological Observvtion Circle,
Adabari, Guwahati.
4. The Executive Engineer
Central Water Commission,
Upper Brahmaputra Division,
Dibrugarh.
5. The Executive Engineer
Middle Brahmaputra Division,
Central Water Commission,
Guwahati.

.....Respondents

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

O.A.No.157/2003

Anima Talukdar
D/o Late Tapan Talukdar
Casual Worker
Working under the Executive Engineer,
Middle Brahmaputra Division,
Central Water Commission,
Adabari, Guwahati.

.....Applicant

By Advocates Shri S. Sarma and Ms U. Das.

- versus -

1. The Union of India, represented by the
Chairman, Central Water Commission,
New Delhi.

2. The Director,
Central Water Commission,
New Delhi.
3. The Superintending Engineer
Hydrological Observation Circle,
Adabari, Guwahati.
4. The Executive Engineer,
Central Water Commission,
Middle Brahmaputra Division,
Guwahati. Respondents

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

.....
O R D E R

SHANKER RAJU, MEMBER (J)

As the facts and law raised are identical the O.A.s are disposed of by this common order.

2. The applicant in O.A.No.100 of 2003 had earlier approached this Tribunal in O.A.249 of 1993. Having regard to their working till 1992 directions have been issued by the Tribunal on 7.12.1993 to appoint them as Khalasis against available vacancies or in the alternative be appointed as casual workers in the seasonal works. As the services of the applicants was to be dispensed with, R.A. 15 of 1994 filed by the applicants was disposed of on 28.6.1994 with a direction to the respondents not to terminate their services and to consider them for regularisation in Group 'D' post in terms of O.M. dated 10.9.1993.

3. Subsequently, complying with the directions of the court the respondents have framed a Scheme known as "Grant of Temporary Status and Regularisation of Seasonal Khalasis in the Work Charged Establishment of Central Water Commission, 1997". This Scheme was to be in effect

from 1.6.1997. Accordingly by an order dated 5.5.2003 the applicants have been re-engaged as Work Charged Seasonal Khalasis int he scale of pay of 2550-3200. The Scheme stipulated that whosoever has completed 120 days of service prior to commencement of the Scheme would be conferred with temporary status and on availability of posts would be regularised.

4. The applicant in O.A.157 of 2003 earlier filed O.A.201 of 1993 which was disposed of by this Tribunal on 16.11.1993 with directions to the respondents to dispose of the application for regulrisation of the applicant. On review in R.A.13 of 1993, by an order dated 28.6.1994 directions have been issued to the respondents not to terminate her service and consider her for regularisation in Group 'D' post. Being aggrieved with the Scheme ibid, a direction has been sought for to accord her the benefit of the 1993 Scheme.

5. In the above O.A.s treating the applicants as casual workers directions have been issued to consider their cases under the DOPT's Scheme of 10.9.1993.

6. Learned counsel for the applicants states that once they have been absorbed as casual workers the Scheme of 1997 would not apply and their cases ought to be considered under the DOPT's Scheme of 10.9.1993 as they completed the requisite period of service.

7. On the other hand the respondents have filed their reply in O.A.100/2003 and adopted the same in O.A.157/2003 as despite our orders no reply has been filed in O.A.157/2003.

8. The learned counsel for the respondents contends that the applicants were engaged on Work Charged Establishment as Seasonal Khalasis and the Scheme of DOPT of 10.9.1993 would not apply to such Work Charged Seasonal Khalasis as the staff does not belong to regular establishment of the Department and their payment is borne out from projects. Accordingly it is stated that a decision has been taken to frame the Scheme of 1997 in which the case of the applicants for grant of temporary status has been considered and for regularisation as per the Scheme their cases would be considered.

9. We have carefully considered the rival contentions of the parties and perused the materials on record. As per decision of the Full Bench in Mahabir and others vs Union of India and others, 1997-2001 Administrative Tribunal Full Bench Judgments 99, a casual labourer is a person who has been engaged for execution of work on emergent basis of a temporary nature. Their services are dispensed with the moment the work at hand is completed. Moreover, a casual worker is a worker who has been asked to perform duties of a casual nature and is not a regular employee. Moreover, it is no more res integra that the cases of the applicants in hand had proceeded in review on the premises that they are casual workers. Accordingly directions have been issued not to terminate their services and consider them for engagement for regularisation under DOPT's Scheme of 10.9.1993. The Scheme of 10.9.1993 envisages casual worker with temporary status eligible for regularisation.

10. We find that the decision in the Review Application has not been carried to the High Court and has

attained.....

attained finality. Accordingly, giving new interpretation to the status of the applicants would amount to sitting over the decision of the Tribunal in a co-ordinate Bench. Accordingly, we hold that once the Tribunal earlier in review has assigned nomenclature of casual employee to the applicants and they had worked for the requisite days and on employment as on 1.9.1993 the Scheme of DOPT of 10.9.1993 is applicable and as per directions of the Tribunal (Supra) is to be applied to them.

11. In the result the O.A.s are partly allowed and the impugned orders are quashed. The respondents are directed to treat the cases of the applicants beyond the Scheme of 1997 and be considered under the DOPT's scheme of 10.9.1993 within a period of two months from the date of receipt of a copy of this order. However, such consideration shall be strictly in accordance with the provisions of the DOPT's Scheme of 10.9.1993 as well as suitability of the applicants to the post.

Copy of this order be placed on record of each case.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(SHANKER RAJU)
JUDICIAL MEMBER

nkm

कानूनी अधिकारी
Central Administrative Tribunal
13th MAY 2003
गुवाहाटी न्यायालय
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. of 2003

BETWEEN

Shri Aibuddin Ahmed Applicant.

AND

Union of India & ors. Respondents.

I N D E X

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Filed by : *Alsha Das*

Regn. No. :

File : c:\WS7\ AIBUDDIN

Date :

Filed by
The applicant through
Advocate
Usha Das.
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13/5/02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

C.A. No. 2003 of 2003

BETWEEN

1. Aibuddin Ahmed
Son of Lt. Rabiruddin Ahmed
Working as Work Charged Khalasi
Under D(S) K Subdivision
Central Water Commission Nagaon

..... Applicant.

- AND -

1. The Union of India.
Represented by Chairman,
Central Water Commission, R.K.Puram,
New Delhi.
2. The Director
Central Water Commission,
New Delhi-66
3. The Superintending Engineer
Hydrological Observation Circle,
Adabari, Guwahati-781014.
4. The Executive Engineer
Central Water Commission
Upper Brahmaputra Division,
P.O. Central Revenue Building,
Dibrugarh.
5. The Executive Engineer
Middle Brahmaputra Division,
Central Water Commission,
Rajgarh Road, Guwahati-7.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the office order hearing no. UBD/DIB/WC-3/2003/3361-85 dated 5.5.02 by which the respondents sought to convert the status of the applicant to Seasonal Worker violating the judgment passed

A Ahmed

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by this Hon'ble Tribunal. This application is also directed against the action of the respondents in not granting temporary status to the applicant and in not regularising the services of the applicant thereafter in term of the present OM dated 18.9.93.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

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 through this application has challenged the action of the respondents by which the applicant who is a Worked Charge Khalasi. The applicant is also aggrieved by the action of the respondents in not granting temporary status under the scheme of 1993 as directed by this Hon'ble Tribunal and thereafter in not regularising his service in terms of the scheme 1993. The applicant kept on representing the matter before the respondents but same invoked no result in positive. It is noteworthy to mention here that the respondents by issuing an order dated 6.10.97 granted the present applicant the benefit of scheme dated 3.10.97 meant for a Seasonal Khalasis. However, by a

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subsequent communication dated 27.11.97 the said order dated 6.10.97 was withdrawn on the count that the applicant is not a Seasonal Khalasi. However the respondents have once again issued the impugned Communication dated 5.5.03 by which his service has been sought to be converted to a Seasonal Khalasi. The respondents by the said impugned communication dated 5.5.03 also sought to transfer the applicant who is presently working under the Respondents in Jizbharali site to Sepa. (A.P.). It is not worthy to mention here that by that said impugned communication dated 5.5.03 the respondents sought to discontinue the service of the applicant w.e.f. 15.10.03. The applicant having no other alternative has come before this Hon'ble Tribunal seeking an immediate and urgent relief for redressal of his grievances.

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

4.3. That the applicant got his initial appointment as Casual Worker in the year 1983 as Work charged Khalasi on casual basis. His such appointment was pursuant to a selection where his name was sponsored by local Employment Exchange. Ever since his entry in the services under the respondents he is continuing as such till date without any break. Under the respondents there are two sets of Casual Workers namely, Casual Work Charged Khalasi and Seasonal Khalasi. Both the sets of workers are governed by two distinct rules/guidelines and their mode of employment are also different. The Casual Work charged Khalasis are recruited to perform duty throughout the year whereas the Seasonal Khalasis are recruited in the month of May and they

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are allowed to work till the month of October in a particular Year.

Since the employment and continuation of the service of the applicant are not in dispute the applicant instead of annexing all the documents pertinent to his such appointment, craves leave of this Hon'ble Tribunal to produce all the relevant documents at the time of hearing of this case.

4.4. That the applicant states that the Govt. of India Department of Personnel and Training pursuant to a judgment passed by Hon'ble Principal Bench issued an OM dated 10.9.93 by which certain benefit has been granted to the Casual Workers. It is noteworthy to mention here that prior to issuance of the aforesaid scheme dated 10.9.93 the respondents issued a like scheme dated 7.6.88 granting benefit to the Casual Workers working under Central Govt. Offices. The aforesaid scheme dated 7.6.88 came into force pursuant to a judgment passed by the Hon'ble Apex Court dated 17.1.86 in a writ petition filed by one Sri Surinder Singh. The subsequent OM dated 10.9.93 is a clarification issued in respect of the OM dated 7.6.88.

Copies of the OM dated 7.6.88 and OM dated 10.9.93 are annexed herewith and marked as Annexure-1 and 2 respectively.

4.5. That the applicant states that both the aforesaid Annexure 1 and 2 schemes are applicable in respect of Casual Workers who have completed 240 days in a particular year. As stated above under the respondents there are two sets of

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employees, one is Seasonal and other is Casual Work charged Khalasi. In respect of Seasonal Khalasi's no scheme was inforced towards granting of temporary status and as such some of the Seasonal Khalasis approached the Hon'ble Tribunal by way of filing various OA praying for formulation of a scheme of like nature. The Hon'ble Tribunal vide judgment and order dated 7.7.97 disposed of the said OA as the respondents during the pendency of OA formulated a scheme and same was circulated through a letter date 3.10.97. The aforesaid scheme was circulated in the name and style as "Grant of Temporary Status and Regularisation of Seasonal Khalasi of work charged establishment of CWC 1997."

The applicant craves leave of this Hon'ble Tribunal for a direction towards the respondents to produce the said scheme at the time of hearing of the case.

4.6 That the applicant states that in the year 1993 the respondents issued an office memorandum dated 3.5.93 indicating the fact that the mode of employment of the applicant would be converted to seasonal one. By the said OM dated 3.5.93 the respondents also tried to discontinue the service of the applicant w.e.f. 15.10.93. The applicant impugning the aforesaid OM dated 3.5.93 approached the Hon'ble Tribunal by way of filing OA No. 249 of 1993. The aforesaid OA was disposed of vide a common judgment & order dated 7.12.93 directing the respondents to appoint the applicant as Khalasi (Casual Worker) against available vacancies. The applicant at the time of hearing of the said case could not produce the OM dated 7.6.88 (Annexure-1) and 10.9.93 (Annexure-2) and therefore applicant preferred Review Application No. 16/94 before the Hon'ble Tribunal.

The respondents have also filed Review Application No. 4/94 with a prayer to modify the judgment dated 7.12.93 into a direction for engaging the applicant as a retrenched casual employee. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to review the judgment to order dated 7.12.93 vide its judgment and order dated 28.6.94 directing, the respondents not to terminate the services of the applicant and to regularise his service in Group-D posts in terms of schemes of 1993. On the other hand, the review application preferred by the respondents was dismissed by the said common judgment and order dated 28.6.94.

Copies of judgment dated 7.12.93 and the judgment and order dated 28.6.94 is annexed herewith and marked as Annexure-3 and 3A respectively.

4.7 That the applicant admittedly fall under the first category of casual worker who is to perform work throughout the year unlike the Seasonable Khalasi. However, the respondents issued an order bearing No. UBD/Dib/WC-17/97/8977083 dated 6.10.97 by which the applicant was granted with temporary status in terms of the OM dated 3.10.97 i.e. the scheme for grant of temporary status and regularisation for Seasonal Khalasi of work charged establishment of CWC, 1997. As stated above the applicant is a casual worker and his case is covered by the scheme of 1988 and 1993 and as such he made a prayer before the concerned authority for alteration of the said order dated 6.10.97. The respondents realising their mistake issued another office order dated 27.11.97 withdrawing the order dated 6.10.97.

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Copies of the orders dated 6.10.97 and 27.11.97 are annexed herewith and marked as Annexure-4 and 5 respectively.

4.8 That the applicant states that in terms of the judgment passed by this Hon'ble Tribunal in the Review Application it is clear that the applicant is not a Seasonal Khalasi and he is entitled to get the benefit of the scheme of 1993 as he worked the requisite No. of days in fulfillment of the eligibility criteria laid down in the said scheme of 1993. The respondent also admitted the fact that the applicant has been continuing as a casual worker and he used to work throughout the year unlike the Seasonal Khalasis. It was due to which the respondents have issued the order dated 27.11.97 indicating the fact that the scheme of 1997 does not cover the case of the applicant. However, the respondents never initiated the steps towards regularisation of the services of the applicant by extending the benefit of 1993 scheme. The applicant made several requests to the respondents highlighting their grievances but, same yielded no result in positive.

A copy of the said representation is annexed as Annexure-6.

