

07/00

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-106/2003

Order sheet Pg- 1 to 2

disposed of date - 17/12/2003.

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42).

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 223 /03

Contempt Petition No: _____

Review Application No: _____

Applicants: - R. Rakhowa

Respondants:- Very poor

Advocate for the Appelcants:- Mr. Michanda, G.N. Chakrabarty & S. Naini

Advocate for the Respondants:-

Chse-

Notes of the Registry	Date	Order of the Tribunal
1. This application is in form but not in time Contra-Statement is filed / not filed or Rs. 30/- deposited in IPO/33 No. 99159331 Dated 22/8/03	29.9.2003 bb	List the case on 31.10.2003 alongwith M.P.106/2003.
By, Registrar Name 29/9/03	31.10.2003 bb	The O.A. is posted for admission on 28.11.2003 alongwith M.P.106/2003.
Notice and order dt - 29/9/03 alongwith mp 106/03 sent to D/Section for issuing to the respondent - 28.11.03 6/10/03. Dispatch - 2133-2137 Date - 21/10/03	28.11.03 to 17.12.03	Vice-Chairman 870 12

26.7.2004 Four weeks time is granted to the respondents to file written statement as prayed by Mr.A.K.Chaudhuri, learned Addl.C.G.S.C.

List on 27.8.2004 for orders.

K.D.Patel
Member (A)

30-6-04
No-arts. Sear-been filed bb

Q
31.8.2004 List the matter on 7.9.2004 for hearing.

I.C.W.Bhatt
Member (A)

bb

7.9.04 List the matter on 6.10.04 for hearing. In the meantime, the Respondents may file written statement within two weeks.

Q List on 6.10.04 for hearing.

4-10-04
No-arts. hav. been filed

I.C.W.Bhatt
Member

Q lm

6.10.2004

Present: Hon'ble Justice Shri R.K. Batta, Vice-Chairman

Heard Mr. M. Chanda, learned counsel for the applicant and Mr A.K. Chauhduri, learned Addl. C.G.S.C. Hearing concluded. Orders passed separately.

Q
Vice-Chairman

10.11.04
Copy of the
judgment has been
sent to the office
for issuing the
same to the applicant
as well as to the
Addl. C.G.S.C.

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A. /R.A. No. 223 of 2003

DATE OF DECISION 6.10.2004

Shri Rajen RajkhowaAPPLICANT(S)

Mr M. Chanda, Mr G.N. Chakraborty and
Mr S. ChoudhuryADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India and othersRESPONDENT(S)

Mr A.K. Chaudhuri, Addl. C.G.S.C.ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE R.K. BATTA, VICE-CHAIRMAN *Q*

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether the judgment is to be circulated to the other benches
- Judgment delivered by Hon'ble Vice-Chairman

ND

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.223 of 2003

Date of decision: This the 6th day of October 2004
The Hon'ble Justice Shri R.K. Batta, Vice-Chairman
Shri Rajen Rajkhowa
S/o Deben Rajkhowa,
Village- Gendhali, P.O.- Sonaguri,
Casual Worker,
New Telephone Exchange,
Nagaon, Assam.

.....Applicant

By Advocates Mr M. Chanda,
Mr G.N. Chakraborty and Mr S. Choudhury.

- versus -

1. The Union of India,
Ministry of Communication,
Department of Telecom, New Delhi,
Represented by the Secretary,
Telecom Commission, New Delhi.
2. The Chief General Manager,
Assam Telecom Circle,
Ulubari, Guwahati.
3. The Telecom District Manager,
Nagaon Telecom District,
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.)
Nagaon Sub-Division,
Nagaon, Assam.
5. The Divisional Engineer (P&A),
Telecom District,
Nagaon.

.....Respondents

By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.

.....

O R D E R (ORAL)

BATTA. J. (V.C.)

The applicant impugns the order dated 15.2.2002 by which the claim of the applicant to grant temporary status was rejected. Mr M. Chanda, learned counsel for the applicant as also Mr A.K. Chaudhuri, learned Addl. C.G.S.C. appearing on behalf of the respondents, have stated that the matter under consideration is covered by judgment dated 3.6.2003 of this Tribunal in Prabir Kumar Banerjee and

R -

others Vs. Union of India and others (O.A.No.105 of 2002). It is further stated that the fact situation in the said O.A.105/2002 and the application under consideration is identical and in fact my attention has been drawn to page 31 of the application under consideration. It is also represented that three of the casual labourers similarly situated had filed O.A.105/2002, but the applicant at that time had not joined them and had filed a separate application which is under consideration.. It is also submitted before me that in respect of the applicant in Prabir Kumar Banerjee and others Vs. Union of India and others (Supra) the directions of this Tribunal have already been complied with and the orders in respect of them have been placed on record. In view of the submissions that the matter under consideration is fully covered by judgment dated 3.6.2003 in Prabir Kumar Banerjee and others Vs. Union of India and others (Supra) the present application can be disposed of in similar terms.

2. In view of the above, the order dated 15.2.2002 passed by the respondents is set aside and the respondents are directed to take necessary steps for conferment of temporary status to the applicant in the light of the decision rendered in O.A.No.140 of 2000 keeping in mind the findings and observations made in O.A.105 of 2002. The respondents are directed to complete the exercise with utmost expediency preferably within three months from the date of receipt of the order.

The application is allowed to the extent indicated with no order as to costs.

(R. K. BATTA)
VICE-CHAIRMAN

8
শাস্ত্ৰীয় জ্ঞানান্বিক বিধিবিহীন
Central Administrative Tribunal
29/SEP/2003
গুৱাহাটী বিধায়ীকৰ্ত্তা
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O. A. NO. 223 / 2003

Sri Rajen Rajkhowa

- Versus -

... Applicant

Union of India & Others

... Respondents

Lists of dates and synopsis of the case

Date

Synopsis of particulars in the application

- 01.10.1993- Applicant was engaged as Casual Worker (A/C Operator).
- 14.07.1997- SDE (Phones), Nagaon issued a letter to the applicant wherein it was stated that the applicant had been engaged on daily basis as casual worker.
(Annexure-1 Series)
- 31.08.1998- Applicant had been continuously working under Sub Divisional Engineer on daily wages basis on terms and conditions as casual worker without any break till 31.08.1998.
- September, 1998- Applicant was forced to work on contract basis as A/C Operator at the instance of SDE (Phones), Nagaon.
- 01.01.1998- TDM, Nagaon vide his letter bearing No.A-12/Ty.Adv/SDE(C) NCG/97-98/82 sanctioned wages for four A/C Operators including the present applicant to a lump sum amount of Rs 6,600/- for the month of December, 1997.
(Annexure-2 Series)
- 14.08.1998- TDM, Nagaon again sanctioned consolidated amount of Rs 6,000/- for payment of wages for the month of July, 1998. (Annexure-2 Series)

- 08.09.1998- TDM, Nagaon sanctioned fund for the payment of wages to the applicant. (Annexure-2 Series)
- 16.12.1996- Telecom District Engineer, Nagaon Telecom District issued a letter wherein it was specifically stated that the rate of wages to be paid to the daily labourers should be more than Rs 51/- per day. (Annexure-8)
- 14.08.1998- Divisional Manager (P&A) sanctioned the wages of the present applicant for the months of July and August 1998 vide letter bearing no. A-12/Ty.Advance/SDE (Cons): NGG/98-99/21 dated 14.08.1998.
- 05.06.1998 - TDE (Construction), Nagaon vides his letter bearing No. E-24/5 addressed to the Divisional Engineer (P&A) of TDM, Nagaon stated that job of A/C plant operations are of regular nature. (Annexure-2 Series)
- 27.08.1998- Deputy General Manager (Admn), Telecom Guwahati sought information regarding the number of casual labourers working who were not confirmed temporary status. (Annexure-10)
- 31.08.1998- SDE, Nagaon vide his letter NoE-167/Part time casual mazdoor/5 categorically stated that the nature of job entrusted to the applicant is of regular nature and he has been engaged since July 1993 onwards.
- 31.08.1999- Original Application No.112/98 filed by the present applicant along with the others for the grant of temporary status was decided by this Hon'ble Tribunal with a direction to the respondents to examine the case of each applicant for the grant of temporary status. (Annexure-3)

22.09.1998- Divisional Engineer (P&A) Telecom District, Nagaon entered into a contract with M/S Sudarsan Cooling Firm w.e.f 01.08.1998.

(Annexure-7)

11.11.1999- Telecom District Manager, Nagaon, directed all the SDEs for sending detail reports and particulars of the casual mazdoor including the present applicant.

27.10.1999- Deputy General Manager (Admn.), Assam Circle vides their letter bearing No.STES-21/207/4 informed the TDM, Nagaon to submit report of Casual Mazdoors/Labourers together with notes for complete information on or before 30.11.1999.

27.07.2001- Similarly situated other three casual workers being disappointed due to inaction, laches on the part of the respondents regarding grant of Temporary Status again approached this Hon'ble Tribunal through O.A.No.140/2000 praying inter alia grant of Temporary Status. This Hon'ble Tribunal in its Judgment dated 27.07.2001 directed the respondents to consider the case of the applicant for grant of Temporary Status within three months from the receipt of the order. (Annexure-5)

15.02.2002- Divisional Engineer (P&A), Telecom District, Nagaon rejected the claim of the applicant as well as the claim of the applicant. (Annexure-6&6A)

03.06.2003- Applicants of O.A.No. 140/2000 being highly aggrieved by similar order dated 15.02.2002 approached this Hon'ble Tribunal through O.A.No. 105/2002. This Hon'ble Tribunal by Judgment and Order dated 03.06.2003 set aside the impugned orders dated 15.02.2002 and directed the respondents to take necessary steps for conferment of temporary status to the applicants in the light of the decision in O.A.No.140/2000.

RELIEF (S) SOUGHT FOR

The applicant humbly prays that Your Lordships be pleased to grant the following relief(s):

- 8.1 That the impugned order issued under letter Nos. no. E-182/CAT/Pt-II/74 dated 15.2.2002, (Annexure-6A) be set aside and quashed.
- 8.2 That the Hon'ble Tribunal be pleased to direct the Respondents to grant temporary status to the applicant in the light of the direction contained in the judgment and order dated 27.7.2001 passed in O.A. No.140/2000. and in terms of the Judgment dated 03.06.2003 passed in O.A.No.105/2002 also be pleased the direct the respondents to regularise the service of the applicant.
- 8.3 Cost of the application.
- 8.4 Any other relief or reliefs to which the applicant is entitled to, under the facts and circumstances of the case as may be deemed fit and proper by the Hon'ble Tribunal.

Filed by the applicant
Enkhang Subrata Nath
Advocate
26.07.03

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

(An Application under Section 19 of the Administrative
Tribunals Act, 1985)

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

Sri Rajen Rajkhowa. : ...Applicant

-versus-

Union of India & Others: ... Respondents.