4.9 That the applicant begs to state that inspite of the judgment passed by this Hon'ble Tribunal the respondents have not yet regularised the services of the applicant in terms of the scheme of 1993. As stated above the applicant is pursuing the matter before the authority concerned but nothing has been done so far in this matter. It is pertinent to mention here that in the earlier proceedings there were

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another two similarly situated employees who preferred original applications and review application alongwith the applicant and similar order was passed in her case also. However, in her case the respondents have initiated process for regularisation in implementation of the judgment dated 28.6.94 in her Review Applicant No. 13/93. The respondents in this connection intimated the applicant of review application No. 13/93, Smti. Anima Talukdar by issuing a letter dated 4.6.2002.

A copy of the said order dated 4.6.2002 is annexed herewith and marked as Annexure-4.

4.10 That as stated above the respondents in case of Smt. Anima Talukdar have initiated the process of regularisation but in case of present applicant no such process has been initiated. The respondents adding insult to the injury now have issued the impugned order bearing No. UBD/DIB/WC-3/2003/3361-85 dated 5.5.2003 by which the service of the applicant as work charged Khalasi now has been sought to be converted to seasonal khalasi. By the said order the respondents have transferred the applicant from his present place of posting at Jisbharali to Seppa (A.P.). It has also been indicated in the said order that his service will be discontinued w.e.f. 15.10.2003.

A copy of the said order dated 5.5.2003 is annexed herewith and marked as Annexure-8.

4.11 That the applicant begs to state that in terms of the judgment dated 28.6.94 the Hon'ble Tribunal has settled the matter finally and the respondents now cannot reopen the B

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issue again by issuing the similar order converting the service of the applicant to a seasonal one causing disadvantage in the matter of his service the scheme of 1993 (Annexure-2) came into force w.e.f. 1.9.93 and on that very day the applicant was on role and as such is entitled to get the benefit of the said scheme with retrospective effect as he fulfilled the requisite qualification described in the said scheme. On the other hand the scheme 1997 is a scheme meant for seasonal Khalasis and from the Annexure-4 order dated 6.10.97 it is clear that the benefit of the said scheme is applicable w.e.f. 1.6.97. Apart from that Annexure-3 judgment 28.6.94, the Hon'ble Tribunal while allowing the review application, direction was issued to the respondents to regularise the service of the applicant in terms of OM dated 10.9.93 with a further direction not to terminate his service. However, the respondents kept on violating the judgments passed by this Hon'ble Tribunal and now they have issued the impugned order by which the service condition of the applicant has been sought to be converted to a seasonal one.

4.12 That the applicant states that the respondents have acted contrary to the direction contained in Annexure-3 judgment in issuing the impugned order dated 5.5.2003 and for such willful and deliberate violation the respondents are liable to be proceeded under Contempt of Court Act, 1971 read with Section 17 of the Administration Tribunal Act, 1985 and read with Central Administrative Tribunal (Contempt of Courts) Rule, 1992.

4.13 That the applicant states that in term of the aforesaid impugned order dated 5.5.2003 the respondents

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sought to convert the service of the applicant to a seasonal one and thereby to disengage him from his service without first considering his case under scheme of 1993. The respondents ought to have regularised the service of the applicant in terms of the judgment, dated 28.6.94, but instead of regularising his service now a devise has been formulated to disengage the applicant by first converting him to seasonal khalasi and thereafter to engage him from service. Under the peculiar fact situation of the case the applicant has come before this Hon'ble Tribunal with an immediate and urgent relief seeking redressal of his grievances. The applicant through this application also prays for an interim direction for suspension of operation of the impugned order dated 5.5.2003 pending disposal of this application.

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

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the respondents have acted illegally in issuing the impugned order dated 5.5.2003 violating the judgment and order dated 28.6.94 and as such the aforesaid impugned order is liable to be set aside and quashed.

5.2. For that the respondents have acted illegally in not extending the benefit of the scheme of 1993 and in not regularising the service thereafter and as such appropriate direction need be issued to the respondents directing them to extend the benefit of 1993 scheme with retrospective effect that is from the date in when the applicant became eligible under the said scheme of 1993.

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5.3. For that the respondents have acted illegally in issuing the impugned order dated 5.5.2003 by which they sought to convert the mode of employment of the applicant to seasonal one and as such the aforesaid impugned order is liable to be set aside and quashed as same is in direct conflict with the judgment and order dated 28.6.94.

5.4. For that the respondents have illegally and deliberately violated the judgment and order dated 28.6.94 is issuing the impugned order dated 5.5.2003 and as such appropriate contempt proceeding is required to be drawn up against the contemners invoking section 17 of the Administrative Tribunal Act, 1985 read with Contempt of Court Act, 1971 and read with Central Administrative Tribunal (Contempt of Court) Rules, 1992 and they may be punished severely.

5.5. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

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

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

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

8.1. To set aside and quash the impugned communication dated 5.5.2003 so far it relates to the present applicant.

8.2. To direct the respondents to extend the benefit of the scheme of 1993 with retrospective effect with all consequential service benefits including arrear salary and seniority etc.

8.3 To direct the respondents not to convert the applicant to seasonal khalasi and to regularise his service against Group-D post in terms of judgment dated 28.6.94 with all consequential service benefits including arrear salary and seniority etc.

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8.4 To direct the respondents to implement the judgment dated 28.6.94 passed in R.A. No. 16/94 and not to terminate his service in terms of the said judgment.

8.5. Cost of the application.

8.6. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case the applicants prays for an interim order directing the Respondents not to give effect of the order dated 5.5.2003 by suspending it's operation so far the applicant is concerned.

10. *****

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 89 490023
2. Date : 22-4-03
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

ARAhmed

25

VERIFICATION

I, Shri Aibuddin Ahmed, aged about ____ years, son of Late Rabiruddin Ahmed, at present working as work charged khalasi under D(S)K Sub-division, CWC, Nagaon, do hereby solemnly affirm and verify that the statements made in paragraphs 1-3, 4, 2, 4, 3, 4, 11, 4, 14 and 5, 10, 12, are true to my knowledge and those made in paragraphs 4, 5, 4, 15, 4, 16, are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the
13th day of May, 2003.

Signature.

Md. Aibuddin Ahmed

Executive Enzneer
U. B Division C. W. C.
Dibrugarh Assam 786003

Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) OM No. 49014/2/86 Estt. (C) dated 7th June, 1988

(XIII)

Subject : Recruitment of casual workers and persons on daily wages -
Review of policy.

The policy regarding engagement of casual workers in Central Government offices has been reviewed by Government keeping in view the judgement of the Supreme Court delivered on the 17th January, 1986 in the Writ Petition filed by Shri Surinder Singh and others vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of casual workers on daily wage basis:-

- i) Persons on daily wages should not be recruited for work of regular nature.
- ii) Recruitment of daily wagers may be made only for work which is of casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.
- iii) The work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised, if considered necessary.
- iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.

Attested
N. D. M.
Advocate.

v) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/ Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.

vi) The casual workers may be given one paid weekly off after six days of continuous work.

vii) The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly off as mentioned at (vi) above. They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.

viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.

ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.

x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.

Amritsar
Advocate

17

xi) If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training. All the administrative Ministries/Deptts. should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved:-

- a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.
- b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.
- c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/ Deptts.:-

a) Ministry of Railways	2 Years
b) Department of Posts, Department of Telecommunications and Department of Defence Production	1 Year
c) All other Ministries/Deptts./Offices	6 months

Attested
S. D.
Advocate.

18

Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (Proper) and all Attached/ Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10th October, 1988.

3. By strict and meticulous observance of the guidelines by all Ministries/ Dep'ts, it should be ensured that there is no more engagement of casual workers for attending to work of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which he is being employed to determine whether the work is of casual nature or not.

4. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

Sd/- D.P. Bagchi

Joint Secretary to the Government of India

*Annexure not printed.

Attested
Advocate.

6/6/85
Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel and Training)
OM No. 51016/2/90-Estt.(C) dated 10th September, 1993

(XVIII)

Subject : Grant of temporary status and regularisation of casual workers - Formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, judgement dated 16th Feb. 1990 in the case of Raj Kamal & Others Vs UOI.

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government offices were issued vide this Department's OM No. 49014/2/86-Estt.(C) dated 7.6.88. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 16.2.90 in the writ petition filed by Shri Raj Kamal and Others Vs. Union of India and it has been decided that while the existing guidelines contained in OM dated 7.6.88 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Deptt. of Telecom, Posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in OM dated 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/- Y.G. Parande
Director

*Attested
N.D.
Advocate.*

APPENDIX

Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme

1. This Scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993."
2. This Scheme will come into force w.e.f. 1.9.1993.
3. This Scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.
4. Temporary Status
 - i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
 - ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
 - iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

5. Temporary status would entitle the casual labourers to the following benefits:-

- i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA.
- ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
- iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
- iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
- v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.

Attested
W. S. S.
Advocate.

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vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Govt. servants of their Department.

vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Group 'D' posts.

i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of

Attested
N.D.
Advocate.

35

illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.
10. In future, the guidelines as contained in this Department's OM dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government offices.
11. Department of Personnel and Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

- 24 -

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Review Application No.15 of 1994 (O.A.248/93)

Md Babul Ali Applicant

- Vs -

Union of India & Ors. Respondents.

Review Application No.16 of 1994 (O.A.249/93)

Md Aiubuddin Ahmed Applicant

- Vs -

Union of India & Ors. Respondents.

Review Application No.3 of 1994 (O.A.248/93)

- Vs -

Union of India & Ors. Applicants.

- Vs -

Md Babul Ali Respondent.

Review Application No. 4 of 1994 (O.A.249/93)

Union of India & Ors. Applicants.

- Vs -

Md Aiubuddin Ahmed Respondent.

Date of Order : This the 28th Day of June, 1994.

~~~~~  
Justice Shri S. Haque, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative)

Md Babul Ali and Md Aiubuddin Ahmed

By Advocate Shri B.K.Sharma &amp; B. Mehta.

Union of India &amp; Ors.

By Advocate Shri S.Ali, Sr.C.G.S.C.



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O R D E R

HAQUE J

Md. Babul Ali and Md. Aiubuddin Ahmed have filed the Review Applications No.15/94 and 16/94 respectively praying to convert the common direction dated 7.12.93 in O.A.248 and 249 of 1993 into a direction on respondents to regularise their services in Group-D posts on the ground that the relevant office memorandum/circulars concerning regularisation of services of casual employees could not be placed before the Tribunal on 7.12.93. On the other hand, the respondents have also filed Review Applications No.3/94 and No.4/94 praying to convert the common directions dated 7.12.93 into a direction for engaging the two applicants as retrenched casual employees in order of preference in the retrenched workers list.

2. The two applicants were serving as Work Charge Khalasi (Casual Worker) in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1982 and 1983 respectively. Their last appointment orders were under Memorandum No.MBD/WC/ESTT-24(A)/93/4265-70 dated 25.5.93 and Memorandum No.MBD/WC/ESTT-24(A)/93/3063-90 dated 3.5.93 respectively indicating that their appointments were adhoc and would not continue beyond 15.10.93. Therefore, they filed the applications No.O.A.248 and 249 of 1993 for regularisation of services. The Tribunal directed the respondents vide common order dated 7.12.93 to appoint both the applicants as Khalasi (Casual Worker) against available vacancies.

3. Learned counsel Mr B.K.Sharma on behalf of the applicants submit that they had acquired temporary status by serving for 240 days prior to 7.6.1988 in one year and thereafter also they served in successive years

-: 3 :-

similarly and thereby became eligible for regularisation in Group 'D' post. Relevant Office Memorandum/Circulars have been referred to in support of his submissions.

Learned Sr.C.G.S.C Mr S.Ali submits that they were not eligible for regularisation and can only be considered for reengagement in order of preference in the retrenched workers list. The policies in the office memorandum/circulars referred to in this case have not been disputed.

4. The office memorandum No.49014/4/90-Estt(C) dated New Delhi the 8.4.1991 of the Government of India, Ministry of Personnel, Public Grievances and Pension relates to Regularisation of Services of Casual Workers in Group 'D' posts - Relaxation of Employment Exchange Procedure and Upper Age limit. This has referred to O.M.No.49014/4/77-Estt(C) dated 21.3.1979 and further expressed that the previous policies with regard to engagements, remuneration and regularisation of Casual Workers in Central Government Offices have been reviewed from time to time and detailed guidelines in these matters were issued vide office memorandum No.49014/2/86-Estt(C) dated 7.6.1980. It also contained that in view of the fact that the Casual Employees belong to the economically weaker sections of the society and termination of their services would naturally cause undue hardship and therefore, as a one time measure it was decided that casual workers recruited before 7.6.1988 and who are in service on the date of issue of these instructions may be considered for regular appointment to Group 'D'.

Attested  
V. S. S.  
Advocate

contd...4/-



post, in terms of general instructions, even if they are recruited otherwise than through the Employment Exchange and had crossed upper age limit prescribed for the post, provided that they are otherwise eligible for regular appointment in all other aspects. It was further reiterated that recruitment of casual workers in Central Government offices are to be regulated strictly in accordance with the guidelines contained in the department's O.M.No.49014/2/86-Estt(C) dated 7.6.1988.

5. It was further notified vide office memorandum No.51016/2/90-Estt(C) dated New Delhi the 10.9.1993 that the policy under O.M. dated 7.6.1988 had further been reviewed in the light of the judgment of C.A.T., New Delhi dated 16.2.1990, wherein it was decided that while the existing guidelines in O.M. dated 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees who are presently employed and have rendered one year of continuous service in Central Government offices (excluding Telecom, Posts and Railway) may be regulated by the scheme, namely, 'Casual Labourers (Grant of Temporary Status of Regulation Scheme) of Government of India 1993' of the department of Personnel and Training which came into force with effect from 1.9.1993. It was specifically mentioned in the O.M. dated 10.9.1993 (para 2) that the appointing authority should ensure that recruitment of casual workers is done in accordance with the guidelines under O.M. dated 7.6.1988. In Clauses 4(I) and 4(II) of the Scheme 1993 provide that temporary status would be conferred on all casual labourers who are in employment on 10.9.1993 and who have rendered a continuous

Attested  
Advocate.



contd... 5/-

-: 5.:-

service on atleast one year, i.e. engaged for atleast 240 days (206 days for offices observing 5 days week); and that such acquirement of temporary status would be without reference to the creation/availability of regular Group 'D' posts. The instructions in the Scheme 1993 have conferred/declared the right and privileges/benefits to the casual workers included in the procedure of regularisation in Group 'D' posts. All policies/provisions in the casual labourers Scheme of 1993 are in addition to the guidelines in O.M. dated 7.6.1988.

6. The applicants Md. Babul Ali and Md. Aiubuddin Ahmed did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and their periods (days) of service in every year are as under :

|              | <u>Md. Babul Ali</u>  |            | <u>Md. Aiubuddin Ahmed</u> |
|--------------|-----------------------|------------|----------------------------|
| 1982 to 1986 | - 154 days each year. | 1983 to 87 | - 154 days each year       |
| 1987         | - 340 days            | 1988       | - 224 days                 |
| 1988         | - 360 days            | 1989       | - 319 days                 |
| 1989         | - 319 days            | 1990       | - 340 days                 |
| 1990         | - 340 days            | 1991       | - 330 days                 |
| 1991         | - 330 days.           |            |                            |

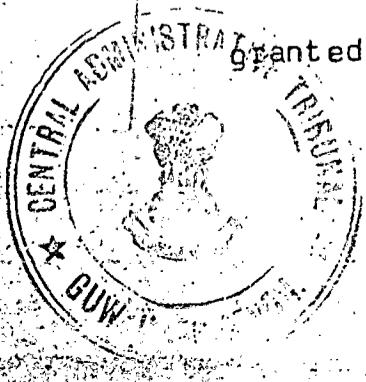
In 1992 and 1993 also they served similarly under the respondents. But the appointing authority made artificial breaks in their service pattern to utilize the dotted continuity of service to their disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat their right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the

Arrested

W.S.A.

contd... 6/-

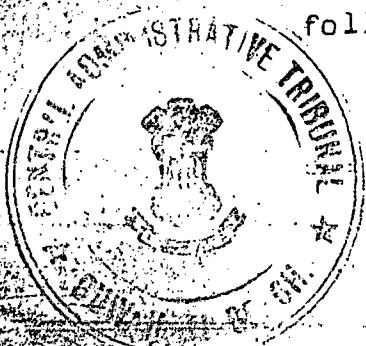
Advocate



Central Government from time to time for protection and privileges for casual labourers. We treat their entire service period as in continuity in each year in order to confer temporary status to them. They had worked for 240 days in a year prior to 7.6.1988 and thereafter also they worked similarly in successive years and thereby acquired temporary status. They became eligible for regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. They were not retrenched employees as claimed by the respondents. This being the position, our order dated 7.12.93 deserves to be reviewed.

7. The orders dated 25.6.93 and 3.5.93 of the respondents terminating the services of the applicants Md Babul Ali and Md Aiubuddin Ahmed beyond 15.10.93 were arbitrary and bad in law because they had already acquired temporary status. However, the Executive Engineer (respondent No.3) again appointed Md Babul Ali and Md Aiubuddin Ahmed vide Memorandum No. MBD/WC/ESTT-24(A)/94/2640-430 dated 11.5.94 and Memorandum No. MBD/WC/24(A)/94/2484-97 dated 4.5.94 as Work Charge Seasonal Khalasi and presently they are serving as such. The arbitrary and illegal termination of service orders dated 25.6.93 and 3.5.93 in respect of both the applicants referred to above were liable to be quashed. But, no specific order of this nature is now required in view of their appointment in the services vide Memorandum dated 11.5.94 and 4.5.94 referred to above.

8. These two Review Applications No.15/94 and 16/94 are allowed. The common judgment/order dated 7.12.93 in O.A.No.248 and 249 of 1993 are hereby reviewed and the following directions are made :-



Attested  
Nas  
Advocate.

The respondents are directed not to terminate the services of the applicants Md Babul Ali and Md Aiubuddin Ahmed in future and shall regularise their services in Group 'D' posts in terms of O.M. dated 10.9.1993/Casual Labourers Scheme 1993.

9. Consequently, the Review Applications No.3/94 and 4/94 preferred by the respondents are dismissed.

10. We make no order as to costs.

11. Inform all concerned.



Sd/- S. HAQUE  
VICE CHAIRMAN.

Sd/- G.L.SANGLYINE  
MEMBER (ADMN).

TRUE COPY

প্রতিলিপি

Section Officer (J)  
आনुभाब अधिकारी ( अधिकारी )  
Central Administrative Tribunal  
केन्द्रीय अधिकारी बोर्ड  
Guwahati Bench, Guwahati-5  
গুৱাহাটী অধিকারী বৰ্ড, গুৱাহাটী-৫

p9.

Witness  
Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI - 5

R.A. 4/94 (O.A. 249/93)

Union of India & Ors. ... Petitioners

-VS-

Md. Aiubuddin Ahmed ... Respondent

P R E S E N T

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN,  
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Petitioners ... Mr. S. Ali, Sr.C.G.S.C.

For the Respondent ... Mr. B.K. Sharma,  
Mr. B. Mehta.

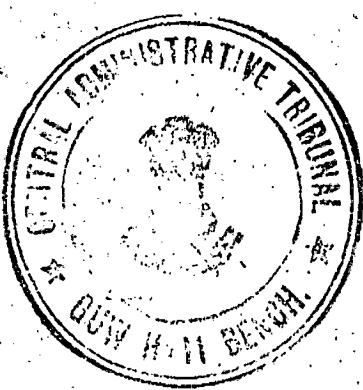
DATE

OR D E R

28.6.94

This Review Application is covered vide  
judgment recorded in R.A. No. 15/94.

Review Application is dismissed vide  
judgment passed today, the 28.6.94.



Sd/- S. HAQUE  
VICE CHAIRMAN

Sd/- G.L.SANGLYINE  
MEMBER (ADMN)

**TRUE COPY**

প্রতিসিদ্ধি

*[Signature]*  
19/7/94  
Section Officer (J)

স্বাস্থ্য অধিকারী (স্বাস্থ্য সম্বল  
Central Administrative Tribunal  
মন্ত্রণালয় প্রাধীনিক বিভাগ  
Guwahati Bench, Guwahati-5  
পুরুষ অধিকারী পুরুষ অধিকারী

**Attested**

*[Signature]*  
Advocates.

CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH:GUWAHATI  
ORIGINAL APPLICATION NO.249 OF 1993  
Md.Aiubuddin Ahmed ....... Applicant  
"VS"  
Union of India & ors..... Respondents

THE HON'BLE JUSTICE SHRI S.HAQQUE VICE CHAIRMAN  
THE HON'BLE SHRI G.L.SANGLYINE MEMBER(ADMN)  
For the Applicant - Mr.A.Hai, Advocate  
For the Respds. - Shri S.Ali, Sr.C.G.S.C.

DATE

7.12.93

ORDER

Both these cases are taken up together for consideration and disposal as the cause of action and reliefs sought for are common in both the cases.

Heard learned counsel Mr A.Hai on behalf of applicants Md Babul Ali and Md Aiubuddin Ahmed. Also heard learned Sr.C.G.S.C Mr S.Ali. Counsel of the parties submit to dispose of these two cases with similar directions dated 16.11.1993 in O.A.201/93.

Both the applicants worked as Seasonal and Casual worker under the Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Guwahati since 1982 to 1992. They were engaged in the work in every year as under :

Babul Ali 1982-86 154 days in every year

|      |                              |
|------|------------------------------|
| 1987 | 340 days                     |
| 1988 | 260 days                     |
| 1989 | 319 days                     |
| 1990 | 340 days                     |
| 1991 | 330 days                     |
| 1992 | 60 days upto February, 1992. |

Aiubuddin Ahmed :

1983-87 154 days in every year.

|      |                              |
|------|------------------------------|
| 1988 | 224 days                     |
| 1989 | 319 days                     |
| 1990 | 340 days                     |
| 1991 | 330 days                     |
| 1992 | 60 days upto February, 1992. |

Now they had been retrenched from their service on 15.10.93. A list of retrenched persons had been prepared by the respondents. They have worked for long period and action to retrench them are not looked happy.

Attested  
Md. A.  
Advocate

contd...

7.12.93

Upon hearing the counsel of the parties and considering the facts and circumstances including the representation dated 18.2.92 of the applicants, we direct the respondents to appoint both the applicants as Khalasi against available vacancies, and in absence of available regular vacancies or till availability of such vacancy, the respondents shall appoint them as Causal Workers in the seasonal works. Both the applications are disposed of with the above directions.

Intimate all concerned.



Sd/- S. Haque  
VICE CHAIRMAN

Sd/- G. L. Sanglyine  
MEMBER (A)

Certified to be true COPY

*(Signature)*  
Deputy Registrar (Civil & Criminal)  
Central Administrative Tribunal  
Guwahati

*(Signature)*  
Guwahati

*W.D. 1000*

GOVERNMENT OF INDIA  
CENTRAL WATER COMMISSION  
UPPER BACHUPURA DIVISION  
P.O. CENTRAL REVENUE BUILDING  
DIBRUGARH-786003

NO. UBD/Dib/WC-17/97/QSTT-83 Dated, Dibrugarh the 10 /97.

OFFICE ORDER

In accordance with Ministry of Water Resources, New Delhi's letter No.8/3/95-Estt.I(vol.II) dtd. 20.6.97 communicated vide Under Secretary, Estt.XII, CWC, New Delhi's letter No.A-11013/1-95.Estt.XII/1096 dated 30.6.97 and as per direction of Under Secretary, CWC, New Delhi's letter No.A-11019/1/95-Estt.XII dated 1.10.97 and Superintending Engineer, H.O. Circle, CWC, Guwahati's letter No.A-15017/12(36)/97-Estt.II dated 3.10.97, Md.Aibuddin Ahmed is hereby granted temporary status with effect from 1.6.97. The service of Md.Aibuddin Ahmed will stand terminate with effect from 15.10.97 (afternoon).

He will be entitled for the benefits as stipulated in the scheme "Grant of Temporary Status and Regularisation of Seasonal Khalsi of W/C establishment of CWC, 1997". The terms and condition governing the service in Temporary Status will be as per the provision contained in the above scheme.

R.Singh 6/10  
( Ravinder Singh )  
Executive Engineer

Copy to :-

1. The Superintending Engineer, Hydrological Observation Circle, CWC, Nabin Nagar, Janapath, Guwahati- 781024 for information.
2. The Assistant Engineer, D(S)K Sub-Division, CWC, Nagaon for compliance. The person concerned may be informed accordingly.
3. Md. Aibuddin Ahmed, Seasonal W/C Khalsi (Through A.E., Nagaon).
4. Accounts Branch/DB/PF/Service Book.

*W.D. on  
Advocates*

GOVERNMENT OF INDIA  
CENTRAL WATER COMMISSION  
UPPER BRAHMAPUTRA DIVISION  
P.O.:CENTRAL REVENUE BUILDING  
DIBRUGARH-786 003

No.UBD/Dib/WC-17/97/10461-73 Dated, Dibrugarh the 27th Nov.1997.

OFFICE ORDER