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Filed by

Date : 26.07.03

Subrata Nath,
Advocate

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

(An Application under Section 19 of the Administrative
Tribunals Act, 1985)

O.A. No. /2003

BETWEEN :

1. Shri Rajen Rajkhowa,
S/o Deben Rajkhowa,
Vill-Gendhali,
P.O-Sonaguri
Casual Worker,
New Telephone Exchange,
Nagaon, Assam.

-AND -

.....Applicant

1. The Union of India,
Ministry of Communication,
Dept. Of Telecom, New Delhi,
(represented by the Secretary,
Telecom Commission, New Delhi).

2. The Chief General Manager,
Assam Telecom Circle,
Ulibari, Guwahati.

See Rajen Rajkhowa.

3. The Telecom District Manager,
Nagaon Telecom district,
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.)
Nagaon Sub-Division,
Nagaon, Assam.
5. Divisional Engineer (P & A)
Telecom District, Nagaon.

..... Respondents

DETAILS OF THE APPLICATION

1. Particulars of orders against which this application is made.

This application is made against the impugned orders issued under letter dated 15.2.2002 (Annexure-6A) whereby the claim of the applicant for grant of temporary status have been rejected in total violation of the direction laid down by this Hon'ble Tribunal in the judgment and order dated 27.07.2001 and 03.06.2003 passed in O.A. 140/2000 and 105/2002 respectively and also praying for a direction upon the respondents to grant the applicant temporary status in the light of the direction contained in the judgment and order dated 27.07.2001 and 03.06.2003 passed in O.A.No.140/2000 and

Sri Rajen Raychowdhury

O.A No.105/2002 respectively with all consequential service benefits.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of his application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant states that a separate application with the Original Application for condonation of delay has been filed before the Hon'ble Tribunal.

4. Facts of the Case

4.1 That the applicant is citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant beg to state that he has been engaged as Casual Worker (A/C Operator) under SDE (Phones), Nagaon New Telephone Exchange, Nagaon on daily wages basis since October, 1993 w.e.f. the date as shown below :-

<u>Sl. No.</u>	<u>Name</u>	<u>Date of engagement</u>
as		<u>Casual labourer.</u>

01.	Sri Rajen Rajkhowa	01.10.1993
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It is stated that although the applicant was engaged as Casual Worker but as a matter of fact, he has been entrusted with the job of Air Conditioner

Sri Rajen Rajkhowa.

Operator and the payment of daily wages was regulated in terms of the rates prescribed for the Casual Workers although the nature of job entrusted to him was superior to that entrusted to other Casual Workers which would be evident from the letter bearing No. E/53/75 dated 14.7.1997 and also from the certificates issued by the SDE (Phones), Nagaon as well as JTO, Nagaon, Telephone Exchange wherein the number of days of the applicant since 1993 has been shown. It is also evident from the above certificates that the applicant has worked on daily wages basis and his payments has been made under the ACG-17 system. It is also categorically certified by the SDE that he has been engaged on daily wages basis as casual worker in the letter dated 14.7.1997 through which the case of the the applicant has been forwarded by the SDE, Nagaon stating inter alia that he has been engaged to perform work on contract basis. However the applicant has been recommended for grant of temporary status.

Copy of the letter dated 14.7.1997 issued by the SDE (Cons.) Nagaon, as well as the certificates issued by the SDE (C) and JTO, Nagaon Telephone Exchange are annexed hereto and the same are marked as **Annexure-1 series.**

4.3 That your applicant beg to state that he had been continuously working under Sub divisional Engineer on daily basis on same terms and conditions as casual workers without any break till 31.8.1998. However,

See Rajen Raykhola.

in the month of September, 1998 he has been forced to work on contract basis as A/C Operator at the instance of the SDE (Cons.), Nagaon as because the present applicant at the relevant time had filed an application before this Hon'ble Tribunal for grant of Temporary Status as well as regularisation which was registered as O.A. No. 112/98. It is unfortunate that the respondents have resorted to such illegal action which forced the applicant to work on contract basis as because he approached the Hon'ble Tribunal, Guwahati Bench for his job security by way of filing O.A. No. 112/98 under Section 19 of the Administrative Tribunals Act, 1985 praying for a direction for grant of temporary status and regularisation. It is also relevant to mention here that although no specific terms and conditions is laid down for such contract but the respondents termed him as contract worker in order to avoid future litigation as well as to deny his valuable rights for regularisation and for grant of temporary status.

The applicant finding no other alternative started discharging the same job on contract basis as the respondents have termed him as contract worker in the same establishment of Nagaon Telephone Exchange.

- 4.4 That your applicant also begs to state that the TDM, Nagaon vide his letter bearing No. A-12/Ty.Adv/SDE(C) NCG/97-98/82 dated 1.1.1998 sanctioned wages for four A/C Operators to a lump sum amount of Rs. 6,600/- for

See Rejesh Rajkhowa.

the month of December, 1997 wherein in the appendix it is categorically stated that the said amount of Rs. 6,600/- is required for payment of daily wages to A/C Operators for the month of December 1997 and also indicated that this amount is meant for fixed allotment of fund. Similarly on 14.8.98 a consolidated amount of Rs. 6,600/- again sanctioned vide TDM letter bearing No. A-12/TY. Adv/SDE (Cons.) NCG/97-98/21 dated 14.8.1998 for wages for the month of July 1998. Again it would be evident that similar sanction of fund is granted by the TDM, Nagaon Telecom District Manager vide his letter dated 8.9.1998 and the appendix therein further establishes the fact that the payment has been made to the present applicant after obtaining his signature in the payment roll.

Therefore it appears from the above sanctioned letter of the TDM that the requirement of A/C Operators of regular nature of work and as such the present applicant who is engaged on casual basis since 1993 is working till date continuously without any break in the said establishment of Telephone Exchange, Nagaon under the Telecom District Manager, has acquired a valuable and legal right for grant of Temporary status as well as for regularisation of his services. However, in order to deny the benefit of grant of temporary status as well as his regularisation forced him to work on contract basis when the applicant has approached the Hon'ble Tribunal through O.A. No. 112/98, although

Sri Rajen Rajakhowa.

payment was made/regulated on daily wages basis but the authority termed his job as contract worker. It is further evident from the letter of SDE (Construction) Nagaon, bearing letter No. E-24/5 dated 5.6.98 addressed to the Divisional Engineer (P &A) Office of the TDM, Nagaon wherein the SDE stated that the job of A/C Plant Operation are of regular nature and requested the Divisional Engineer to provide man power to the section for smooth maintenance and it is also certified in the said letter dated 5.6.98 that no operational contract has been offered to any private parties till date whereas the same SDE in his letter dated 14.7.97 while forwarding the case of the applicant for grant of temporary status in the remark column it is stated that the applicant has been engaged on contract basis whereas in his letter dated 5.6.98 there is a categorical mention that the A/C work has not been offered to any private party. As such it is established beyond all doubts by their own statements/documents that the present applicant is still working on daily payment of daily wages is being made to the applicant and it is also declared by the authority that the work is of regular nature.

Copies of the sanctioned letters dated 1.1.1998, 14.8.1998, 5.6.1998 and 8.9.1998 are annexed hereto and the same are marked as **Annexure-2** series.

Sri Rajen Rajakhowa.

4.5 That your applicant beg to state that the Original Application filed by the present applicant along with the others, before the Hon'ble Tribunal which was registered as O.A. No. 112/98 and the same has been decided by the Hon'ble Tribunal on 31.8.1999 with the following directions. The relevant portion of paragraphs 6,7 and 8 are quoted below :

"6. We have heard Mr. B.K.Sharma, Mr. J.L.Sarkar, Mr. I. Hussain and Mr. B. Malakar, learned counsel appearing on behalf of the applicant and also Mr. A.Deb Roy, learned Sr. C.G.S.C. and Mr. B.C.Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicant disputed the claim of the respondents that the Schemes was retrospective and not prospective and they also submit that it was up to 1989 and then extended up to 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicant the Scheme is also applicable to the present applicant. The learned counsel for the applicant further submits that they have document, to show in this connection. The learned counsel for the applicant also submit that the respondents cannot put any cut off date for implementation of the Scheme, in as much as

Sri Rajen Raykhona

the Apex Court has not given any such cut off date and had issued direction for enforcement of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicant.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicant may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the case shall

Sri Rajiv Raghava

remain in force till the disposal of the representation."

In view of the above judgment the applicants submitted their representations individually stating detail therein as regards their engagement under the respondents and also prayed for grant of temporary status as well as for regularisation vide their representation-dated 12.10.1999. In this connection it is relevant to mention here that the applicant have submitted their representations within the stipulated period of one month from the date of receipt of the said judgment and order. The Telecom District Manager, Nagaon, Assam vide his letter bearing No. E-182/Cons Case/99/00/28 dated 11.11.99 directed to all the concerned SDEs including the SDE (Cons) Nagaon for sending a detail report and particulars of the casual Mazdoor including the present applicant. Subsequently the Deputy General manager (Admn.), office of the Chief General Manager, Telecom, Assam Circle vides their letter bearing No. STES-21/207/4 dated 27.10.99 informed the TDM, Nagaon to submit report of casual mazdoors/labourers containing notes together with the complete information on or before 30.11.1999 positively. Accordingly so far the applicant knowledge goes the TDM, Nagaon sent the report which was in fact submitted by SDE (Cons.), Nagaon, in this said note it is stated by the SDE (Cons), Nagaon that all the A/C Operators are in fact working on contract basis and

Sei Rajen Rajkhowa

denied the fact that they have been engaged on casual basis although the documents enclosed above abundantly makes it clear that they have in fact worked on casual basis since July, 1993. In this connection it is relevant to mention here that SDE, Nagaon as well as the TDM although sent the detail particulars as desired by the office of the Chief General Manager, Guwahati but in fact turned down the applicant's claim by stating that he is working on contract basis. It is stated that in spite of best effort the applicant could not obtain the copy of the letter which was issued by the SDE/TDM as mentioned above therefore Honble Tribunal be pleased to direct the respondents to produce relevant records before the Hon'ble Tribunal for perusal of the Hon'ble Tribunal.

Copy of judgment and order dated 31.8.99 is annexed as Annexure-3.