As per the direction of the Director(Estt), Ministry of Water Resources, New Delhi vide No. 8/49/97-Estt.I dt. 24.11.97, the Office Order No. UBD/DIB/WC-17/97/8977-83 dated 6.10.97 issued to Md. Aibuddin Ahmed attached to D(S)K Sub-Divn.,CWC, Nagaon is hereby withdrawn.

R.S/96/27/11  
(RAVINDER SINGH)

EXECUTIVE ENGINEER  
*On 23/11/97*

Copy to:

1. The Superintending Engineer,, Hydrological Observation Circle,CWC,Nabin Nagar, Janapath,Guwahati-781024.
2. The Director(Estt.), M.O.W.R., New Delhi.
3. The Director(Estt.), Central Water Commission,New Delhi-66.
4. The Asstt.Executive Engineer,D(S)K Sub-Divn.,CWC,Nagaon.
5. Md. Aibuddin Ahmed, (Through AEE, Nagaon )
6. Account Branch/Drawing Branch

Copy passed on to Sri A. Ahmed. SK

6/12/97  
S. K.  
12/12/97

Copy  
order

To,  
 The Chairman,  
 Central Water Commission,  
 Sewa Bhawan, R.K.Puram  
 New-Delhi-110066.

**(THROUGH PROPER CHANNEL)**

Sub:- Regularisation of service in the Group 'D' category as per Court Verdict (Guwahati CAT) dated 28.6.1994.

Sir,

Most respectfully and humbly I beg to state that the following few lines for your kind consideration and sympathetic action.

Sir, I had been working in CWC since 1983 as Seasonal Khalasi and Casual worker from time to time and worked for more than 240 days in each year upto 1993. Again I was engaged as Seasonal Khalasi from 15.05.1994 and thereafter I have been continuing in service till date without any break in terms of Guwahati CAT order dated 28.06.1994. The said CAT order directed the department to regularise my service in the Group 'D'Category as per 1993 Scheme.

In this connection, I regret to inform that even though a considerable period of time has elapsed, the department has not so far regularised my service with all consequential benefits. The continuity of service allowed to me as per court verdict can not be treated as an appropriate relief. It seems that the department has shelved the issue of regularisation in the cold storage. Disobedience of Court order amounts to contempt of court. I have acquired an enforceable legal right for regularisation of my service. Non extension of other benefits like annual increment, CGHS facilities, leave etc. has caused profound disturbing effect on my mind.

It is heartily requested to regularise my service with retrospective effect and with all consequential benefits as expeditiously as may be possible. Any further unusual procrastination may compel me to seek appropriate remedies in accordance with law.

Sir, I have informed in the higher authority in this regard several times. But no reply received till today. Therefore, I request you once again for your kind consideration in the case of fully regularisation of my service.

This is for your kind information and further necessary action please.

Yours faithfully,

*M. A. S.*  
 15.5.2002  
 Md. Abdur Rehman

Advance copy to the Chairman , CWC, Sewa Bhawan, R.K. Puram, New-Delhi-110066.

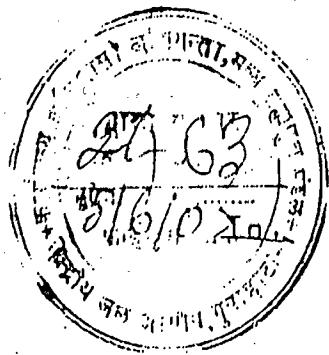
*M. A. S.*  
 15.5.2002  
 Md. Abdur Rehman

**Attested**  
*M. A. S.*  
 Advocate.

PHONE NO. 450073  
FAX NO. 540841.

No. A-15017/12(19)/Estt-W/C/2002/1315  
Government of India  
Hydrological Observation Circle  
Central Water Commission  
Nabin Nagar : Janapath  
Guwahati ( Assam : 781 024 )

Dated 04-6 /2002.



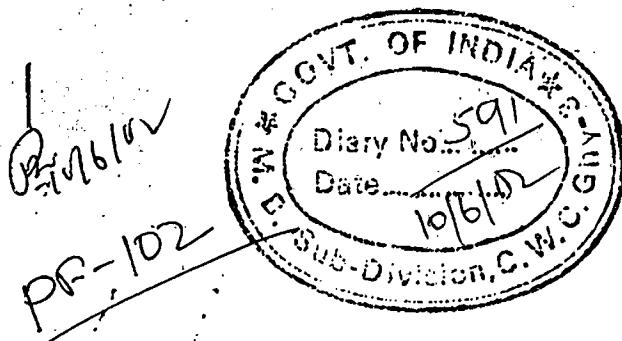
The Executive Engineer,  
Middle Brahmaputra Division,  
Central Water Commission,  
Rajgarh Road, Guwahati-781 007.

Subject :- Regularisation of Service of Smt. Anima Talukdar,  
Seasonal Khalasi-regarding.

Reference:- Your letter No. MBD/GAU/Estt-II/PF-1168/02/3180  
dated 29.05.2002.

In response to the letter cited above it is  
intimated that the matter has been discussed with CWC,  
authority while the undersigned was on tour to New Delhi.  
The CWC(HQ) is processing the case. The concerned incumbent  
may be informed accordingly.

*(A.K. KHARYA)*  
SUPERINTENDING ENGINEER



PF-102  
No. MBD/Gau/Estt-II/PF-1168/2002/3522-23  
Government of India  
Central Water Commission  
Middle Brahmaputra Division  
Rajgarh Road : Guwahati-781007

Dated, the 7/6/ /2002.

Copy to:-

1) The Asstt.Engineer, M.B.Sub-Division, CWC, Guwahati-3  
for information with reference to his letter No.  
MBSD/Gau/PF-102/2002/557-558 Dt. 16/5/2002.

2) Smt. Anima Talukdar, Khalasi through the Asstt.  
Engineer, M.B.Sub-division, CWC, Guwahati-3 for  
information with reference to his representation  
dt. 15/5/02.

*Attested*

*W.B. Srivastava*  
Advocate.

*(A.K. SRIVASTAVA)*  
EXECUTIVE ENGINEER

12:32 05/05/03 UBD DIBRUGARH

324398

PAGE 01

GRAM : FORECAST

PHONE : 2314398

38

GOVERNMENT OF INDIA  
CENTRAL WATER COMMISSION  
UPPER BRAHMAPUTRA DIVISION  
P.O. CENTRAL REVENUE BUILDING  
DIBRUGARH - 786003

NO. UBD/DIB/WC-3/2003/3361-85

Dated, Dibrugarh the 5/5/03.

APPENDIX ORDER.

The following candidates are offered re-engagement as Werk-charged Seasonal Khalasis under the Werk-charged establishment under Upper Brahmaputra Division, CWC, Dibrugarh in the scale of pay Rs. 2550-55-2660-60-3200/- for the period from 15-5-2003 to 15-10-2003. Their services will be governed in accordance with the scheme-1997 of Ministry of Water Resources, Govt. of India, bearing No. 8/3/95-Ett-1 (Vol. II) dated 26-6-97.

Sl. No. Name & Address of the Candidate Father's name of the candidate Employment Place of Posting Exchange Regn. No.

|     |                                                                                                                          |                   |                     |                            |
|-----|--------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------|----------------------------|
| 1.  | Babul Ch. Das<br>Vill. Kelengpar<br>Haluwagaon, P.O. Kelengpar<br>Nagaon.                                                | Sh. M.R. Das,     | 234/82/81<br>Nagaon | D(S)-K Sub-Div.<br>Nagaon. |
| 2.  | Sh. Mukut Ch. Berah,<br>Vill. Khatikatia, Kelengpar<br>P.O. Hoibargaon, Nagaon.                                          | Sh. R. Berah,     | 823/82/89<br>Nagaon | Kherenighat                |
| 3.  | Sh. Chitra Rajkhowa,<br>C/O Late Purna Kt. Rajkhowa.<br>Vill. Meej Rengagara<br>Via. Haibergaon,<br>Dist. Nagaon-782002. | Sh. P.K. Rajkhowa | 4582/85<br>Nagaon   | Kamrup                     |
| 4.  | Sh. Niranjan Kalita,<br>C/O Krishna Kt. Kalita<br>Vill. Bhurapara (Kaliapara)<br>P.O. Bijoy Nagar, Kamrup.               | Sh P.K. Kalita    | 6741/90<br>Tezpur   | - do -                     |
| 5.  | Sh. Mono Prasad Kalita,<br>Vill. & P.O. Dharamtul<br>Merigaon, Nagaon.                                                   | Lt. G. Kalita     | 2955/82<br>Nagaon   | Dharamtul                  |
| 6.  | Sh. Dhani Ram Nath,<br>Vill. & P.O. Digmidari<br>Via. Raha, Dist. Nagaon.                                                | Sh. G.R. Nath     | 45/2/84<br>Nagaon   | - do -                     |
| 7.  | Sh. Marihar Das,<br>Vill. & P.O. Mariahukh<br>Nagaon.                                                                    | Sh. K.K. Das      | 1227/94<br>Nagaon   | Bhomeraguri.               |
| 8.  | Sh. Golap Ch. Deka<br>Vill. Dhebengaati,<br>P.O. Kamrup, Nagaon.                                                         | Sh. N. Deka       | 58/88<br>Dibrugarh  | - do -                     |
| 9.  | Sh. Chon 1 Ram Berah<br>Vill. Chagali Chaburi,<br>P.O. Bihaguri,<br>Dist. Sonitpur-784153                                | Sh. P. Berah      | 4891/85<br>Tezpur   | - do -                     |
| 10. | Sh. Jyotish K. Das<br>Vill. Patahar Chok<br>P.O. Jamuguri Mat, Sonitpur.                                                 | Sh. K.R. Das,     | 7301/83<br>Tezpur.  | - do -                     |
| 11. | Sh. Siba Charan Nath<br>Vill. Gesai Chok<br>P.O. Nandikshwar.<br>Via-Jamugurihat, Sonitpur.                              | Sh. R.K. Nath     | 1579/89<br>Tezpur.  | - do -                     |

ENCLOSURE

W.D.O.

| Sl. No. | Name & address of the Candidate                                                      | Father's name of the Candidate | Employment Place of Posting                     |
|---------|--------------------------------------------------------------------------------------|--------------------------------|-------------------------------------------------|
|         |                                                                                      |                                | Exchange Regn. No.                              |
| 12.     | Sh. Golap Saikia,<br>Vill. Gedarberi<br>P.O. Chakalaghat, Nagaon.                    | Sh. A.C. Saikia                | 941/82/81<br>Nagaon                             |
| 13.     | Sh. Durga Ram Dekadelei,<br>Vill. Lawphulaberi.<br>P.O. Dighalderi, Nagaon.          | Sh. B.R. Dekadelei             | 8041/09<br>Nagaon                               |
| 14.     | Sh. Jibon Bhuyan<br>Vill. & P.O. Halawagaon.<br>Dist. Nagaon.                        | Lt. J.R. Bhuyan.               | 6884<br>Nagaon<br>- do -                        |
| 15.     | Sh. Hem Ram Nath,<br>Vill. Kumar Chuburi<br>P.O. Thelamerah, Sonitpur.               | Lt. K.C. Nath                  | 4043/80<br>Tezpur<br>N.T.Rd. Xing<br>Jiabharali |
| 16.     | Sh. Raj Sekhar Bessumatari,<br>Vill. & Post. Chapaguri<br>Sonitpur.                  | Sh. S. Bessumatari             | 5081/91<br>Tezpur<br>- do -                     |
| 17.     | Md. Aibuddin Ahmed,<br>Vill. Garigaon<br>P.O. Garigaon, Guwahati-12.                 | Md. R. Ahmed.                  | 3925/85<br>Guwahati<br>Seppa                    |
| 18.     | Sh. Biren Chowdhuri,<br>Vill. Kundarbari<br>P.O. Balipukhuri<br>Sonitpur, Pin-784001 | Lt. N. Chowdhuri               | 6181/82<br>Tezpur<br>- do -                     |
| 19.     | Sh. Bijoy Kr. Sarmah,<br>Vill. Deorigaon<br>P.O. Ketekibari, Sonitpur.               | Sh. B. Sarmah,                 | 137/89<br>Tezpur<br>Bhalukpong                  |

All the above mentioned candidates are hereby directed to report for their duty on 15-5-2003 at the place of posting as indicated against each candidate.

No TA/DA etc. will be admissible for the joining at their place of posting.

All the above mentioned candidates stand dis-engaged w.e.f. 15-10-03 (AN) unless otherwise so stated and no separate notice/order will be issued for the same.

Sd/-

( G. PANCHALAIAM ),  
EXECUTIVE ENGINEER.

Copy to :-

1. The Superintending Engineer, Hydrological Observation Circle, CWC, Guwahati for favour of information.
2. The Asstt. Ex. Engineer, D(S)-K Sub-Divn., CWC, Nagaon joining report of above candidates may please be sent to this Office immediately.
3. Accounts Branch/Corresponding Branch.
4. Person concerned (by post at his last known residential address).

Attested

W. D. Basu

Advocate.

\*\*\*\*\*

15-5-2003  
W. D. Basu  
Adv. Ex. Engineer  
(S) K Sub-Divn.  
C-W.C. Nagaon

Central Administrative Tribunal  
12/10 JAN 2004  
Guwahati Bench

40

42  
Filed by  
Advocate 9/1/04  
D. D. D.

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : AT GUWAHATI

**O.A. No. 100/2003**

Aibuddin Ahmed

...Applicant

-vs-

Union of India & Others

...Respondents

**(WRITTEN STATEMENTS FILED BY THE RESPONDENT No. 1 to 5)**

The written statements filed by the above-mentioned respondents are as follows:

1. That the copy of the above noted O.A. No. 100/2003 (hereinafter referred to as the "application") have been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being common and similar to them, the written statements are to be treated as common to all of them.
2. That the statements made in the application which are not specifically admitted by the respondents are hereby denied.
3. That the present application is not maintainable as the same is barred by the doctrine of res judicata.

BRIEF BACKGROUND OF THE CASE:

4. That before traversing the various paragraphs made in the application, the answering respondents beg to give a brief resume of the case for better clarity as under:

(a) The applicant was initially engaged as 'seasonal khalasi' w.e.f. 12.5.1983. The details of engagement and number of days of performance of duties by the applicant during the year 1983 to 1998 as 'seasonal khalasi' are enumerated below year wise:

| YEAR | ENGAGEMENT |            | NUMBER OF DAYS OF ENGAGEMENT |
|------|------------|------------|------------------------------|
|      | FROM       | TO         |                              |
| 1983 | 12.5.1983  | 15.10.1983 | 157                          |
| 1984 | 15.5.1984  | 15.10.1984 | 154                          |
| 1985 | 15.5.1985  | 15.10.1985 | 154                          |
| 1986 | 15.5.1986  | 31.10.1986 | 170                          |
| 1987 | 15.5.1987  | 15.10.1987 | 154                          |
| 1988 | 15.5.1988  | 31.10.1988 | 165                          |
| 1989 | 2.1.1989   | 31.12.1989 | 299                          |
| 1990 | 1.1.1990   | 31.12.1990 | 320                          |

(The applicant has been engaged as work-charged 'seasonal khalasi' w.e.f. 5.5.1990 vide letter No. MBD/WC/Estt-24(A)/90/2882-88 dated 5.5.1990)

The detail of period of engagement as work-charged 'seasonal khalasi' from 5.5.1990 onwards.

|      |           |            |     |  |
|------|-----------|------------|-----|--|
| 1991 | 1.1.1991  | 31.12.1991 | 344 |  |
| 1992 | 1.1.1992  | 15.10.1992 | 216 |  |
| 1993 | 15.5.1993 | 15.10.1993 | 154 |  |
| 1994 | 17.5.1994 | 15.10.1994 | -   |  |

The applicant has been allowed to continue as work charged 'seasonal khalasi' in compliance with the direction given by the CAT Guwahati Bench in OA No. 249/93 dated 7.12.93 and the Office Order No. MBD/WC/Estt-24(A)94/2484-97 dated 4.5.94 and accordingly the applicant is still working in the same capacity as work-charged 'seasonal khalasi' under the respondents.

The copies of the Memo dated 5.5.90, CAT order dated 7.12.93 and the Office Order dated 4.5.1994 are annexed as  