4.6 That it is stated that similarly situated other three Casual Workers being disappointed due to inaction, laches on the part of the respondents regarding grant of temporary status again approached this Hon'ble Tribunal through Original Application No. 140/2000 praying inter alia for grant of temporary status. The said Original Application was duly contested by the respondents by filing written statement. In the said written statement the present respondents inter alia

Sai Rajen Leijhnowa.

contended that those applicant were allowed on verbal contract basis with effect from 16.7.1993 and said verbal contract came to an end with effect from 31.7.1998 followed by a written contract with M/s Sudarshana Cooling Firm. In paragraph 5 of the said written statement it was also stated that the engagement of those applicant (in O.A.No.140/2000) as contract labourers for a job which were discontinued with effect from July 1998 last and the jobs were offered to Private Firm M/S Sudarshana Cooling Firm. The Hon'ble Tribunal after detail scrutiny of such materials on record and on hearing the counsel for the parties held as follows :

"4. On considerations of the materials on records it is difficult to accept that the applicant were engaged as Contract Labourers and as not Casual Labourers. The document-dated 14.7.1997 clearly indicated that the applicants were allowed to discharge duties as Casual Labourers. In the absence of any other materials it is difficult to accept the contentions of the respondents.

5. We therefore hold that the applicants are also entitled for consideration of absorption in terms of Casual Labourers (Grant of temporary Status and Regularisation) scheme, 1989 of Telecom Department. Needless to state that Casual Labourers recruited after 29.11.1989 and up to 1.9.1993 are also entitled to confer temporary

see Rajeev Rajkhowa.

status in view of the communication to this extent.

6. We have heard Mr. M.Chanda, learned counsel for the applicant and Mr. A.Deb Roy, learned Sr.C.G.S.C. for the respondents. Upon hearing the learned counsel for the parties and upon considering all the materials on records, we have reached the above findings.

7. The respondents are directed to consider the case of the persons who were engaged as Casual Labourers. Accordingly, we direct the respondents to consider the case of the applicant for granting temporary status within three months from the date of receipt of the copy of the order.

With this, the application is allowed.

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

In view of the above categorical finding and direction of the Hon'ble Tribunal there was no scope on the part of the respondents to reject the claim of those applicant for grant of temporary status as because the ground earlier raised by the respondents in their written statement has already rejected by the Hon'ble Tribunal in its judgment and order dated 27.7.2001.

Sri Rajen Rajatwala.

A copy of the written statement filed by respondents in O.A. 140/2000 and the judgment and order dated 27.7.2001 are annexed as Annexure-4 & 5 respectively.

4.7 That most surprisingly the present respondents particularly the respondent no. 5 without application of mind and in total disregard to the direction contained in the judgment and order dated 27.7.2001 in O.A. 140/2000 issued the impugned orders bearing letter nos. E-182/CAT/Pt-II/72 dated 15.2.2002, E-182/CAT/Pt-II/75 dated 15.2.2002, E-182/CAT/Pt-II/73 dated 15.2.2002 rejected the claim of those applicant as well as the claim of the applicant, for grant of temporary status firstly on the alleged ground that the present applicant was not in service as on 1.08.1998, secondly on the ground that his engagement came to an end by way of termination on 10.07.1998 due to a fresh contract that the department entered into with M/s Sudarsana Cooling firm with effect from 1.8.1998 and also on the alleged ground that the applicant was not allotted any fixed duty as per verbal contract and the payments was made at a lump sum rate but not on the prevailing departmental rate that a normal daily rated Mazdoor has been paid. Be it stated that the present applicant is covered by the decision of O.A.No.140/2000 of this Hon'ble Tribunal. The above alleged grounds of rejection of temporary status are after thought of respondent nos. 5 & 6. It is categorically submitted

Sri Rajen Rajtocsu.

that the respondent nos. 5 has rejected the claim of the applicant in total violation of the judgment and order dated 27.7.2001 in O.A. No. 140/2000 without consultation of the records available with the custody of the respondent nos. 5 and 6, the impugned order of rejection dated 15.2.2002 has been passed only for the shake of rejection in total disregard to the judgment referred to above.

It is stated that the grounds are now raised by the respondents quite different from the grounds earlier taken by the present respondents and that too after passing of the judgment and order dated 27.7.2001 by the Hon'ble Tribunal.

It is submitted that the judgment and order dated 27.7.2001 has attained its finality and there is no scope on the part of the respondents to raise any kind of new pleas to avoid the implementation of the judgment and order dated 27.7.2001. The respondents are barred by law of estoppel to raise any such plea as stated above. As such the impugned orders dated 15.2.2002 (Annexure-6A) so far the applicant is concerned are liable to be set aside and quashed.

Copies of the impugned order dated 15.2.2002 are annexed as Annexure- 6 and 6A respectively.

- 4.9 That your applicant beg to state that the contention of the respondents as alleged in the impugned order that

Sai Rayen Raychowdhury

the applicant was not in engagement as on 1.8.1998 and his services was terminated with effect from 10.7.1998 are totally false and misleading and the same is also contrary to their own records. In this connection it may be stated that the present applicant received payment of wages for the months of July and August 1998 as casual workers and the sanction of same was accorded by the Divisional Engineer (P & A) vide letter No. A-12/Ty. Advance/SDE (Cons): NGG/98-99/21 dated 14.8.1998 and vide letter No. A 12/Ty. Advance/SDE (Cons.) NGG/98-99/21 dated 8.9.1998 respectively. Therefore the statement of the respondents made in the impugned order dated 15.2.2002 so far termination of services of the applicant is totally false and deliberate to mislead the Hon'ble Tribunal.

That the contention of the respondent no. 5 regarding a fresh contract entered into with M/S. Sudarsana Cooling Firm with effect from 1.8.1998 is also contrary to their own records which would be evident from the letter bearing no. ML-3000/OP/98-99/83 dated 22.9.1998 wherein the respondent no.5 entered into a contract with M/s Sudarsana Cooling Centre and Electricals, R.K.Road, Nagaon Road, Nagaon, clearly indicated in the preamble of the contract agreement dated 22.9.98 that the contract work is accepted for a period of one year with effect from 1.9.1998 as per the terms and conditions laid down therein. Therefore the contention of the respondents that a fresh contract is

Sri Rajesh Ray Chowdhury

entered into with effect from 1.8.1998 with the aforesaid firm is totally false and misleading and the same has been alleged to avoid the implementation of the judgment and order dated 27.7.2001.

So far allegation of fixed duty hours it is stated that this plea was never raised earlier in the written statement filed by the respondents in O.A. No. 140/2000, as such the respondents are barred by law of estoppel to raise any such plea at this stage, more particularly after the pronouncement of the judgment and order dated 27.7.2001.

However, so far duty hours are concerned for manning and operation of the AC Plant for Telephone Exchange at Nagaon, it would be evident from the terms and condition no.1 of the agreement dated 22.09.1998 that the applicant required to serve round the clock on all days in a week/month/year. The relevant portion of the agreement-dated 22.9.1998 is quoted below:

"TERMS AND CONDITIONS

1. You will be responsible for manning and operation of the package type A/C Plant for Telephone Exchange Building at Nagaon round the clock on all days in a week.
2. The Plant should be operated as per maintenance manual. The relevant log

Shri Rajen Raj Khosla

sheet/log book for the A/C Plant will be maintained by you and same should be submitted every week to the SDE (Construction/Nagaon or any other to whom the SDE (Cons) earmarked for the purpose for checking the record.

3. The operation of A/C Plant cover all recommended routine daily/weekly/monthly/half yearly/annually operation if any as per operation manual.
4. All labour charges for operation are included in the contract.
5. You are also responsible to maintain a room temperature of 20+2C and relative humidity 40 to 60% in all conditions in the Exchange room and shall be confirmed by the SDE (Construction) on the bills claimed by you. For this purpose necessary copies of log entries attested by the SDE (Cons.) Nagaon should be forwarded to the TDM, Nagaon.
6. No rate enhancement of any type will be permissible during the currency of the contract i.e. one year (W.e.f. 1.9.98 to 31.8.1999).

Sri Rajen Raj Chowdhury

7. Period of contract for 12 (twelve) months. This contract is valid for the period of one year from the date 01.09.98 to 31.8.99."

It is quite clear from the above terms and conditions that how the services of the present applicant was utilized by the respondents during the period from 16.7.1993 to 31.8.1998 i.e. the period prior to enter into the contract by the present respondents with M/s Sudarsana Cooling Firm, Nagaon. On the other hand it can be said that the services of the applicant was utilized in the same manner as stipulated in the terms and conditions prior to the agreement dated 22.9.1998 when the applicant was engaged by the respondents on daily wages basis as casual worker.

Moreover, duty chart/duty roster also used to be maintained by the Chief Technical Supervisor, Telephone Exchange, or by the J.T.O. in charge under their strict supervision and the individual applicant required to serve more than eight hours round the clock on all days in a week. As such, contention of the respondents at this belated stage that the applicant does not have any fixed duty hours is contrary to their own records.

Copy of the duty chart/duty roster of the relevant period referred to above when the applicant was serving as casual workers are enclosed for perusal of the Hon'ble Tribunal.

Sri Rajen Rejathousa

With regard to the allegation that the applicant was not paid his wages on the prevailing departmental rate like any other normal daily rated mazdoor, such statement is highly arbitrary, and the same establishes the fact that the respondents adopted unfair labour practice which is contrary to the law and rule laid down by the Government of India from time to time. This very statement goes against the respondents and the same need not be replied to. However it is stated that even otherwise the aforesaid allegation so far departmental rate of daily wages is concerned are totally false and misleading and the same is contrary to their own records. A mere perusal of the letter bearing No. ACE-2/Accts. /96-97/12 dated 16.12.1996 issued by the Telecom District Engineer, Nagaon Telecom District, Nagaon wherein it was specifically stated that the rate of wages to be paid to the daily labourers should not be more than Rs. 51/- (Rupees fifty one) and in the enclosed bill appended therewith for month of January 1997 would make it clear that the applicant along with one Sri Pabitra Mahanta Daily Rated Mazdoor had been paid wages at the rate of Rs. 51/- per day. Therefore the allegation of the respondents that the applicant was not paid at the prevailing departmental rate is a misleading statement.

It appears that the respondents particularly the respondent no.5 made all efforts deliberately just to avoid the implementation of the Hon'ble Tribunal's

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order dated 27.7.2001 for grant of temporary status to the applicant and leveled the false allegations against the applicant to deny the legitimate claim of the applicant for grant of temporary status. As such, the impugned orders dated 15.2.2002 (Annexure-6A) is liable to be set aside and quashed.

Copy of the terms and agreement dated 22.9.1998, letter dated 16.12.1996 including pay bill for the month of January, 1997, duty chart for the month of June, 1996, March, 1998 May, 1998, are annexed as Annexure-7, 8 and 9 respectively.

4.9 That in pursuance of the letter bearing No. Estt. -9/12 dated 27.8.1998 forwarded the case of the present applicant for grant of temporary status by the S.D.E. (Civil), Nagaon with reference to letter No. E-167/Part time/Casual Mazdoor/5 dated 31.8.1998 to the Telecom District Manager, Nagaon, wherein the S.D.E. categorically stated that the nature of job entrusted to the applicant is of regular nature and he has been engaged since July 1993 onwards. It is fairly admitted that applicant is casual mazdoor and working days also indicated since 1993 to June 1998 wherein the number of working days more than 240 days shown in respect of the applicant during the calendar year 1994 to 1997. Therefore, the applicant has acquired a valuable and legal right for grant of temporary status as well regularisation under the respondents.