**Annexure R<sub>1</sub>, R<sub>2</sub> and R<sub>3</sub>** respectively.

(b) That in the mean time, while the applicant was working as work-charged 'seasonal khalasi', the Government of India, Ministry of Personnel and Training vide their OM No. 51016/2/90/Estt(C) dated 10.9.93 brought out a scheme known as 'Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993'. The said scheme came in force w.e.f. 1.9.1993. By the said scheme itself, it was specifically mentioned that the said scheme is applicable to casual labourers who were in employment at the relevant point of time. Apparently, the scheme was not meant for work-charged 'seasonal khalasi' because the work-charged staff does not belong to the regular establishment of the Department and the expenditure for payment of their wages are charged against the specific works/ projects. The tenure of such staff is limited with the tenure of the works/ projects. The applicant alongwith some others work-charged 'seasonal khalasis' claimed the benefit under the said scheme of 1993. The respondents did not consider their case for the reasons as stated above and as a result they approached this Hon'ble CAT by filing the OA No. 249/93. This Hon'ble Tribunal, after hearing both the sides, finally disposed of the said application vide order dated 7.12.93 and directed the respondents to appoint both the applicants as 'khalasis' against available vacancies and in absence of available regular vacancies or till availability of such vacancy, to appoint them as casual workers in the seasonal works. In compliance with the order as stated above and as there was no available vacancy at the relevant point of time, the respondents allowed the applicant to continue as work-charged 'seasonal khalasi' in the Department vide their order-dated 11.5.1994. Thereafter, the applicant Sri Babul Ali and Md. Aibudin Ahmed, filed two Review Applications vide RA No. 15/94 and 16/94 in the Hon'ble CAT thereby praying to convert the common direction dated 7.12.93 passed in OA No. 248 and 249 of 1993 into a

direction on the respondents to regularize their services in Group D post. On the other hand, the respondents also filed two separate review applications vide RA No. 3/94 and 4/94 praying to convert the common direction dated 7.12.1993 into a direction for engaging the two applicants as retrenched casual employees in order of preference in the retrenched worker list. After hearing the parties, the Hon'ble tribunal passed the final order on 28.6.94 in the aforementioned Review Applications thereby directing the respondents not to terminate the services of the applicants, Md. Babul Ali and Aiduddin Ahmed in future and to regularize their services in Group D post in terms of OM dated 10.9.93/Casual Laborers Scheme, 1993.

While the matter was sub-judiced before the CAT, Guwahati Bench, the same matter was parallelly and illegally agitated before the Labour Commissioner (Central). The Labour Commissioner (Central) drew up conciliation proceedings which ultimately failed. The matter was referred to the Ministry of Labour, Government of India and the Ministry of labour vide notification dated 30.9.1994 made a reference on Industrial Dispute for adjudication to the Industrial Tribunal, Guwahati, Assam vide reference Case No. 4(C)/1994. The Ld. Industrial Tribunal passed an Award on 10.3.1998 with a direction to the respondents to keep the workmen (Babul Ali, Aibudin Ahmed and Miss Anima Talukdar) in service.

The respondents being aggrieved at the said direction given by the Industrial Tribunal, Guwahati filed a writ petition in the Hon'ble Gauhati High Court vide W.P.(C) No. 5777/99. The Hon'ble Gauhati High Court heard the matter on 20.11.99 and issued notice of motion returnable by six weeks. By the said order, the Hon'ble Gauhati High Court was also pleased to suspend the award-dated 10.3.98 passed by the Industrial Tribunal in Reference Case no. 4(C)/94. By the said interim order, the

Hon'ble Gauhati High Court also observed that the Government/ writ petitioner shall not remove the respondents from service without the leave of the said Hon'ble court.

The copy of the award dated 10.3.98 passed by the Industrial Tribunal and the interim order dated 20.11.99 are annexed as **Annexure R<sub>4</sub> and R<sub>5</sub>** respectively.

(c) Thereafter, the competent authority accorded their sanction for filling up three number of post of chowkidar falling vacant, to be filled up by way of direct recruit as per law. These three vacancies were meant for unreserved category. This was communicated vide the Govt. of India letter No. 16/1/ADM.IV/6001 dated 29.11.2002 alongwith enclosures. On receipt of the said sanction, the authorities wrote to the Employment Exchange vide letter No. UBD/DIB/Recruitment-1/2003/817-20 dated 28.1.2003 for sponsoring names of eligible candidates for selection and appointment as chowkidar against the said posts. The Employment Exchange sponsored many as 30 numbers of candidates vide their letter No. Act/02/03/477 dated 14.2.2003. In addition to the said 30 numbers of candidates, names of eligible departmental candidates who were working as casual labours/ work-charges seasonal khalasis etc. were also invited by issuing letters individually including the present applicant vide letter No. UBD/DIB/Recruitment-1/2003/881-969 dated 30.1.2003. Amongst others one Babul Ali, KK Talukdar and Sri Narottam Barman attended the interview and the Selection Committee found said Sri Babul Ali, KK Talukdar and Sri Narottam Barman eligible for appointment as chowkidar and accordingly they were selected and appointed w.e.f. 18.3.2003, 16.3.2003 and 16.3.2003 respectively. The present applicant did not appear in the interview and as a result he could not be selected

for such appointment although he was duly invited for the interview vide letter No. UBD/DIB/Recruitment-1/2003/881-969 dated 30.1.2003 which was duly received by the applicant on 13.2.2003 by acknowledging the receipt and he also put his signature on the body of the said letter. By the said letter the applicant was also intimated all details about the post of chowkidar and the related scale of pay etc. In the mean time, the Hon'ble Supreme Court, in **Union of India & another -vs- Mohan Pal & others etc.** as reported in **2002SCC( Ls) 577** held that the Casual Labourers and held that the Casual Laboureres (Grant of Temporary Status and Regularization,) Scheme, 1993 is a one time programme applicable to casual labourers who were in employment on the date of commencement of the scheme and had rendered continuous service for the prescribed period. It does not postulate giving temporary status to al casual workers as and when they complete continuous service for the prescribed period.

The copies of the letter-dated 29.11.2002, letter from the Employment Exchange dated 14.2.2003 and the letter-dated 30.1.2003 are annexed as **Annexure R<sub>6</sub>, R<sub>7</sub> and R<sub>8</sub>** respectively.

(d) As the applicant failed to appear in the interview committee and could not get selected against regular Group D post of chowkidar, to cover up his own fault he has approached this Hon'ble Tribunal for the second time by filing the instant application (OA No. 100/03 which is referred to as the 'application' hereafter). In this connection, it is also pertinent to mention here that that respondents sincerely believed that had the applicant appeared in the interview committee he could have been selected for the recruitment in Group D post and in doing so the

respondents could have otherwise complied with the directions given in the order passed in OA No.249/93.

(e) Subsequently, like some other departments, the Government of India, Ministry of Water Resources brought out a scheme known as "Grant of Temporary Status and Regularization of Seasonal Khalasis in the Work-Charged Establishment of the Central Water Commission, 1997". The scheme came into force w.e.f. 4.7.1997. The scheme was prepared with the objective to mitigate the hardships of such work-charged khalasis in the line of judgment and order passed by Hon'ble Bench of CAT Calcutta and Guwahati. According to the said scheme, a work-charged seasonal khalasi being currently in employment and rendering at least 120 days continuous service preceding 1.6.1997. The applicant is eligible for grant of temporary status under this special scheme and his case was under active consideration by the respondents. But before anything could be done in his favour, the applicant has filed the instant application which is sub-judiced in this Hon'ble Tribunal.

A copy of the said Scheme dated 4.7.1997 is annexed hereto as **Annexure R**.

**PARAWISE COMMENTS:**

5. That with regard to the statements made in para 1 of the application, the answering respondents state that the applicant with a view to regain his lapses filed the instant application by suppressing the above facts. There is no fresh cause of action justifying the filing of the instant application and the instant application is barred by the doctrine of res judicata.

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6. That with regard to the statements made in **para 2** of the application, the answering respondents state that the original cause of action arose way back in the year 1993 and the same matter cannot be agitated at such a belated stage by wrongly interpreting the order 5.5.2003. Hence, the application is barred by limitation.
7. That the answering respondents have no comment to offer with regard to the statements made in the **para 3** of the application.
8. That with regard to the statements made in **para 4.1** of the application, the answering respondents state that the applicant had been working as a seasonal khalasi and such khalasis are engaged and re-engaged depending upon the need of the Department. It is not a case of conversion or change of condition of service as alleged by the applicant as such seasonal khalasis does not hold any civil post. The allegations made in this paragraph are not factually correct and therefore the same are denied. Rather, the fact is that the applicant is being engaged as seasonal khalasi as per direction vide order dated 7.12.93.
9. That with regard to the statements made in **para 4.2 and 4.3** of the application, the answering respondents state that the statements relates to records and therefore nothing is admitted, which are not supported by such record.
10. That with regard to the statements made in **para 4.4 and 4.5** of the application, the answering respondents have no comment to offer as the matter relates to different schemes introduced by the Government at different point of time. The O.M dated 10.9.93 is applicable to Casual

Labourers and not to Seasonal Khalasis, who are governed by the Scheme of 1097.

11. That with regard to the statements made in **para 4.6** of the application, the answering respondents state that these are being matter of records, nothing is admitted which are not supported by such record.
12. That with regard to the statements made in **para 4.7** of the application, the answering respondents state that the statements made in this paragraph are misleading and not factually correct. As indicated hereinabove, the applicant has been working as seasonal khalasi and he was not entitled to get the benefit of any kind of regularization under the scheme of 1988 and 1993. Considering these aspects of the matter and to give at least some benefit to the seasonal khalasis, the respondents brought out the scheme of 1997 for grant of temporary status and regularization regularization of such seasonal khalasis.
13. That with regard to the statements made in **para 4.8 and 4.9** of the application, the answering respondents state that the statements made in this paragraph are not correct and therefore the same are denied by the respondents. The Hon'ble CAT, Guwahati Bench has never held that the review applicants were not seasonal khalasis. The only direction given by the said Tribunal in the Review applications is that the Review Applicants were not to be terminated and they should be regularized under the scheme of 1993. In compliance with the said order, the respondents did not terminate the services of the applicants and initiated steps to regularize them against Group D post as stated hereinabove. But, the applicant failed to appear in the process of selection inspite of the fact that he received the call letter, which was duly acknowledged by the applicant. In view of the above facts, it is the

applicant who is to be blamed for his own conduct and the respondents have not done anything contrary to the direction of the Hon'ble tribunal or any other Court.

14. That with regard to the statements made in **para 4.10** of the application, the answering respondents state that the statements are not correct and the same has been made by misconception and misinterpretation of the terminology used in the aforesaid letter dated 5.5.2003. The applicant is serving as seasonal khalasi and by the said letter he was further engaged for the new job along with others.
15. That with regard to the statements made in **para 4.11, 4.12 and 4.13** of the application, the answering respondents reiterate and reassert the forgoing statements made hereinabove and state that the averments are baseless and not based on any records. Therefore the respondents also state that they have not done anything contrary to any law or any direction of any Hon'ble Court or the Tribunal which may amount to contempt of court.
16. That with regard to the statements made in **para 5.1 to 5.5** of the application, the respondents state that in view of the facts and circumstances of the case and the provisions of law, the grounds shown by the applicant are not tenable in law and therefore the application is liable to be dismissed with cost as baseless.
17. That with regard to the statements made in **para 6 and 7** of the application, the answering respondents state that the statements are misleading and false. It is rather very much clear from the records relied upon by the applicant himself that a series of litigation between the same parties were there in this Hon'ble Tribunal and also the Industrial

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Tribunal and the W.P.(C) No. 5777/99, which is still sub-judiced. Therefore, these statements are misleading and the application is liable to be dismissed on this count alone.

18. That with regard to the statements made in **para 8.1 to 806 and 9** of the application, the answering respondents state that under the facts and circumstances of the case and the law involved, the applicant is not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost being devoid of any merit.

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

Verification

58

I, Shri G. Penchalaiah, at present working as Executive Engineer in the office of the Upper Brahmaputra Division, Dibrugarh, being competent and duly authorized to sign this verification, do hereby solemnly affirm and state that the statements made in para 1, 2, 3, 5 to 17 and 18 ————— are true to my knowledge and belief, those made in para — 4 ————— being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 9<sup>th</sup> day of January, 2004 at Guwahati.



DEPONENT  
(G. PENCHALAIAH)

GOVERNMENT OF INDIA  
CENTRAL WATER COMMISSION  
MIDDLE BRAHMAPUTRA DIVISION  
RAJGARH ROAD, GUWAHATI-781007

No. MBD/WC/ESTT-24(A)/90/ 2882-88 Dated, Guwanati 5/5/90

MEMORANDUM

The undersigned hereby offers appointment to the following persons as 'W/C Seachal' Khasi in the work of establishment in the pay scale of Rs. 750-12-870-EB-14-940/- per month with usual allowances as admissible as per rules from time to time.

S. No. Name & address of the candidate Employment Exchange Regn. No. Place of Posting Remarks

|    |                                                                                           |          |             |
|----|-------------------------------------------------------------------------------------------|----------|-------------|
| 1. | Md. Babul Ali<br>C/O Uair Ali<br>Vill. Tarapati<br>P.O. Maniary Tiniali                   | Guwahati | Met Section |
|    |                                                                                           | 9325/83  |             |
| 2. | Md. Aibuddin Ahmed<br>Vill. Garigaon<br>P.O. Garigaon<br>Guwahati-22.                     | -do-     | -do-        |
|    |                                                                                           | 9448/83  |             |
| 3. | Shri Narendra Ch. Das<br>C/O Profulla Kr. Das<br>Arundoi Press<br>Sripukhuri<br>Guwahati. | -do-     | -do-        |
|    |                                                                                           | 9125/82  |             |
| 4. | Miss Anima Talukdar<br>C/O M.B. Division, CWC<br>Guwahati.                                | -do-     | -do-        |
|    |                                                                                           | 851/81   |             |

The appointment is on 'Ad-hoc' basis and is purely temporary and will not continue beyond 15.10.90 (A. N.) or completion of work whichever is earlier without further notice.

The person concerned are hereby directed to report his duties to the place of posting as mentioned above under the

**Divisional office, Guwahati**

~~14-5-90~~ on 14-5-90 (F. N.) positively otherwise the offer will be treated as cancelled.

No T.A., D.A. etc. will be allowed for joining the above mentioned appointment.

(A. RAHMAN)  
EXECUTIVE ENGINEER

Copy forwarded for information and necessary action to:-

1) The Asstt. Engineer, M.B. sub-divn., Guwahati/ P.P. sub-divn., Nalbari/Mahes sub-divn., Barpeta Road/ Dhemaji(S)-Kopili sub-Div., Nagaon/E.A.D. (Mot)/ A.E. (E), Guwahati. The joining report of the person in original may please be sent to this office in time.

2) Person concerned.

3) The Employment Officer, District Employment Exchange Guwahati.

4) The Accounts Branch, M.B. Divn., CWC, Guwahati-7.

*Blockade*  
(A. RAHMAN)  
EXECUTIVE ENGINEER

A. Rahman.

CEN

INITIATIVE TRIBUNAL, GUWAHATI BENCH, GUWAHATI  
ORIGINAL APPLICATION NO. 249 OF 1993

MD. ALIUBUDDIN AHMED, \* \* \* \* \* Applicant

-vs-

UNION OF INDIA & ORS, \* \* \* \* \* Respondents

15

R2

SB

ANNEXURE : R2

PRESENT  
THE HON'BLE JUSTICE SHRI S. IMRUK, VICE CHAIRMAN  
THE HON'BLE SHRI G. L. SANDEEPING, MEMBER (ADMIN)  
For the Applicant Mr. A. Hai, Advocate  
For the Resps. Shri S. Ali, Sr. C. G. S. C.

DATE

ORDER

7.12.93

Both these cases are taken up together for consideration and disposal as the cause of action and reliefs sought for are common in both the cases.

Heard learned counsel Mr. A. Hai on behalf of applicants Md. Babul Ali and Md. Aliubuddin Ahmed. Also heard learned Sr. C. G. S. C Mr. S. Ali. Counsel of the parties submit to dispose of these two cases with similar directions dated 16.11.1993 in O.A. 201/93.

Both the applicants worked as Seasonal and Casual worker under the Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Guwahati since 1982 to 1992. They were engaged in the work in every year as under :

Babul Ali 1982-86 154 days in every year

|      |                              |
|------|------------------------------|
| 1987 | 340 days                     |
| 1990 | 260 days                     |
| 1989 | 319 days                     |
| 1990 | 340 days                     |
| 1991 | 330 days                     |
| 1992 | 60 days upto February, 1992. |

Aliubuddin Ahmed :

|         |                              |
|---------|------------------------------|
| 1983-87 | 154 days in every year.      |
| 1988    | 224 days                     |
| 1989    | 319 days                     |
| 1990    | 340 days                     |
| 1991    | 330 days                     |
| 1992    | 60 days upto February, 1992. |

Now they had been retrenched from their service on 15.10.93. A list of retrenched persons had been prepared by the respondents. They have worked for long period and action to retrench them are not looked happy.

7.12.93

Upon hearing the counsel of the parties and considering the facts and circumstances including the representation dated 18.2.92 of the applicants, we direct the respondents to appoint both the applicants as Khalsi against available vacancies, and in absence of available regular vacancies or till availability of such vacancy, the respondents shall appoint them as Causal Workers in the seasonal works.

Both the applications are disposed of with the above directions.

Intimate all concerned.

Sd/- S. Haque  
VICE CHAIRMAN

Sd/- G. L. Sangliyine  
MEMBER (A)

Certified to be true Copy

Deputy Registrar (Civil Court)  
Central Assambari, Dibrugarh

Guwahati Bench.

GOVERNMENT OF INDIA  
CENTRAL WATER COMMISSION  
MIDDLE BRAHMAPUTRA DIVISION

NO. MBD/WC/ESTT-24(A)/94/

Dated

4/5/1994.

## MEMORANDUM

The undersigned hereby offers appointment to the following persons as "Workcharged Seasonal Khelasi" in the workcharged establishment in the pay scale of Rs. 750/- 12-870-EB-14-940/- per month with usual allowances as admissible as per rules from time to time.

| Sl. no. | Name & Address of the candidate | Employment Exchange Regd. No. | Place of posting | Remarks |
|---------|---------------------------------|-------------------------------|------------------|---------|
|---------|---------------------------------|-------------------------------|------------------|---------|

|    |                                                                                                   |                       |                                             |  |
|----|---------------------------------------------------------------------------------------------------|-----------------------|---------------------------------------------|--|
| 1. | Mr. Fazul Hoque<br>C/o Mr. Rafiul Hoque<br>North Guwahati<br>Guwahati-14.                         | Guwahati<br>9886/93   | Jagibnukan                                  |  |
| 2. | Sh. D. R. Deka<br>vill. Laophulabari<br>P. O. Soperiguri<br>Dist. Nagaon.                         | Naiganj<br>8541/82/03 | -do-                                        |  |
| 3. | Mr. Alimuddin Ahmed<br>vill. Kartigan<br>P. O. Kartigan<br>Guwahati-12.                           | Guwahati<br>7375/85   | -do-                                        |  |
| 4. | Sh. Ram Harker Das<br>vill. Hariachuk<br>P. O. Guwahati<br>P. O. Raha (Nagaon).                   | Naiganj<br>7227/85/86 | -do-                                        |  |
| 5. | Sh. Now Ram Morang<br>vill. Kartika<br>P. O. Sonowal<br>Golaghat.                                 | Eniachet<br>1979/93   | Golaghat U.T.<br>Station.                   |  |
| 6. | Sh. Pabitra Modak<br>vill. Nayabagi Ward No. 1<br>P. O. Golaghat<br>Dist. Golaghat.               | Golaghat<br>2637/82   | -do-                                        |  |
| 7. | Sh. Bimal Das<br>P. O. Kalongbar<br>Rangapani<br>Dist. Nagaon.                                    | Naiganj<br>8234/82/87 | Charatul                                    |  |
| 8. | Sh. Fazlul Fazl<br>vill. Dighalieta<br>P. O. Soperiguri<br>Dist. Nagaon.                          | Naiganj<br>2986/82    | -do-                                        |  |
| 9. | Sh. Surya Ch. Das<br>B/II, Sindhu, C/II, Das<br>vill. Nakhipat<br>P. O. Golaghat<br>Dist. Nagaon. | Naiganj<br>4471/92    | Barepani<br>under Rangapani<br>Sub-Division |  |

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The appointment is on "Ad-hoc" basis and is purely temporary and will not continue beyond 15.10.94(A.N.) or completion of work whichever is earlier without further notice.

The person concerned are hereby directed to report for his duties to the place of posting as mentioned above under the Assistant Executive Engineer, Dhangsiri(S)-Kopili Sub-Division, C.W.C., Nagaon.

between 16.5.94 to 31.5.94 positively, otherwise the offer will be automatically treated as cancelled.

No T.A./D.A. etc. will be admissible for joining the above mentioned appointment.

Ans

~~31.5.94~~

Copy ( A.S.P. SINHA )  
EXECUTIVE ENGINEER ~~30/4/94~~

Copy forwarded for information and necessary action to : -

1. The Assistant Executive Engineer, C.W.C., Dhangsiri(S)-Kopili Sub-Division, C.W.C., Nagaon.

Joining Report of the person may please be sent to this office.

2. The Assistant Engineer, CWC, .....

Joining Report of the person may please be sent to this office.

3. The E.A.D. (HM), M.B.Divn. CWC, Guwahati-7/ Data Cell, M.B.Divn., CWC, Guwahati-7.

Joining Report of the person may please be sent to this office.

4. Shri

He should note that there is no chance of regularisation of service in near future.

5. The Employment Officer, District Employment Exchange, Guwahati/Golaghat/Nagaon

6. Accounts Branch, M.B.Division, CWC, Guwahati-7.

Ans

~~31.5.94~~

( A.S.P. SINHA )  
EXECUTIVE ENGINEER ~~30/4/94~~

Copy  
29/4/94

~~30/4/94~~

IN THE

THE TRIBUNAL : GUWAHATI & AGRA.  
REFERENCE: NO. 4 (C) OF 1984.

55

Present : Shri J. C. Kalita, B.A. (Hons) LL.B.  
Presiding Officer  
Industrial Tribunal, Guwahati.In the matter of an Industrial Dispute between  
The Management of  
Central Water Commission, Guwahati.

-Veroes-

Kishan Anjan Talukdar and others  
Guwahati, Guwahati.Appearance : Md. A. Ali, Advocate for the Management.  
Md. A. Ahmed,  
Shri L. P. Baruah, " for the workmen.  
Mr. B. Bhattacharya "

A W A B D.

The Govt. of India, Ministry of Labour, New Delhi,  
by a notification No. L-48011/31/82 -IR(DU) dt. 30.9.82  
notified an Industrial Dispute between the management of  
Central Water Commission, Middle Brahmaputra Division,  
Guwahati and its workmen Sayedul Ali, Md. Alibuddin  
Ahmed, Narendra Ch. Das, Kishan Talukdar and Akhil Pathak  
for adjudication by this Tribunal with appeal to the parties.  
On receipt of the notification a case was registered and  
notices were sent to the parties to appear and to file  
written statement. Both parties filed their written statement.

The notification reads as follows:-

"Whether the action of the management of Central  
Water Commission Middle Brahmaputra Division,  
Guwahati in keeping S/No. Sayedul Ali, Md. Alibuddin  
Ahmed, Narendra Ch. Das, Kishan Talukdar and Akhil  
Pathak in continuous employment for years together  
and paying them the basic Group 'D' wages without  
any annual increment for few months and casual  
rates of wages for rest of the months in a year,  
is justified? If not, to what relief the workmen  
are entitled to?"

Of the five workmen three did not appear and contest the dispute as they all approached the C.A.T. at Guwahati to get redress. As per the order of the Hon'ble C.A.T. these three workmen have been kept in the service of the management until now, and they are servicing without any break.

Both the workmen state that they have been working as khalasis in the Central Water Commission since 1987. When they claim for regularization the management pay no heed to their claim. The issue in the reference is not for regularization but for paying Group 'D' wages without any annual increment and casual rates of wages for the rest of the months. The learned counsel for the management files all the relevant documents to substantiate the claim of the workmen as well as of the management.

What I have found from the records is that number of petitions came before various 'CAT' all over the country for regularization of the services of the Khalasis/casual workers. There were directions from the 'CAT' to the Central Govt to formulate scheme for the service condition of the workmen. Finally the Central Govt, Ministry of Water Resources, formulated the scheme effective from 1.6.97. The scheme is called "Grant of temporary status and regularization of seasonal khalasis in the work charged establishment of C.W.C. The scheme is applicable to the seasonal khalasis in employment on the work charged establishment of Central Water Commission on the date of commencement of the scheme and who continue to be so employed and have rendered a minimum of 120 days continuous service or such persons who were engaged at any time during the proceeding one year and have rendered a minimum of 120 days continuous service in that year.

The reference is prior to this scheme. It is an additional fact that the workmen are seasonal khalasis. According to the management the season starts from 15th of May to

16th of Oct. each year during the monsoon period. Though they are retrenched every year, they are again re-employed in the next year during the period of monsoon. Continuity of their service for the monsoon season every year has been admitted by the management.

It has been argued on behalf of the management that the claim of annual increment can not be paid as there was no continuity of service beyond one year. Unless a year is completed no annual increment is granted or paid. They have claimed that they are working for more than 240 days in a year, which means that they have not completed 12 months in a year. They have been paid wages as per the admissibility rules but can not be paid what they are not legally entitled to. That is why the workmen have not claimed annual increment.

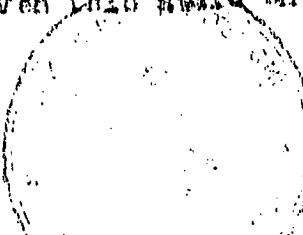
Management submitted the wage sheets since 1984 showing wages paid to them. They have been paid what they were legally entitled for the paid of their service without paying annual increment not only to these workmen but also to other workmen whose names are there in the wage sheets. They have paid wages in the scale of pay of Rs. 750.00 to 940.00 inclusive of all allowances which is being revised to Rs. 2550.00 to Rs. 3000.00 as per the Central Pay Commission report. For non-completion of 12 months of service they are not entitled to annual increment.

It has been submitted on behalf of the Management that the khalals are paid casual rates of wages if one is engaged beyond the period of monsoon whenever there is a necessity. Workmen failed to establish that they were not paid casual rates of wages whenever they were appointed as casual workers rather the wage sheets prove that they have been paid casual rates of wages if engaged beyond the period of monsoon.