Sri Rajen Rajchowdhury

It would be further be evident from the letter of S.D.E. (Cons) bearing No. E-24/5/ dated 5.6.1998 wherein it is informed to the TDM, Nagaon that requirement of manpower for regular maintenance work of Nagaon Telephone Exchange and justified the requirement of the staff. In this connection it is also stated that no operational contract has been offered to any private party till date, as such contention of the respondents that the applicant was not in engagement as on 1.8.1998 is contrary to their own records rather wages had been paying to the applicant as regular casual Mazdoor till 31.8.1998. However, after 31.8.1998, the applicant had been forced to work on contract basis through M/s Sudarsana cooling Firm, Nagaon, but the nature of works and duties and responsibilities were remain same. As such applicant is entitled to grant of temporary status and regularisation. Even assuming but not admitting that the applicant was working on contract basis even then he is entitled to grant of temporary status and regularisation.

Copy of the letter dated 27.8.1998, along with the recommendation of the cases of the applicant with detail particulars issued by the S.D.E. (Cons.), Nagaon, is annexed as Annexure-10.

4.10 That your applicant finding no other alternative have been forced to approach the Hon'ble Tribunal due to mala fide exercise of power by the respondent no.5 rejecting the claim for grant of temporary status to

See Rajesh Raykhona

the applicant, leveling deliberate false statement and allegations which are contrary to their own records. Therefore, Hon'ble Tribunal be pleased to direct the respondents for grant of temporary status and regularisation to the applicant by setting aside the impugned orders dated 15.2.2002 (Annexure-6A). Be it stated that the applicant have fulfilled all the requirements for grant of temporary status in terms of the Scheme of casual labourers (Grant of temporary status and regularisation) 1989 of Telecom department.

4.11 That it is stated that the applicants of O.A.No.140 of 2000 being highly aggrieved by the similar order dated 15.02.2002 again approached this Hon'ble Tribunal challenging the validity of the same before this Hon'ble Tribunal through Original Application No.105 of 2002. The said original application was again contested by the respondents Union of India, however the Hon'ble Tribunal by Judgment and Order dated 3.06.2003 passed in O.A.No.105/2002 set aside those impugned orders and further held that the respondent authority cannot change the character of this applicants/casual labourers by saying that they are 'contract labourers' and the Hon'ble Tribunal was pleased to direct the respondents to take necessary steps for conferment of temporary status to the applicants in the light of the decision rendered in O.A.No. 140/2000, keeping in mind the findings and observations made in O.A.No.140/2000. By the aforesaid order of the Hon'ble

Shri Jayen Raychowdhury

Tribunal, respondents were further directed to complete the exercise of conferment of temporary status to the applicants within three months from date of receipt of the order. The present applicant being similarly situated entitled to similar relief.

A copy of the Judgment and order dated 03.06.2003 is enclosed as **Annexure-11** for perusal of the Hon'ble Tribunal.

4.12 That this application is made bona fide and for the cause of justice.

5. **Grounds for relief(s) with legal provisions.**

5.1 For that the impugned orders dated 15.2.2002 (Annexure-6A) have been passed with a deliberate attempt to avoid implementation of the judgment and order dated 27.7.2001 passed in O.A. No. 140/2000.

5.2 For that the allegation/grounds raised in the impugned order dated 15.2.2002 is after thought and the same is false and contrary to their own records, and the respondents are now barred by law of estoppel to raise any such fresh allegations after the pronouncement of the judgment and order dated 27.7.2001 in O.A. 140/2000 in order to avoid the implementation of the same, as because the applicant is similarly circumstanced.

5.3 For that each and every allegation leveled against the applicant in the impugned order dated 15.2.2002 is false, deliberate and contrary to the records, as such

Sri Rajen Raychowdhury

the respondent nos. 5 and 6 are liable for making such deliberate statement before this Hon'ble Tribunal.

- 5.4 For that the applicant has rendered 240 days of service in each calendar year as required under the scheme since 1994 onwards, moreover the applicant has been entrusted with regular nature of works as indicated in the recommendation letter dated 31.8.1998 issued by the S.D.E. (Cons.) and the said fact is also revealed from the letter dated 5.6.1998.
- 5.5 For that the applicant has acquired valuable and legal right for grant of temporary status and regularisation in terms of the relevant scheme issued by the Department of Telecommunication from time to time.
- 5.6 For that it is evident from the records that the applicant have been paid wages all along at the departmental rate and he was very much in service under the respondents as on 1.8.1998 and rendered more than eight hours in a day round the clock in all days of a week/month.
- 5.7 For that the job for which the applicant has been engaged since October, 1993 onwards is of perennial nature as such the respondents are duty bound to grant temporary status under the relevant scheme issued by the Telecom Department from time to time.
- 5.8 For that the documents issued by the respondents from time to time clearly establishes beyond all doubts that

See Rejzen Rejiknow.

the present applicant has been engaged on daily wages basis and the applicant is also serving under the respondents after 31.8.1998, as such he is entitled to grant of temporary status and regularisation.

5.9 For that the grant of temporary status cannot be denied to the applicant on the alleged ground that he has been engaged on contract basis with effect from 1.9.1998.

5.10 For that the respondents utilized the services of the applicant through Sudarsana Cooling Firm with effect from 1.9.1998 with an ulterior motive just to deny the benefit of temporary status and regularisation to the present applicant.

6. Details of remedies exhausted:

The applicant declares that he has availed of all remedies available within his reach, as would be revealed from Paragraphs 4 above and he has no other alternative and other efficacious remedy left, than to file this application.

7. Matters not previously filed or pending with any other court:

The applicant further declares that he had previously filed an Original Application No. 112/98 and the same was decided by the Hon'ble Tribunal in favour of the applicant directing the respondents to

Sri Rajen Rajeshwar

consider the case of the applicant for granting temporary status within 6 months from the date of the decision. But the respondents in total disregard to the subsequent order of the Hon'ble Tribunal dated 27.7.2001 rejected the claim of the applicant. The applicant further declare that no such writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought for:

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs:

- 8.1 That the impugned ^{order} issued under letter Nos. no. E-182/CAT/Pt-II/74 dated 15.2.2002, (Annexure-6A) be set aside and quashed.
- 8.2 That the Hon'ble Tribunal be pleased to direct the Respondents to grant temporary status to the applicant in the light of the direction contained in the judgment

soe: Reijen Reijhers.

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and order dated 27.7.2001 passed in O.A. No. 140/2000.
and in terms of the Judgment dated 03.06.2003 passed in
O.A.No.105/2002 also be pleased the direct the
respondents to regularise the service of the applicant.

8.3 Cost of the application.

8.3 Any other relief or reliefs to which the applicant is entitled to, under the facts and circumstances of the case as may be deemed fit and proper by the Hon'ble Tribunal.

9. Interim order prayed for.

9.1 That the Hon'ble Tribunal, to observe that the
pendency of this application shall not be a bar to
consider the case of the applicant to grant
temporary status.

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This application is filed through Advocate.

11. Particulars of the I.P.O.

i. I.P.O. No. :
ii. Date of Issue :
iii. Issued from : G.P.O., Guwahati.
iv. Payable at : G.P.O., Guwahati.

12. Details of enclosures.

As stated in the Index.

soe, Reijen Reijkhuizen

VERIFICATION

I, Shri Rajen Rajkhowa, S/o Shri Deben Rajkhowa, Vill-Gendhali P.O-Sanaguri, Dist-Nagaon, casual worker (A/C Operator), New Telephone Exchange, Assam, Nagaon, do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 11 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 28th day of September, 2003.

See Rajen Rajkhowa

Case for grant of Temporary Status to the Casual
Maghabs (4.2.2.1) working under SDEG/CAGG.

Sl. No.	Name of Casual Labourer	Father's Name	Educational Qualification	St. dt. engagement	Nature of working	St. dt. of engagement	Official/Other service	Particulars of service	Total no. of days work (Year wise)					
									1993	1994	1995	1996	1997	Up to July '95
1.	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)						
1.	Sri. Prabir K. Benerjee	Avil K. Benerjee	B.A.	16-7-93	Regular nature.	1986- 1992 291/86.	IT.O/I/D 8 E.E.120 A.E.(Ph)/KGG		169	365	365	366	365	181
2.	Shambhu Chakraborty	Manmath K. Chakraborty	Class VIII	16-7-93	Regular nature.	1995. E.E.120. 1421/95.	— Do —		169	365	365	366	365	181.
3.	S. Rajen Rajkhowa	Deben Rajkhowa	H.S.L.C	1-10-93	Regular nature.	1986. E.E.120. 108/86.	— do —		92	365	365	366	233	181.
4.	Sibu Sankar Kundu	Late Sankar Chakraborty	H.S.S.L.C	1-9-93	Regular nature.	1992. E.E.120. 1085/92.	— do —		122	365	365	366	365	181.

Remarks

The above Casual Maghabs were engaged for operating Fridge type A/C Plant at IIT-2048 exchange/origin as per verbal approval of the then AMT/DR and TDE/KGG due to abolition of operational contract of A/C Plant with 'Blue Star' Company to minimise the expenditure (Operational) from Rs. 192,000/- to Rs. 32,000/-.

The engagement was purely on contract basis with monthly fixed expenditure and discontinued the same w.e.f. July '95.

Sl. E-63/35. dt'd 14-7-95. Forwarded to the TOM/AGG for favour of information and u/a. with ref. to E-162/Part-time/annual Maghabs/s. dt'd 31-8-98.

*Abul
Part.
Advocate
26.09.03*

Certified that Sri Rajen Rajkhewa son of Sri Deben Rajkhewa, is working in ILT-2048 Exchange as A/C Operator on daily wage basis by ACG-17 since 1993 as per details below :

Sl.no	Year	Month	Working days
(1)	1993	October	31
(2)	"	November	30
(3)	"	December	31
Total :			92 days
(4)	1994	January	31
(5)	"	February	28
(6)	"	March	31
(7)	"	April	30
(8)	"	May	31
(9)	"	June	30
(10)	"	July	31
(11)	"	August	31
(12)	"	September	30
(13)	"	October	31
(14)	"	November	30
(15)	"	December	31
Total :			365 days
(16)	1995	January	31
(17)	"	February	28
(18)	"	March	31
(19)	"	April	30
(20)	"	May	31
(21)	"	June	30
(22)	"	July	31
(23)	"	August	31
(24)	"	September	30
(25)	"	October	31
(26)	"	November	30
(27)	"	December	31
Total :			365 days
(28)	1996	January	31
(29)	"	February	29
Total :			60 days

Attested
S. D. B. (Phones)
26/9/03

S. D. B. (Phones)
Nagpur 197001

J. T. B. I/D
ILT-2048 Exch
Nagpur.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT ENGINEER
NAGAON-782001.

No. A-12/Ty. Adv./SDE(Cons.):NGG/97-98/52

Dated at Nagaon the 01-01-98.