It has been submitted that seniority list has been prepared as per the procedure laid down in the scheme of 1.6.97 and the names covered under the provision of the scheme will be regularized against Group 'D' posts when these arises vacancy as per seniority list. In this connection the order of the Hon'ble Vice Chairman of C.A.T, Guwahati at 28.6.94 to be perused which speaks that the order terminating the services of Md. Babul Ali and Md. Alibuddin Ahmed after confinement of temporary status was arbitrary and bad in law, and directed the management not to terminate them in future and shall regularize them in Group 'D' posts in terms of O.N. at 10.9.93/Caronl Labourers Scheme 1993.

As the new scheme of 1997 has already come into force with effect from 1.6.97 by virtue of which these workers on acquire the temporary status, they are to be kept in the service of the C.W.C. like that of Md. Babul Ali, Md. Alibuddin Ahmed and Md. Anwarul Talukdar whose names are also reflected in the dispute for adjudication.

I give this award on this 10th March 1998 under my hand seal.

  
 (Shri J.C. Kalita)  
 Presiding Officer,  
 Industrial Tribunal, Guwahati.

J.C. Kalita

|            |                                            |                                                                                                           |                       |            |                                                                            |                                                                            |
|------------|--------------------------------------------|-----------------------------------------------------------------------------------------------------------|-----------------------|------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------|
| 13         | तारीख<br>Date of application for the copy. | राख्या घोषित करणे की निश्चित तारीख<br>Date fixed for notifying the requisite number of stamps and folios. | रु<br>Date of request | 23         | प्रतिलिपि तैयार की तारीख<br>Date on which the copy was ready for delivery. | प्रतिलिपि तैयार की तारीख<br>Date of making over the copy to the applicant. |
| २४. ११. ७७ | २४. ११. ७७                                 | २४. ११. ७७                                                                                                | २४. ११. ७७            | २४. ११. ७७ | २४. ११. ७७                                                                 | २४. ११. ७७                                                                 |

89  
**ANNEXURE : R5**

IN THE GAUHATI HIGH COURT

(High Court of Assam Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from

W. P. (C)

No. 5777 of 1999

Civil Rule

Union of India

Appellant

Petitioner

versus  
The Presiding Officer, Industrial Tribunal, Guwahati  
8 yrs.

Respondent

Opposite-Party

Appellant  
For  
Petitioner  
MR. Bipul Sarma  
Addl. C. G. S. C.

Respondent

For  
Opposite-Party

| Noting by Officer or Advocate | Serial No. | Date | Office notes, reports, orders or proceedings |
|-------------------------------|------------|------|----------------------------------------------|
|                               |            |      |                                              |

14

24

60

In the matter of

The Management.

Central Water Commission, through  
Executive Engineer, Guwahati  
Middle Brahmaputra Division,  
Raigarh Road, Guwahati.

petitioner

- 25 -

1. The presiding Officer,

Industrial Tribunal,

Guwahati.

2. Sri Akhil Pathak,

Khalasi.

C/o. Shri D. B. Chetry,

2

2-2

15

- 3 -

25

(61)

H.O. Circle,  
Central Water Commission  
Nabin Nagar, Janapath,  
Guwahati-24.

..... Respondents.

- AND -

In the matter of

1. Miss Anima Talukdar, Khalasi

Central Water Commission,  
Middle Brahmaputra Sub-  
division, Guwahati-3.

2. Babul Ali,

Khalasi,  
C/o. Executive Engineer,  
Lower Brahmaputra Division,  
Central Water Commission,  
Hakimpura, Jalpaiguri;  
Pin: 786101 (W.B.)

3. Md. Aibuddin Ahmed,

Khalasi.  
C/o. Executive Engineer,  
Upper Brahmaputra Division,  
Central Water Commission,  
C.R. Building, Dibrugarh  
Pin: 786003.

..... proforma

..... Respondents.

BEFORE

20.11.99.

THE HON'BLE MR JUSTICE D. BISWAS

Heard the learned counsel for the  
petitioner.

Let a notice of motion issue calling  
upon the respondents to show cause as to why  
a Rule should not be issued, as prayed for; or  
why such other further order or orders should  
not be passed as to this court may deem fit  
and proper.

Notice is made returnable by 6 weeks.

Steps within seven days.

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22

| Ordering by Office or Advocate  | Serial No. | Date | Office notes, reports, draft or proceedings with signature                                                                                                                                                                                                                                                                                                     |
|---------------------------------|------------|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20.11.99.<br><br><i>(P.C.D)</i> |            |      | <p>In the meantime, and until otherwise, the operation of the award dated 10.3.98 passed by the learned Industrial Tribunal, Guwahati in Reference Case No.4(c)/94 shall remain suspended.</p> <p>The learned counsel for the writ petitioner made it clear that no step is being taken to remove the respondents from service without leave of the court.</p> |

*Sd/- D. Biswas*

*Judge*

Certified to be true Copy  
 Dinesh (h. gushwan  
 Superintendent (Copying)  
 GAUHATI HIGH COURT  
 Authorised U.S. 75 Act of 1979

*26/11/99*

*24/11/99*

TEL : 292294

GOVERNMENT OF INDIA  
 CENTRAL WATER COMMISSION  
 PLANNING CIRCLE  
 1066-68, TYPE-V,  
 NH-IV, FARIDABAD -121 001  
 0129-5412956, 5415092  
 FAX : 0129-5412956

NO. 1066-68, C.G.B.B.C.O.D. SHILLONG.  
 नारायण राजपत्र  
 राजनीय जल वायोव  
 मोजना परिषद्धाल  
 1066-68 टाइप-व  
 एन्ड एच० 4, भारतीयाबाद  
 पिंग : 121001  
 0129-5412956, 5415092  
 फैक्टरी : 0129-5412956



सत्यमेव प्राप्यते  
 Gram : SEPLAN

No.16/1/Adm.IV/6001

Dt: 29.11.02

To

The Chief Engineer(B&BB)  
 CWC., Shillong.

Sub: Permission for filling up of direct recruitment posts.

Sir,

In pursuance of D.O.R.T's O.M.No. 2/8/2001-PIC dated 16.5.2001 and subsequent O.M. dated 18.6.2002, the approval of Min. of Water Resources for filling up the following posts in Gr. 'D' categories have been received through CWC's letter No.A-42011/3/2002-Ext.IV/1105 dated 18.10.2002.

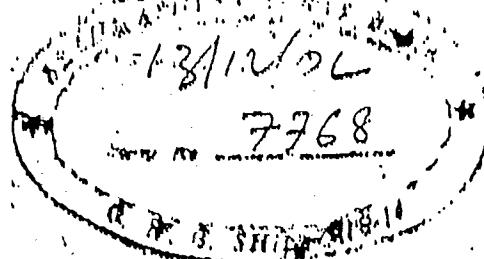
Burkunduz : 2

Chowkidar : 3

The Surplus Cell of Min. of Personnel Public Grievances & Pension have been approached for issuing clearance certificate in this regard. In the meantime, it is requested that the other formalities such as obtaining names from local employment exchange and preparing paper of the candidates may please be made so that the appointment letters could be issued immediately on receipt of clearance from Surplus Cell. The vacancies are to be filled up before 1.3.2003 positively, failing which the posts will be abolished. The date may be mentioned when the posts will be filled.

Yours faithfully,

(Pradeep Kumar)  
 Superintending Engineer



10/12

Loc 2

GOVERNMENT OF ASSAM  
DEPARTMENT OF LABOUR & EMPLOYMENT  
DISTRICT EMPLOYMENT EXCHANGE: DIBRUGARH:

No. Act/02/03/477 Dated Dibrugarh the 14-2-03

To

✓ Shri G. Penchalinish  
Executive Engineer  
Central Water Commission  
Upper Assam Brahmaputra Div.  
P.O. C.R. Building/Dib.

Sub:- Recruitment of ChowkiderRef:- Your notification No. UDD/DIB/Rect  
1/2003/017-20/ dt. 28th Jan/03 &  
verbal discussion on 7-01-03

Sir,

With reference to the above I am to  
forward herewith particulars of 30 (thirty) nos.  
of applicants as per enclosed list for the mentio-  
ned post.

The applicants have been advised to  
report to you on 15-02-03 at 10 a.m. for intervi-  
ew test etc.

The result of selection may please  
be intimated to this office for closing our  
records.

Enc:- List of applicant      Yours faithfully.

Asstt. Director of Employment  
District Employment Exchange; Dibrugarh  
Dib. Employment Exchange  
DIBRUGARH.

14/2/03  
14/2/03

## List of applicant for the post of CHOWKIDER

(66)

| S1: Name & address of the applicant                                                                               | Regn. No: | Date of Birth | Qualification | Remarks |   |
|-------------------------------------------------------------------------------------------------------------------|-----------|---------------|---------------|---------|---|
| 1                                                                                                                 | 2         | 3             | 4             | 5       | 6 |
| 1. Sri Tapan.Kr. Bordoloi<br>S/O Manik Ch.Bordoloi<br>C/O Lalchand Das<br>B.C. Das Road/Dibrugarh.                | 2313/96   | 21-12-74      | IX passed     | Gen     |   |
| 2. Shri Kilmatru Chowdhury<br>S/O Anil Chowdhury<br>Chowki Jingsam Rly Colony<br>Qr.No. 36(8), P.O. Dib.          | 2314/96   | 22-06-74      | IX passed     | Gen     |   |
| 3. Shri Monk Bhumij<br>S/O Lakhi Bhumij<br>Grahambazar/P.O. Dibrugarh.                                            | 2322/96   | 11-01-79      | IX Passed     | -       |   |
| 4. Shri Dharmananda Konwar<br>S/O Rudraswar Konwar<br>Borpatner Hat kata Konwar Gaon<br>P.O. Konwar Handique/Dib. | 2527/96   | 31-03-76      | IX passed     | 0BC     |   |
| X 5. Shri Jitu Gogoi<br>S/O Budheswar Goni<br>Jokai Konwar Gaon<br>P.O. Harakpathar/Dib.                          | 2641/96   | 18-11-79      | IX passed     | 0BC     |   |
| 6. Shri Manoranjan Gogoi<br>S/O Padma Gogoi<br>West Milan Nagar<br>P.O. CR Buiding/Dib.                           | 2644/96   | 31-03-77      | IX p.         | 0BC     |   |
| 7. Shri Kishore Dhar<br>S/O Krishna Dhar<br>Nalipseel/ P.O. Dibrugarh.                                            | 2673/96   | 31-06-75      | IX passed     | Gen     |   |
| 8. Md Ohula Hussain<br>S/O Kurban Ali<br>Amulapatty<br>P.O. Dibrugarh.                                            | 2863/96   | 11-04-72      | VIII p.       | Gen     |   |
| X 9. Shri Dhanu Urang<br>S/O Gulek(Gopal) Urang<br>Niz Manacutta Sunder Pur<br>P.O. Khanis Gaon/Dib.              | 2886/96   | 31-01-77      | IX passed     | MOBC    |   |
| 10. Shri Biswajit Konwar<br>S/O Amulya Konwar<br>South Amulapatty<br>P.O. Dibrugarh.                              | 2916/96   | 12-12-78      | IX p.         | 0BC     |   |
| X 11. Shri Papu Das<br>S/O Robin Das<br>Mericha Gaon<br>P.O. Chetia Gaon/Dib.                                     | 2996/99   | 31-12-82      | IX p.         | S/C     |   |
| 12. Shri Kamal Ch. Hazarika<br>Puharikhania Gaon<br>P.O. Mahanaghata/Dib.                                         | 1422/86   | 01-02-70      | IX p.         | S/C     |   |
| X 13. Shri Rubul Das<br>S/O Bageswar Das<br>Mericha Gaon<br>P.O. Chetia Gaon/Dib.                                 | 1634/91   | 02-02-74      | IX p.         | S/C     |   |
| 14. Shri Ananta Guraghati<br>1 No. Chilchinghuli Gaon<br>P.O. Chilchinghuli/Dib.                                  | 3222/93   | 31-03-78      | VIII p.       | 0BC     |   |

Asst. Director of Empl. 31-03-80  
Dist. Employment  
DIBRUGARH (S)

✓ 14/2/80

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15. Shri Luhit Buragohain 1942/91 04-04-74 IX p. OBC  
1 No Chiringuilla  
P.O. Chirighullu/Dib.

16. Shri Siba Kumar Dewarrah 1971/87 29-6-72 IX p. OBC  
Jiliguri Gaon  
P.O. Lashowal/Dibrugarh.

17. Shri Riju Gogoi 2411/02 15-11-81 IX p. OBC  
S/O Thunu Gogoi  
Vill- Banipur  
P.O. Banipur/Dibrugarh.

18. Shri Parikhit Gogoi 0268/00 24-07-77 IX p. OBC  
S/O Swadhar Gogoi  
Banipur  
P.O. Banipur/Dibrugarh.

19. Shri Indra Pd. Bori 1838/96/95 04-06-77 HSLC P. S/T ✓  
Chiring Gaon/Rly Colony  
P.O. Dibrugarh.

20. Shri Jibon Bori 58/02 01-08-79 IX p. ✓ S/Tb. ✓  
Chiring Gaon Rly Colony  
Bl.No. 62(F).P.O.Dibrugarh.

21. Shri Pradip Bori 57/02 01-09-80 IX p. ✓ S/Tb. ✓  
Chiring Gaon Rly Colony  
Bl.No. 62(F). P.O.Dibrugarh.

22. Shri Rana Hazarika 226/03 ✓ 31-12-72 VIII p. S/C ✓  
Tulshi Gaon  
P.O. Nirmali Gaon/Dib.

23. Shri Maitick Manki 245/00 29-09-75 IX p. ✓ TGL ✓  
S/O Joy Singh Manki  
Jamirgh Tea Estate  
P.O. Jamirgh/Dibrugarh.

24. Shri Subrata Dewanjee 460/97 23-11-77 HSLC P. Ben  
S/O S.B. Dewanjee  
Mahanbari Field Bazar/Dibrugarh.

25. Shri Khagen Dutta 204/00 - - -

26. Shri Dhiren Sonowal 3654/95 31-03-74 Class IXp. S/Tb. ✓  
S/O Lakhirmi Sonowal  
2 No Newj-n Gaon  
P.O. Kutuha/Dib.

27. Shri Rubul Dutta 1884/97 31-12-74 Class IX p. OBC ✓  
S/O Tuwaram Dutta  
Beirajimoth Aluk Nagar  
P.O. Beirajimoth/Dib.

28. Shri Deleswar Gogoi 3422/87 46-93-69 ✓ S/T ✓  
Shri Ananta Hazarika 3842/95 31-12-93 IX p.

28. Shri Ananta Hazarika 3842/95 31-12-93 IX p. ✓ S/T ✓  
Running Gate Rly Colony  
P.O. Kademoni/Dibrugarh.

29. Shrim Jiten Dehingia 2698/96 23-04-73 IX p. OBC X

( 3 )

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30. Shri Tuleswar Devarah 804/02 09-06-76 HSLC P. MOBC  
S/O Nareswar Devarah  
Nadun Ganj/ P.O. Chatig Ganj/Dib.

✓ 14/10/07  
Smt. Director of Employment  
Employment Bureau, Jh.  
AP/2007

n : Forecast.

GOVERNMENT OF INDIA  
 CENTRAL WATER COMMISSION  
 UPPER BRAHMAPUTRA DIVISION  
 P.O. CENTRAL REVENUE BUILDING  
 DIBRUGARH - 786003

NO. UBD/DIB/Recruitment-1/2003/ 881-969

Dated, Dibrugarh the 30.1.2003

To, *Mrs. Aibulldin Ahmed.*

An interview will be conducted on 15.2.2003 at the office of the Executive Engineer, Upper Brahmaputra Division, Jiwani Phukan Nagar, P.O. C.R Building, Dibrugarh - 786003 for the post of Chowkidar. If you are interested in above post you may kindly attend the interview along with original certificates including date of birth and original Employment Exchange Registration Card who sponsored for the post of Seasonal Khalasi at the first appointment.

Mere appearing for interview does not guarantee the job. No TA/DA will be admissible.

The interview may prolong for a one more day and you may kindly make your own arrangement for the stay at Dibrugarh.

( G. PANCHALAIYAH )  
 EXECUTIVE ENGINEER

*Received on 13/2/03*

*Chwl  
13/2/03*

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## ANNEXURE 89

MOST: IMMEDIATE

No.A-11019/1/95-E.XII/  
Government of India  
Central Water Commission

Room No. 312, Sewa Bhawan,  
R. K. Puram, New Delhi-66.

Dated, the 28th June, 1997.

All Superintending Engineers of  
Field Offices of Central Water Commission.

Sub: Regarding Scheme for grant of temporary status and regularisation of seasonal khalasis in the work-charged establishment of Central Water Commission.

Sir,

Sir,