Sanction of the Telecom District Engineer, Nagaon is hereby accorded for payment of Rs. 16,854.00 (Rupees Sixteen Thousand Eight Hundred Fiftyfour)only to Sri J.N.Saikia, S.D.E.(Cons.), Nagaon as Temporary advance under Rule 123 of FHB Vol.III Part-I for the month of January,98 for making disbursement of known amount as detailed below :-

1) Fixed Maintenance	.....	.....	: 8,500.00
2) Wages of A/C Operators for December,97...	.....	.....	: 6,600.00
3) Wages of One DRM for December,97	.....	.....	: 969.00
4) Wages of One P/T Worker for December,97	.....	.....	: 785.00

Total Rs. 16,854.00

(Rupees Sixteen Thousand Eighthundred Fiftyfour)only.

R.S.
Telecom District Engineer
Nagaon Telecom District
Nagaon-782001.

Copy to :-

- 1) The Divisional Cashier, O/o the T.D.Engineer, Nagaon for necessary action.
- 2) Sri J.N.Saikia, SDE(Cons.)/Nagaon. Since the advance is given for specific disbursement of known amounts the account should be submitted immediately after the disbursements are over so as to enable this office to adjust the account within a month as specified in Rule 127 of FHB Vol.III Part-I.
- 3) Office copy.

D.S.
Telecom District Engineer
Nagaon Telecom District
Nagaon-782001.

-00000-

D.S.
Dated 27/1/98

*Affected
Part
Advocate
26.09.03*

Payment of Daily wages to TSM, A/c operators.

DRM (Comp. ground) for the m/o Jan'97 SDE(P)/NGO Section.

Amount X me -2 sum

SL No.	Name and Designation.	No. of days working	Rate	Payable amount	Nature of work performed	Signature of Peoee
1.	Sri. Kushal Baikia. (TSM)	31	Rs. 79.85	Rs. 2475/-	Office peons of SDE(P) Inves. Office.	Kushal Baikia.
2.	" Unmesh Das. (TSM)	31	Rs. 79.85	Rs. 2475/-	Painter onced work of HT-2048, 14 KG DOT and TAX 29e.	Unmesh Das.
3.	" Hemakanta Mahanta. (CTSM)	31	Rs. 79.85	Rs. 2475/-	Undergoing P/M training	Hemakanta Mahanta
4.	" Prabir Ko. Bezbaruah. (A/c OPR)	31	On contract basis	Rs. 1650/-	Operating A/c plant.	Prabir Ko. Bezbaruah
5.	" Shambu Chakraborty (A/c OPR)	31	20 -	Rs. 1650/-	- 20 -	Shambu Chakraborty
6.	" Siba Shankar Kundu. (A/c OPR)	31	- 20 -	Rs. 1650/-	- 20 -	Siba Shankar Kundu
7.	" Rajen Rajkhowa. (A/c OPR)	31	- 20 -	Rs. 1650/-	- 20 -	Rajen Rajkhowa
8.	" Pabitra Mahanta. (DRM)	19	Rs. 51/-	Rs. 969/-	Clerical duty in the office of the SDE(P)/NGO office.	Sri Pabitra

Rs. 14,994/-

(Rupees fourteen thousand two hundred ninety four) only.

After
Deduction
Amount
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Annexure 5

-29-

Payment of Daily wages to the A/C Operators
8 DRM (Comp. ground) 08/00 DEC'92 under SDEC(1)NGO.

SL. No.	NAME/DESIGN.	No. of days working	No. of days absent.	Nature of work performed.	Rate	Payable amount	Sign of Payee
1.							
2.	Prabir K. Banerjee. (A/C OPS)	31 days		Operating A/c plant	Rs. 1200/-	Rs. 1200/-	Prabir K. Banerjee
3.	Shambhu Chakrabarty. (A/C OPS)			— do —	Rs. 1200/-	Rs. 1200/-	Shambhu Chakrabarty
4.	Sibu Sankar Kundu. (A/C OPS)	31 days		— do —	Rs. 1600/-	Rs. 1600/-	Sibu Sankar Kundu
5.	Rajen Rajkumar. (A/C GPR)	31 days		— do —	Rs. 1600/-	Rs. 1600/-	Rajen Rajkumar
6.	Tabizaa K. Maharia. (DRM)	19 days		Subscribers testing duty	Rs. 51/-	Rs. 969/-	Tabizaa K. Maharia
						Rs. 2569/-	
							Rupees Seven Thousand five hundred and six only.

Witnessed

Atul De
For Advocate
S. Adhikari
g. b. 19/03

SL No.	Item	SL/ Account	Fund Position	Amount Rs.	Remark
1.	Meat Fund for AAP (Fixed amount fund)	C-5(2)(3)(1)/505- C-1(2)(4)/52-58 C-2(2)(6)/52-58 C-2(2)/wages/58		Rs. 8500/-	Rs. 8500/- For Jan' 25.
2.	Payment of daily wages to A/C Creditors of IAT-2648 for Dec' 24. (Fixed amount of fund)	C-2(2)/wages	Rs. 6600/-	Rs. 6600/-	For Dec' 24.
3.	Payment of daily wages to DRW (comp. ground) engaged as SDE(E) at trial Testing for 12 days per week (Reflux).	C-2(2)/wages	Rs. 969/-	Rs. 969/-	For Dec' 24.
4.	Payment of daily wages to P/T Workers of IAT-2648 274-506 K.S. 2000/- (Ex. 3 hrs. work) Daily for Dec' 24. (Re. 845X3X31)	C-2(2)/wages	Rs. 285/-	Rs. 285/-	For Dec' 24.
5.	Purchase of Diesel for S/A (Fixed fund)	C-5(2)(3)1	Rs. 10,000/-	Rs. 10,000/-	Fixed monthly fund for Jan' 25.
6.	A.M.P. installation, according to 150 KVA and C-DCT X 5 to S.K.M.B.M. 24/12/24.	5310.EC12 196-92	Rs. 10,000/-	Rs. 10,000/-	Work is in progress and in final stage.
	Ac. 52/52-11/3. dated 1-1-25. For payment of 5/10th of the amount for 1/12 EL.			Rs. 36,854/-	(CR 36,854/- Rs. 36,854/- 1/12 of 180,000/- (Rupees one lakh eightty thousand only))

AM
A.M.P.
D.P.M.
2/9/25

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON TELECOM DISTRICT
NAGAON-782001

No. A-12/Ty. Adv./SDE(Cons.); NGG/98.99/21

Dated at Nagaon the 14-08-98.

Sanction of the Telecom District Manager, Nagaon is hereby conveyed for payment of Rs.13,386.00 (Rupees Thirteen Thousand Threehundred Eightysix)only to Sri J.N.Saikia, S.D.E.(Cons.), Nagaon as Temporary advance under Rule 123 of FHD Vol.III Part-I for the month of August,98 for making disbursement of known amount as detailed below :-

- | | | |
|---|-------|----------|
| 1) Fixed Maintenance | ..... | 6,000.00 |
| 2) Operational charges of A/C Plant of I.L.T-2048
Nagaon | | 6,600.00 |
| 3) Wage of One P/T Sweeper for the m/o July,98 | ..... | 786.00 |

Total Rs.13,386.00

(Rupees Thirteen Thousand Threehundred Eightysix)only.

Sd/
Divisional Engineer (P&A)
O/O Telecom District Manager
Nagaon-782001.

Copy to :-

- 1) The Divisional Cashier, O/o the T.D.Engineer, Nagaon for necessary action.
 2) Sri J.N.Saikia, SDE(Cons.)/Nagaon. Since the advance is given for specific
 disbursement of known amounts the account should be submitted immediately after
 the disbursements are over so as to enable this office to adjust the account within a
 month as specified in Rule 127 of FHD Vol.III Part-I.
 3) Office copy.

Sd/
Divisional Engineer (P&A)
O/O Telecom District Manager
Nagaon-782001.

-00000-

*Affected
Gautam
Advocate
26/9/98*

दूर संचार विभाग

DEPARTMENT OF TELECOMMUNICATIONS

u9

प्रेषण
From # S.D.E. (Construction) / Nagaoa.उत्तर केरी राग्य पूर्ण
निम्न संदर्भ में
In reply
Please quoteक्रीड़ा गई^{प्रिय}
To The D.E. (P&A) ^{प्रिय}
भवनों/TDM / Nagaoa SUBJECT

Dated at Nagaoa on the 5/6/98

प्रिय संदर्भ
No. E-24/5-Sub:- Requirement of Manpower for
regular m/c. work of ILT-
2048 and MBM? xge, Nagaoa.Ref:- Your NO:- A-1/Accounts/98-99/15
dd. 29-5-98.

Kindly refer to your above letter.
In this connection it is requested kindly to provide
Manpower to the Sec. of the U/s for smooth m/c.
and performance of the Sec. as mentioned
below:-

<u>S/NO</u>	<u>NO. of Manpower</u>	<u>Nature of job</u>	<u>Remark.</u>
(1)	1	Battery Man - for 2500 Amp./Hr. Battery - 2 sets.	
(2)	1	Cleaner - Both for ILT & C-dot	
(3)	1	P/T Sweeper - for xge & office.	
(4)	1	Waterman - for, xge, office & prsp	
(5)	1	Chowkidar	operation.
(6)	1	Electrical m/c - " office & xge	
(7)	2	Sub. Line Testing - " Both the xges	
(8)	2	Internal m/c - " helping JTOs.	
(9)	4	A/C Plant operation both for PKG. & Window type of building xges.	

Total 14 (fourteen).

(No operational contact has
been offered to any private party
till date)

समाप्त दिन/मिति-23 तेलम/98-(CTS-73/CA/1/98/23/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/2210/2211/2212/2213/2214/2215/2216/2217/2218/2219/2220/2221/2222/2223/2224/2225/2226/2227/2228/2229/22210/22211/22212/22213/22214/22215/22216/22217/22218/22219/22220/22221/22222/22223/22224/22225/22226/22227/22228/22229/222210/222211/222212/222213/222214/222215/222216/222217/222218/222219/222220/222221/222222/222223/222224/222225/222226/222227/222228/222229/2222210/2222211/2222212/2222213/2222214/2222215/2222216/2222217/2222218/2222219/2222220/2222221/2222222/2222223/2222224/2222225/2222226/2222227/2222228/2222229/22222210/22222211/22222212/22222213/22222214/22222215/22222216/22222217/22222218/22222219/22222220/22222221/22222222/22222223/22222224/22222225/22222226/22222227/22222228/22222229/222222210/222222211/222222212/222222213/222222214/222222215/222222216/222222217/222222218/222222219/222222220/222222221/222222222/222222223/222222224/222222225/222222226/222222227/222222228/222222229/2222222210/2222222211/2222222212/2222222213/2222222214/2222222215/2222222216/2222222217/2222222218/2222222219/2222222220/2222222221/2222222222/2222222223/2222222224/2222222225/2222222226/2222222227/2222222228/2222222229/22222222210/22222222211/22222222212/22222222213/22222222214/22222222215/22222222216/22222222217/22222222218/22222222219/22222222220/22222222221/22222222222/22222222223/22222222224/22222222225/22222222226/22222222227/22222222228/22222222229/222222222210/222222222211/222222222212/222222222213/222222222214/222222222215/222222222216/222222222217/222222222218/222222222219/222222222220/22222222221/222222222222/222222222223/222222222224/222222222225/222222222226/222222222227/222222222228/222222222229/2222222222210/2222222222211/2222222222212/2222222222213/2222222222214/2222222222215/2222222222216/2222222222217/2222222222218/2222222222219/2222222222220/222222222221/2222222222222/2222222222223/2222222222224/2222222222225/2222222222226/2222222222227/2222222222228/2222222222229/22222222222210/22222222222211/22222222222212/22222222222213/22222222222214/22222222222215/22222222222216/22222222222217/22222222222218/22222222222219/22222222222220/2222222222221/22222222222222/22222222222223/22222222222224/22222222222225/22222222222226/22222222222227/22222222222228/22222222222229/222222222222210/222222222222211/222222222222212/222222222222213/222222222222214/222222222222215/222222222222216/222222222222217/222222222222218/222222222222219/222222222222220/22222222222221/222222222222222/222222222222223/222222222222224/222222222222225/222222222222226/222222222222227/222222222222228/222222222222229/2222222222222210/2222222222222211/2222222222222212/2222222222222213/2222222222222214/2222222222222215/2222222222222216/2222222222222217/2222222222222218/2222222222222219/2222222222222220/222222222222221/2222222222222222/2222222222222223/2222222222222224/2222222222222225/2222222222222226/2222222222222227/2222222222222228/2222222222222229/22222222222222210/22222222222222211/22222222222222212/22222222222222213/22222222222222214/22222222222222215/22222222222222216/22222222222222217/22222222222222218/22222222222222219/22222222222222220/2222222222222221/22222222222222222/22222222222222223/22222222222222224/22222222222222225/22222222222222226/22222222222222227/22222222222222228/22222222222222229/222222222222222210/222222222222222211/222222222222222212/222222222222222213/222222222222222214/222222222222222215/222222222222222216/222222222222222217/222222222222222218/222222222222222219/222222222222222220/22222222222222221/222222222222222222/222222222222222223/222222222222222224/222222222222222225/222222222222222226/222222222222222227/222222222222222228/222222222222222229/2222222222222222210/2222222222222222211/2222222222222222212/2222222222222222213/2222222222222222214/2222222222222222215/2222222222222222216/2222222222222222217/2222222222222222218/2222222222222222219/2222222222222222220/222222222222222221/2222222222222222222/2222222222222222223/2222222222222222224/2222222222222222225/2222222222222222226/2222222222222222227/2222222222222222228/2222222222222222229/22222222222222222210/22222222222222222211/22222222222222222212/22222222222222222213/22222222222222222214/22222222222222222215/22222222222222222216/22222222222222222217/22222222222222222218/22222222222222222219/22222222222222222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DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON TELECOM DISTRICT
NAGAON 782001.

No. A.11.1.4. Adv. NEDCC/09/98/MC/6.98.99.25

Dated at Nagaon the 08.09.98

Name of the Telecom District Manager, Nagaon is hereby accorded for payment of Rs. 14,386.00 (Rupees Fourteen Thousand Threehundred Eightsix)only to Sri J.N.Saikia, SDE(Cons.), Nagaon as Temporary advance under Rule 123 of FHB Vol.III Part-I for the month of September,98 for making disbursement of known amount as detailed below:-

- 1) Fixed Maintenance : 6,000.00
- 2) Payment of A/C Operation charge for 8/98 : 7,600.00
- 3) Wages of P/T Sweeper for August,98 : 786.00

Total Rs.14,386.00

(Rupees Fourteen Thousand Threehundred Eightsix)only.

Telecom District Manager
Nagaon Telecom District
Nagaon 782001.

Copy to:-

- 1) The Divisional Cashier, O/o the T.D.Engineer, Nagaon for necessary action.
- 2) Sri J.N.Saikia, SDE(Cons.)/Nagaon. Since the advance is given for specific disbursement of known amount the account should be submitted immediately after the disbursements are over so as to enable this office to adjust the account within a month as specified in Rule 127 of FHB Vol.III Part-I.
- 3) Office copy.

S. D. 200000/-
Telecom District Manager
Nagaon 782001.

200000/-

Attchd
Bank
Advocate
26/9/98

-40- -82-

Requisition for allotment of fund for use incr.

06 Aug '98 under SDE(C)/N22. (Fixed for Mees and wages).

Annexure - 2 Scis.

Sl.	Head of account/Estimate	Fund Provision	Allotment of Fund required.	Remarks
1.	Mees - fixed (Fixed)	C-5 (2)(2)(a) 7 C-1 (2)(4) C-2 (2)(6) C-2(2) (wages)	Rs. 3500/-	(a) Recovery of T.D.O. (b) For purchasing cushion carpet for Mess (for large kri-kriang + Rs. 500. (c) For purchasing A.R.P. spares of Meece spares for power plant and battery. (d) Payment of bill for Mees repairing of A/C plant. (e) Payment of P/T wages to water-mani and other labour (f) Emergency purchase of stationery as no supplies by the Divisional Office. (g) Therefore in B. Misc. expenditure
2.	Operational charges of Ptg type H.R. plant of IIT-2040/1000. (Fixed mcc-744 Fund) (ON CONTRACT BASIS)	C-2(2) (wages)	Rs. 6600/-	For July '98
3.	Payment of daily wages to P/T sweeper of IIT-S.N.I.B.M. X96 and S.D.E. (C) Office. (1x845/- x 3 x 31)	C-2(2) (wages)	Rs. 786/-	For July '98

Rs. 15386/-
(Rupees Fifteen thousand eight hundred
and eighty six only).

No. A-1/P2-IIT/SF-98/23. dtd 5/8/98

Forwarded to the T.D.M./Organs for forward

to your kind disposal and re P2.

Attn: Atta
Sarkar
P.M.O.
g/8/98

S. D. in Comptroller
Division, 18/2/98

-38-

-38-

Annexation
2 (Series)

② Roabir — 700.00 + 250.00
② Chakriborh — 700.00 + 250.00
③ Kundi — 600.00 + 250.00
④ Rajkhan — 600.00 + 250.00

600.00 + 1,000.00

7 600/-

14/10/88

Attest for
Asst. Finance
26/9/12

43
- 37 -
94
Terms and condition for Temporary

on CONTRACT basis for

1. This contract is for _____ of _____
Duration as per requirement.

2. The duty hours for _____ Departmental Building will be decided as per
requirement.

3. The monthly rate of contract shall be Rs. _____ (Rupees _____)
only. In case of absent deduction shall be made proportionately.

4. This contract is for the month of _____ and can be terminated at any time during the
month without assigning any reason.

✓ I _____ do hereby agree to the above terms and conditions and I
hereby offer to undertake the work as mentioned above on a fixed monthly contract.

✓ Signature _____

Signed in presence of Shri _____

Total amount to be paid:-

1. Monthly contract. ... :-Rs.
Total :-Rs.

Received from _____

the sum of rupees on account of _____

✓ Signature of payee.



Certified that :-

1. The Departmental Labour was not available against _____
2. The engagement of _____ is absolutely minimum and essential.
3. The work entrusted has been done satisfactorily.
4. Necessary enquiries have been made and the work has been entrusted to the least offer.

*Abdul H. W.
Barb.
Advocate
gfa for*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

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

The Hon'ble Mr G.L. Sangliyine, Administrative Member

1. O.A.No.107/1998

Shri Subal Nath and 27 others

.....Applicants

By Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

The Union of India and others

.....Respondents

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

....

2. O.A.No.112/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and others

.....Respondents

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

....

3. O.A.No.114/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and others

.....Respondents

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

....

4. O.A.No.118/1998

Shri Bhuban Kalita and 4 others

.....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

-versus-

The Union of India and others

.....Respondents

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

....

Attest
Sark.
Sarkar
28/9/03



5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 othersApplicant
 By Advocates Mr J.L. Sarker, Mr M. Chanda
 and Ms N.D. Goswami.

-versus-

The Union of India and othersRespondents
 By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

6. O.A.No.131/1998

All India Telecom Employees Union and
 anotherApplicants
 By Advocates Mr B.K. Sharma, Mr S. Sarma
 and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
 By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

7. O.A.No.135/98

All India Telecom Employees Union,
 Line Staff and Group 'D' and
 6 othersApplicants
 By Advocates Mr B.K. Sharma, Mr S. Sarma
 and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
 By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

8. O.A.No.136/1998

All India Telecom Employees Union,
 Line Staff and Group 'D' and
 6 othersApplicants
 By Advocates Mr B.K. Sharma, Mr S. Sarma
 and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
 By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

9. O.A.No.141/1998

All India Telecom Employees Union,
 Line Staff and Group 'D' and anotherApplicants
 By Advocates Mr B.K. Sharma, Mr S. Sarma
 and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
 By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

SL

10. O.A.No.142/1998

All India Telecom Employees Union,
Civil Wing Branch.Applicants

By Advocate Mr B. Malakar

-versus-

The Union of India and othersRespondents

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

....

11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 othersApplicants

By Advocate Mr I. Hussain.

-versus-

The Union of India and othersRespondents

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

....

12. O.A.No.192/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents

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

....

13. O.A.No.223/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants

By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

The Union of India and othersRespondents

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

....

14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Mr D.K. Sharma.

-versus-

The Union of India and othersRespondents

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

....

SK

15. O.A.No.293/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr D.K. Sarma.

-VERBALLY-

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....
ORDER

DARUHAR J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

2. The All India Telecom Employees Union is a recognised union at the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applications were submitted by the said union, namely, the Line Staff and Group 'D' employees and some other applications were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoor under the respondents were likely to be terminated with effect from 1.6.1998. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the

88

Benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This Scheme was communicated by letter No.269-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the Scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended

to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A.No.750/1994. The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A.Nos.302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Sustained thus, the applicants have approached this Tribunal by filing the present O.A.s.