I am to forward herewith a copy of Ministry of Water Resources' letter 8/3/95-Estt-I. (Vol.II), dated, 20.6.97, on the above mentioned subject. This scheme will come into force w.e.f. 1.6.97 and is applicable to those seasonal khalasis who are presently employed and have rendered a minimum of 120 days continuous service in Central Water Commission or such seasonal khalasis who were engaged anytime during the preceding one year and have rendered a minimum of 120 days of continuous service in that year.

2. It is requested to bring the above scheme to the notice of all appointing authorities under Central Water Commission and ensure immediate action for implementation of the provisions of the scheme by all concerned.

Yours faithfully,

Eng.: As above.

(J. L. CHUGH)  
Under Secretary.

Copy for information and necessary action to:  
San Joaquin Water Com

Copy for information and necessary action to:

1. All Chief Engineers of Central Water Commission.
2. All Executive Engineers of Central Water Commission.
3. The Director (RMCD), Central Water Commission, R.K. Puram,  
New Delhi - 6

संख्या: स-11019/1/95-स्था. बारह

भारत सरकार

केन्द्रोय जल आयोग

नई दिल्ली-110066.  
दिनांक: 30 जून 1997.

सेवा में,

केन्द्रोय जल आयोग के क्षेत्रोय कार्यालयों  
के सभी अधीक्षण अभियंता।विषय: केन्द्रोय जल आयोग के कार्यप्रभारित स्थापना में मौसमो खलासियों को  
अस्थायो पद प्रदान करने तथा नियमित करने को स्कोम के संबंध में।

महोदय,

उपर्युक्त विषय पर जल संसाधन मंत्रालय के दिनांक 20 जून, 1997 के पत्र  
संख्या 8/3/95-स्था. । ११४ को प्रति इसके साथ भेजी जाती है। यह स्कोम  
01.06.97 से प्रभावी होनी तथा उन मौसमो खलासियों पर लागू होगी जो इस  
समय नियकत हैं और केन्द्रोय जल आयोग में कम से कम 120 दिनों को लगातार सेवा  
कर दुके हैं अथवा ऐसे मौसमो खलासो जो पिछले एक वर्ष के दौरान किसी भी समय  
नियुक्त किए गए थे तथा उस वर्ष में वे कम से कम 120 दिनों को लगातार सेवा कर  
दुके हैं।2. अनुरोध है कि केन्द्रोय जल आयोग के अधीन आनेवाले सभी नियुक्ति  
प्राधिकारियों को उपर्युक्त स्कोम से अवगत कराया जाए तथा सभी सम्बद्धों द्वारा  
स्कोम के प्रावधानों के क्रियान्वयन के लिए तत्काल कार्रवाई सुनिश्चित को जाए।

भवदोय,

राजगदोश लाल चूधूर्ण

अवर सचिव

संलग्नक: यथोक्त

प्रतिलिपि सूचना तथा आवश्यक कार्रवाई के लिए:

1. केन्द्रोय जल आयोग के सभी मुख्य अभियंता।
2. केन्द्रोय जल आयोग के सभी कार्यकारी अभियंता।
3. निदेशक इनदो प्रबंध समन्वय निदेशालय, केन्द्रोय जल आयोग, रामकृष्ण पुरम,  
नई दिल्ली-66.

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MOST IMMEDIATE

No. 8/3/95-Estt. I (Vol. II)  
Government of India  
Ministry of Water Resources

Shram Shakti Bhawan,  
New Delhi-110 001.

Dated, the 20th June, 1997.

To

The Chairman,  
Central Water Commission,  
Sewa Bhawan,  
R.K. Puram,  
New Delhi-110 066.

Sub: Scheme for grant of temporary status and regularisation  
of seasonal khalasis in the work-charged establishment  
of Central Water Commission.

Sir,

Central Water Commission are required to engage the services of seasonal khalasis during the monsoon season from time to time. Such seasonal khalasis were being regularised in the work-charged establishment of Central Water Commission as per instructions contained in CWC's circular No. 6/37/75-Estt. XII (Vol. II), dated 22.6.1988. This has been further reviewed in the light of the Judgement of the Calcutta Bench of the Central Administrative Tribunal dated 19.12.1994 in the matter of Shri Nand Kishore Roy & Ors. Vs Union of India & Ors and Judgement of the Guwahati Bench of the Central Administrative Tribunal dated 15.10.1996 in the matter of Shri H.R. Nath & Ors. Vs Union of India & Ors and a decision has been taken by the Government to implement a scheme for grant of temporary status and regularisation of seasonal khalasis working in the work-charged establishment of Central Water Commission who are presently employed and have rendered a minimum of 120 days continuous service in Central Water Commission or such persons who were engaged anytime during the preceding one year and have rendered a minimum of 120 days of continuous service in that year. A copy of the scheme is enclosed.

Contd... 2/-

No. 8/3/95-Estt. I  
Government of India  
Ministry of Water Resources

Subject: Scheme for grant of temporary status and regularisation of seasonal khalasis in the workcharged establishment of the Central Water Commission, Ministry of Water Resources.

This scheme shall be called "Grant of temporary status and regularisation of seasonal khalasis in the workcharged establishment of the Central Water Commission, 1997."

2. This scheme will come into force with effect from 1.6.1997.

3. This scheme is applicable to the seasonal khalasis in employment on the workcharged establishment of the Central Water Commission on the date of commencement of the scheme and who continue to be so employed and have rendered a minimum of 120 days continuous service or such persons who were engaged any time during the preceding one year and have rendered a minimum of 120 days continuous service in that year.

4. Definition: Seasonal khalasis are unskilled persons employed year to year to meet the requirements during the monsoon season for 24 hours' observation of river gauges for the purposes of flood forecasting etc. Generally they are employed during the months from June/July to September/October when the monsoon is very active. They are paid at the minimum in the scale of pay of the post of khalasis in workcharged establishment.

5. (i) Temporary status will be conferred on all those seasonal khalasis engaged on workcharged establishment of the Central Water Commission on the date of commencement of the scheme or any time during the preceding one year and have rendered a minimum of 120 days of continuous service preceding such date.

(ii) Conferment of temporary status does not automatically imply that such seasonal khalasis would be appointed on the workcharged establishment on regular basis within any fixed time frame. Appointment to workcharged establishment on regular basis will be subject to the provisions of the scheme and to their satisfying the conditions prescribed in the recruitment guidelines and being adjudged fit by the competent selection committee and in their turn as per their seniority maintained under the respective circle/field office.

(iii) Conferment of temporary status on the workcharged seasonal khalasis concerned will not involve any change in their duties and responsibilities. The engagement will be on need basis and payment will be made as per clause 6(i) of the scheme. Such temporary employees would enjoy temporary status only for and during the period of their engagement. They may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

6. Temporary status will entitle the workcharged seasonal khalasis to the following benefits during the period of their engagement:

(i) Wages at the minimum of the pay scale for a corresponding regular workcharged official including DA, HRA, and CCA.

(ii) Benefits of increments at the same rate as applicable to a workcharged employee would be taken into account for calculating pro-rata wages for every one year (12 months) of service subject to performance of duty for at least 120 days in the year from the date of conferment of temporary status.

(iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work. Casual

or any other kind of leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation subject to a maximum limit of 240 days. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.

- (iv) 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularisation.
- (v) After rendering not less than three years continuous service after conferment of temporary status, the workcharged seasonal khalasis would be treated on par with regular workcharged employees for the purpose of contribution to the General Provident Fund and would also further be eligible for the grant of Festival Advance, Flood Advance on the same conditions as are applicable to regular workcharged employees, provided they furnish two sureties from permanent Government servants of their Department.
- (vi) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only, as admissible under Government of India Rules.

7. No benefits other than those specified above will be admissible to workcharged seasonal khalasis with temporary status. However, if any additional benefits are admissible to such workers working in Industrial Establishment in view of Provisions of Industrial Disputes Act, they shall continue to be admissible to these employees.

8. Temporary status does not debar dispensing with the services of a workcharged seasonal khalasis in case of misconduct after following due procedure as in the case of a regular workcharged employee.

9. Despite conferment of temporary status, the services of the workcharged seasonal khalasis may be dispensed with by giving a notice of one month in writing in the event of there being no work or otherwise. However, such employee with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such workers is engaged on work.

10. Procedure for filling up of posts in workcharged on regular basis:

- (i) Only those vacancies in regular workcharged posts which are filled by direct recruitment in respective offices will be filled up from such workcharged seasonal khalasis with Temporary Status on seniority cum-fitness basis, maintained under respective circle/field office. For appointment to workcharged establishment on regular basis, the effective date of seniority will be reckoned from the date of the year from which the seasonal khalasis are continuously being engaged for at least 120 days every year, the eligibility year being the initial year wherein the employee completes the required number of days of service. The seniority of seasonal khalasis will be maintained separately circle-wise.
- (ii) All eligible seasonal khalasis will be considered for empanelment for posts in workcharged establishment by a duly constituted Screening Committee which will assess the suitability of such employees.
- (iii) No such employee shall be considered eligible for appointment to posts in workcharged establishment unless he possess educational and other qualifications and pass such test(s) as prescribed in the Recruitment Rules for the post. In the case of illiterate workcharged seasonal khalasis

conferred temporary status or those who fail to fulfil the minimum qualifications prescribed for the post, regularisation will be considered only against those posts in respect of which literacy or a minimum academic qualification will not be a requisite condition.

- (iv) In order to be eligible, a seasonal khalasi must fulfil the condition of upper age limit as prescribed in the relevant Recruitment Rules. For this purpose he will be allowed age relaxation to the extent of continuous service rendered by him as seasonal khalasi. For determining the date of birth the criteria laid down at Annexure - A shall be observed.
- (v) He should be medically fit for the post for which he is considered for absorption/regularisation. He should be got medically examined at the time of his initial appointment by the competent medical authority.
- (vi) The character and antecedents of such employee shall be verified from the competent authority at the time of his initial appointment.
- (vii) No recruitment in any circle from open market for regular workcharged staff except for compassionate appointments will be done till eligible seasonal khalasis with the requisite qualifications are available in that circle to fill up the posts in question.

11. On regularisation of workcharged seasonal khalasis with temporary status no recruitment shall be made of any seasonal/casual or ad-hoc employee in his place. There shall be complete ban on appointment of fresh seasonal khalasi, casual labourers and ad-hoc khalasis.

12. Ministry of Water Resources in consultation with appropriate Departments/Ministries of Government of India will

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have the power to make amendment or relax any of the provisions in the scheme that may be considered necessary from time to time.

ANNEXURE - A

Criteria for determining the date of birth for considering the eligibility of a seasonal khalasis for the purpose of his absorption/appointment in a post in workcharged establishment in the Central Water Commission.

In the case of a literate worker, the date of birth mentioned in his Matriculation/School Leaving Certificate is to be accepted as his date of birth and recorded in the Service Roll. In the case of an illiterate worker he is required to produce some documentary evidence, if available e.g. an extract from the Municipal Birth Register, Baptismal Certificate, etc. Where no such proof is available, the worker, on entering service, should declare his date of birth which shall not differ from any declaration expressed, implied made for any public purpose before entering into service in Central Water Commission. The declaration should be signed by the person and attested by a witness or if the person is illiterate, his thumb impression should be taken in the presence of literate witness, whose signature should also be taken.

2. When the year and the month of birth are known, but not the exact date the 16th of the month shall be treated as the date of birth. Similarly, when the exact month is not known but the year is only known, the date of birth should be taken as 1st July of the year.

3. When a person entering service is unable to give his date of birth, but gives his age, he should be assumed to have completed the stated age on the date of attestation e.g. if person enters service on 1st April, 1983 and if on that date his age is stated to be 20 years his date of birth should be taken as 1st April, 1963.

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4. Where the person concerned is unable to state his age or the age stated by him is obviously incorrect, it should be got assessed by the Medical Officer and the age so assessed entered in his record of service in the manner described above. The date of birth should also be written in words and attested under the signature and stamp of the Divisional Officer.

5. The date of birth declared by the Government Servant and accepted by the appropriate authority shall not be subjected to any alteration. A change in the date of birth of Government Servant can be made with the sanction of the Ministry of Water Resources, if:

- (a) A request in this regard is made within 5 years of his entry into the Government Service.
- (b) It is clearly established that genuine bonafide mistake has occurred.
- (c) The date of birth so altered would not make him ineligible to appear in any School or University or Public Service Examinations in which he had appeared for entry into the Government Service or the date in which he entered Government Service.

(7)