4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.A.s is that the Association had no authority to

X

represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the

Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr B.K.Sharma, Mr J.L. Sarkar, Mr I. Hussain and Mr B. Mallick, learned counsel appearing on behalf of the applicants and also Mr A. Deb Roy, learned Sr. C.G.A.C. and Mr N.C. Pattnaik, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularization to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a

definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE-CHAIRMAN
SD/- MEMBER (A)

Certified to be true Copy

AMITABH GUPTA

Deputy Registrar (D)
National Administrative Tribunal
Guwahati Bench

11/16/55

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH @ GUWAHATI.

O/A NO. 140/2000.

Shri Prabir Kr. Banerjee,

... Applicant.

vs -

Union of India and Others,

... Respondents.

(Written statements filed by the Respondents
No. 1, 3 and 4).

Copy given and
Date _____
p.m.
Expt 1/1/2001

The written statements of the aforesaid
respondents are as follows :-

1. That a copy of the O/A No. 140/2000
(hereinafter referred to as " application ")
has been served on the respondents. The respondents
have gone through the said application and understood
the contents thereof. The interest of all the
respondents have common and similar, common written
statements are filed by all of them.
2. That with regard to the statements made in
paragraph 1 of the application, the answering

Abhijit
Kabi
Advocate
9/9/03

Contd...

respondents beg to state that the applicants are not covered by the definition of "casual labourer" and hence they cannot come within the zone of consideration under the scheme of 1989. In view of the above facts and circumstances, they cannot be considered for confirmation of temporary status or for regularisation under the said scheme and against for such vacancy created for the casual labourer. The respondents, therefore denied the correctness of the said statements made in paragraph 1 of the application.

3. That with regard to the statements made in paragraph 2, 3, 4.1 and 4.2 of the application, the answering respondents have no comments to offer.

4. That with regard to the statements made in paragraph 4.3 of the application, the respondents state that the applicants were engaged for operation of the " Package Type A/C plants " on a mutually agreed monthly consolidated amounts of Rs. 6000/- only for four of them as per verbal terms and conditions of the contract. The said verbal contract came into force w.e.f. 16.7.1993 and came to an end on 31.7.1998 followed by a written contract with M/s Sudarsana Cooling firm after observing all departmental formalities. The applicants got the

lump sum amount of Rs. 6000/- (not total) which was enhanced (to Rs. 6600/-) on humanitarian ground as per their request. Accordingly they approximately received Rs. 1700/- per month at the maximum and they accepted the same without any complaint in comparison to their monthly amount. The monthly rate of casual labourers approved by the Govt. of India at that time was Rs. 2025/- for 30 days and Rs. 2093/- for 31 days whereas the applicants got only Rs. 1700/- out of the total consolidated contracted amount of Rs. 6000/6600 per month. From the above facts, it now clear that the applicants were contract labourers and was not casual labourers for such any intend or purpose. So far as the question of certificate referred to by the applicants, such certificate levelled the effect that they were engaged for operation of the Package Type A/C Plants. Although the standard format of payment in ACG - 17 was used for their payment. They were never paid for daily wage basis rather the payment was made on lump sum monthly contract basis out of the total monthly consolidated contract amount. Therefore, the applicants contention that they were engaged on daily wage basis is not correct and hereby denied.

5. That with regard to the statements made in paragraph 4.4 of the application, the answering

respondents denied the correctness of those statements. Neither the applicant's wages were fixed at the Govt. prescribed rate nor on daily wages basis on the same terms and conditions applicable to other casual mazdoor at any period. Further it is also not correct that the applicants were forced to work on contract basis with w.e.f.

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12/1998

September, 1996. The engagement of the applicants as contract labourers for a job was discontinued w.e.f. July, 1996 last and the job was offered to private firm M/s Sudarshana Cooling Firm after observing the departmental formalities. Since then there is no existence of the applicants in the department. Hence as mentioned in the para the respondents had reacted such illegal action which forced the applicants to work on contract basis because of filling of case at the Hon'ble CAT against the said contract engagement was all verbal and they were informed the nature of duty and fixed amount of monthly payment. Being in contract engagement the applicants accepted Rs. 1500/-, Rs. 1600/- and Rs. 1700/- etc. per month during their period of engagement without any objection while departmental approved casual labourers rate was Rs. 67.50 (increased time to time with increase of Dearness Allowance) amounting to Rs. 2025/- for 30 days and Rs. 2093/- for 31 days or more.

6. That with regard to the statements made in paragraph 4.5 of the application, the answering respondents state that as per prevailing procedure fund required either for maintenance head, Capital head or O/S head are required by the Sub-Divisional Officers were sanctioned by the Telecom District Manager. The fixed amount of fund is. 6600/- per month regularly was sanctioned by the competent authority to meet up the expenditure for the operation of A/C Plant on contract basis as fixed to applicants on verbal negotiation and paid to them through some vouchers.

(1) It is not a hidden fact that the work of Operational A/C equipment is of regular nature. By engaging the applicants on contract basis the whole system of the A/C operation was kept under the direct control of the Department. The interest of the Department was to see that its A/C packages runs satisfactorily round the clock. Offering of the operational contract to any private party/Firm means handing over the direct responsibilities of A/C operational system to the party/Firm under administrative control of the Department. The later was not effected and the same was only mentioned in the letter No. B-24/5 dated 5.6.1998. This is the true meaning of the letter. It is re-asserted here again that the applicants were never engaged on daily wages basis

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*Revised
Causal labour*

but their engagement was on contract basis. The applicants were engaged on a lump sum amount (for 4 persons) which was much less than that of casual mazdoor engaged on departmental rate.

*No. 1. General
Contract labour
Temporary
All Sectors
Contract*

7. That with regard to the statements made in paragraph 4.6 of the application, the answering respondents state that these are all matter of records. However, the respondents state that the order in Q/A No. 112/98 was passed in a series of case and under the said judgement and order, the entire matter left for the department/respondents for proper verification/scrutiny to find out the illegality of casual labourers and to regularise them and order confer temporary status on them. On scrutiny and verification, however, it was found that the applicants, contract labourers not casual labourers and therefore they could not come within the zone of consideration.

*6. Contract labour
Casual labour
Contract*

8. That with regard to the statements made in paragraph 4.7, 4.8 and 4.9 of the application, it is however stated that the scheme is meant for Casual labourers only and the applicants being contractual labourers and they did not come within the zone of consideration.

9. That with regard to the statements made in paragraph 4.10 of the application, the answering respondents state that the revised pay w.e.f. 1.1.96 was denied as the applicants were not working as casual labourers as per departmental rate meant for casual labourers. Rather they were working on contractual basis with a lump sum monthly amount. Hence, the claim of the respondents are hereby denied.

10. That with regard to the statements made in paragraph 5.1 to 5.8 of the application, the respondents stated that the grounds shown by the applicants are no grounds in the eye of law and was mis-concept and mis-interpreted or terms of engagement. Hence, the grounds are not legally valid grounds and the applicants is liable to be dismissed being devoid of any merit.

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

12. That with regard to the statements made in paragraph 8.1 to 8.4 and 9 of the application, the answering respondents state that in view of

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the above facts and circumstances and the provision of law, the applicants are not entitled to any relief under the scheme of 1989 or under the decision/contraction given by the Hon'ble Tribunal regarding the matter of casual labourers and therefore the application is liable to be dismissed with cost.

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
further be pleased to dismiss
the application with cost
and/or pass such order that
Your Lordships may deem
fit and proper.

(P)

Verification...9.

Ahuja
Sohil
Advocate
28/9/05

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VERIFICATION

I, Shri

presently working as
being competent and duly authorised to sign this
verification, do hereby solemnly affirm and state
the statements made paragraph
are true to my knowledge and belief, those made
in paragraph 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/
concealed any material/informations from this
Hon'ble Tribunal.

And I sign this verification on this
day of December, 2000 at Guwahati.

Deponent.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 140 of 2000.

Date of Order : This is the 27th Day of July, 2001.

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

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

1. Shri Prabir Kumar Banerjee
S/o Shri Anil Kumar Banerjee
A/C Operator (Casual Labour)
New Telephone Exchange
Nagaon, Assam.
2. Shri Sibu Sankar Kunda
S/o of late Sailendra Narayan Kunda
A/C Operator (Casual Labour)
New Telephone Exchange
Nagaon, Assam.
3. Shri Sambhu Chakraborty
S/o Sri Manmath Chakraborty
A/C Operator (Casual Labour)
New Telephone Exchange
Nagaon, Assam.

... . Applicants.

By Advocate Mr. M. Chanda

- Vs -

1. Union of India
Ministry of Communication
Department of Telecom, New Delhi
(represented by the Secretary
Telecom Commission), New Delhi.
2. The Chief General Manager Telecom
Assam Telecom Circle
Ulubari, Guwahati.
3. The Telecom District Manager
Nagaon Telecom District
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.)
Nagaon Sub-Division
Nagaon, Assam.

... . Respondents.

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

ORDER

CHOWDHURY J. (V.C.) :

This is an application under section 19 of the
Administrative Tribunals Act, 1985 seeking for a direction

Abhishek
Deb
Advocate
96/9/03

contd.. 2

on the respondents for conferring temporary status as Casual Mazdoor to these three applicants in terms of the Scheme initiated by the respondents.

2. All the three applicants claimed to have worked as Casual Mazdoors engaged by the Nagaon Telephone Exchange, Nagaon. It was asserted in the application that the applicant no.1 & 3 Shri Prabir Kumar Banerjee and Shri Sambhu Chakraborty were engaged as Casual Workers under the SDE(Phones), Nagaon Telephone Exchange on daily wages basis on and from 16.7.1993 and Shri Sibu Sankar Kundu, applicant no.2 on and from 1.9.1993. It was stated that though they were engaged as Casual Workers, they were entrusted with the job of Air Conditioner Operators and they were paid daily wages in terms of the prescribed rate for the Casual Workers. The applicants relied upon the communication dated 14.7.1997, issued by the SDE (Construction), Nagaon, which was annexed to the application in the annexure 1.

3. The applicants also annexed with the application some certificates issued by the SDE and JTO. The respondents in their written statement, on the other hand, contended that these four persons, mentioned in the aforementioned document dated 14.7.1997 including the applicant though shown as Casual Workers, were in fact Contract Labourers. According to the respondents, on the strength of verbal contract the applicants worked from 16.7.1993 to 31.7.1998 followed by a written contract with Bis3 Sudarsana Cooking Firm after observing all departmental formalities. The respondents did not dispute the contents of the communication sent by the SDE for granting temporary status.

4. On considerations of the materials on records it is difficult to accept that the applicants were engaged

as Contract Labourers and as not Casual Labourers. The document dated 14.7.1997 clearly indicated that the applicants were allowed to discharge duties as Casual Labourers. In the absence of any other materials it is difficult to accept the contentions of the respondents.

5. We therefore ~~hold~~ ^{hold} observes that the applicants are also entitled for consideration of absorption in terms of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 of Telecom Department. Needless to state that Casual Labourers recruited after 29.11.1989 and upto 1.9.1993 are also entitled to confer temporary status in view of the communication to this extent.

6. We have heard Mr.M.Chanda, learned counsel for the applicants and Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents. Upon hearing the learned counsel for the parties and upon considering all the materials on record, we have reached the following findings.

7. The respondents are directed to consider the case of the persons who were engaged as Casual Labourers. Accordingly, we direct the respondents to consider the case of the applicants to grant temporary status within three months from the date of receipt of the copy of the order.

With this, the application is allowed.

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

TRUE COPY

मिस्टर

Sd/VICE CHAIRMAN

Sd/MEMBER (Adm)

Section 11(1)(j)

Supreme Court of India
State Bench

High Court of Assam
Guwahati Bench, Guwahati-8
महानगर नगरपालिका

16/8/2011

BHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM

No.E-182/CAT/Pt-II/ 72

Dated at Nagaon the 15-02-2002

To,
Sri Prabir Kumar Banerjee
Nagaon,

SPEAKING ORDER

In pursuance of the Hon'ble CAT Guwahati O.A. No.140/2000, your case was scrutinised by the undersigned and it was revealed that as per the guidelines issued by the BSNL HQ letter No.272-2/01-Pers IV dated 28-09-2001, in order to be eligible for conferment of temporary status a casual worker must fulfil some eligibility criteria, the most crucial of these the first one is the casual worker must be in service as on 01-08-1998 and the second one is that he must complete 240 days in a year during the engagement period.

So, it is clear that since your engagement came to termination by 10-07-1998 due to a fresh contract that the department entered into with M/S Sudarshana Cooling Firm Nagaon w.e.f 01-08-1998 and thus you have failed to fulfil the first criterion.

Moreover, you were not allotted any fixed duty (i.e eight hours per day) as per verbal contract and the payment made to you was a lump sum amount of Rs 1500/- per month as fixed during initial negotiation of the contract upto 31-12-1995 and enhanced to Rs.1650/- per month since 01-01-1996 to 31-12-1998 but not on the prevailing departmental rate that a normal daily Rated Mazdoor had been drawing (i.e.Rs.2025/- & Rs.2093/- per month for 30 days & 31 days respectively).

As such your claim for grant of temporary status could not be conceded to.

Dasgupta
Telecom District Manager
Nagaon Telecom District.

Dasgupta
Sark.
26/2/02

BHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM

No.E-182/CAT/Pt-II/ 75

Dated at Nagaon the 15-02-2002

To,

Sri Sibu Sankar Kundu
Nagaon,

SPEAKING ORDER

In pursuance of the Hon'ble CAT Guwahati O.A. No.140/2000, your case was scrutinised by the undersigned and it was revealed that as per the guidelines issued by the BSNL HQ letter No.272-2/01-Pers IV dated 28-09-2001, in order to be eligible for conferment of temporary status a casual worker must fulfil some eligibility criteria, the most crucial of these the first one is the casual worker must be in service as on 01-08-1998 and the second one is that he must complete 240 days in a year during the engagement period.

So, it is clear that since your engagement came to termination by 20-07-1998 due to a fresh contract that the department entered into with M/S Sudarshana Cooling Firm Nagaon w.e.f 01-08-1998 and thus you have failed to fulfil the first criterion.

Moreover, you were not allotted any fixed duty (i.e eight hours per day) as per verbal contract and the payment made to you was a lump sum amount of Rs 1500/- per month as fixed during initial negotiation of the contract upto 31-12-1995 and enhanced to Rs.1650/- per month since 01-01-1996 to 31-12-1998 but not on the prevailing departmental rate that a normal daily Rated Mazdoor had been drawing (i.e. Rs.2025/- & Rs.2093/- per month for 30 days & 31 days respectively) .

As such your claim for grant of temporary status could not be conceded to.

15/2/02
Telecom District Manager
Nagaon Telecom District.

Attested
Sankar
Advocate
26/9/07

BIHAR SANCHI NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM

No.E-182/CAT/Pt-II/73

Dated at Nagaon the 15-02-2002

To,

Sri Sambhu Chakraborty
Nagaon,

SPEAKING ORDER

In pursuance of the Hon'ble CAT Guwahati O.A. No.140/2000, your case was scrutinised by the undersigned and it was revealed that as per the guidelines issued by the BSNL HQ letter No.272-2/01-Pers IV dated 28-09-2001, in order to be eligible for conferment of temporary status a casual worker must fulfil some eligibility criteria, the most crucial of these the first one is the casual worker must be in service as on 01-08-1998 and the second one is that he must complete 240 days in a year during the engagement period.

So, it is clear that since your engagement came to termination by 20-07-1998 due to a fresh contract that the department entered into with M/S Sudarshana Cooling Firm Nagaon w.e.f 01-08-1998 and thus you have failed to fulfil the first criterion.

Moreover, you were not allotted any fixed duty (i.e. eight hours per day) as per verbal contract and the payment made to you was a lump sum amount of Rs 1500/- per month as fixed during initial negotiation of the contract upto 31-12-1995 and enhanced to Rs.1650/- per month since 01-01-1996 to 31-12-1998 but not on the prevailing departmental rate that a normal daily Rated Mazdoor had been drawing (i.e. Rs.2025/- & Rs.2093/- per month for 30 days & 31 days respectively).

As such your claim for grant of temporary status could not be conceded to.

8/2/02
Telecom District Manager
Nagaon Telecom District.

*Attested
Sambhu Chakraborty
26/9/02*

BHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM

No. E-182/CAT/Pt-II/74

Dated at Nagaon the 15-02-2002

To,

Sri Rajen Rajkhowa
Nagaon,

SPEAKING ORDER

In pursuance of the Hon'ble CAT Guwahati O.A. No.140/2000, your case was scrutinised by the undersigned and it was revealed that as per the guidelines issued by the BSNL HQ letter No.272-2/01-Pers IV dated 28-09-2001, in order to be eligible for conferment of temporary status a casual worker must fulfil some eligibility criteria, the most crucial of these the first one is the casual worker must be in service as on 01-08-1998 and the second one is that he must complete 240 days in a year during the engagement period.

So, it is clear that since your engagement came to termination by 20-07-1998 due to a fresh contract that the department entered into with M/S Sudarshana Cooling Firm Nagaon w.e.f 01-08-1998 and thus you have failed to fulfil the first criterion.

Moreover, you were not allotted any fixed duty (i.e eight hours per day) as per verbal contract and the payment made to you was a lump sum amount of Rs 1500/- per month as fixed during initial negotiation of the contract upto 31-12-1995 and enhanced to Rs.1650/- per month since 01-01-1996 to 31-07-1998 but not on the prevailing departmental rate that a normal daily Rated Mazdoor had been drawing (i.e. Rs.2025/- & Rs.2093/- per month for 30 days & 31 days respectively) .

As such your claim for grant of temporary status could not be conceded to.

Barjanu
Telecom District Manager
Nagaon Telecom District.

O C

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*Alfesto
Sarkar
Advocate
26/9/03*

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON 782001

No. ML-3000/OP/98-99/83

dated at Nagaon The 22nd Sept'98

To

Shri Sibu Kundu
M/S Sudarshna Cooling Centre & Electricals
R.K. Road, Nagaon (Assam),
Pin-782001.

Subject : Round the clock operational Contract for all days in a week of 2X7.5 TR
Package Type A/C Plant at Telephone Exchange, Nagaon.

Reference : Your offer No. Nil dated 24-8-98.

Dear Sir,

Your above referred offer for the round the clock operation on all days in a week of 2X7.5 TR Package Type A/C Plant at Telephone Exchange, Nagaon at Rs.8000/- (Rupees Eight thousand)only P.M. is hereby accepted for a period of one year w.e.f. 1.9.98 as per terms and conditions given below :-

TERMS AND CONDITIONS

- 1) You will be responsible for manning and operation of the package type A/C Plant for Telephone Exchange Building at Nagaon round the clock on all days in a week.
- 2) The Plant should be operated as per maintenance manual. The relevant log sheet/log book for the A/C Plant will be maintained by you and same should be submitted every week to the SDE(Construction)/Nagaon or any other to whom the SDE(Cons) enmarked for the purpose for checking the record.
- 3) The operation of A/C Plant cover all recommended routine daily/weekly/monthly/half yearly/annually operation if any as per operation manual.
- 4) All labour charges for operation are included in the contract.
- 5) You are also responsible to maintain a room temperature of 20 ± 2°C and relative humidity 40 to 60% in all conditions in the Exchange room and shall be confirmed by the SDE(Construction) on the bills claimed by you. For this purpose necessary copies of log entries attested by the SDE(Cons), Nagaon should be forwarded to the TDM, Nagaon.
- 6) No rate enhancement of any type will be permissible during the currency of the contract i.e. one year (W.e.f. 1.9.98 to 31.8.99).
- 7) Period of contract for 12 (twelve) months. This contract is valid for the period of one year from the date 01.09.98 to 31.08.99.

INSPECTION

The CGMT of Assam Telecom Circle, Guwahati or any of his representative may inspect the operation of the Plant at any time without giving any prior intimation.

PENALTY

As the said equipment is under operation with you, you will be liable to a suitable penalty if there is any damage and theft of the said equipment during the terms of the contract. Undue shut down of the Plant due to your faulty workmanship or

*Subroto
Baru
Advocate
26/9/98*

- 70 -
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mismanagement etc. are may be decided by the SDE(Cons). Nagaon mutual basis will cause deduction from your progressive bill.

The decision of the SDE(Cons). Nagaon for such deduction will be final and conclusive.

TERMS OF PAYMENT

The payment for the ongoing month will be made within one month of succeeding month positively by Accounts Payee cheque payable to M/S Sudarshna Cooling Center & Electricals against the prereceipted invoice on satisfactory completion of work in the month. The proforma invoice bills in duplicate are to be rooted through SDE(Cons). Nagaon within 5 days of completion of succeeding month.

You may indicate the names and address of the technicians and other representatives for issue of gate pass for security purpose.

The receipt of the order may please be acknowledged and acceptance letter may be sent.

Thanking you.

Yours faithfully,

SP *SLC* S
Telecom District Manager
Nagaon Telecom District
Nagaon-782001

Copy for information to :

- (1) The CGMT/Assam Circle, Ullubari, Guwahati-7.
- (2) The SDE(Construction), Nagaon.
- (3) The Accounts Officer, O/O the TDM/Nagaon.

SLC
Telecom District Manager
Nagaon Telecom District
Nagaon-782001

71 - Annexure-88
-64-
(135)

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT ENGINEER:NAGAON
NAGAON-782001

No:ACE-2/Accounts/96-97/12

Dated at Nagaon the 16.12.96

To,

The S.D.O.T./Nagaon/Diphu/Hojai,

The SDE(P)/Nagaon/Morigaon/Lamding

The SDE(Plg)/SDE(TP)/SDE(HRD)/LFO(Copm)

It is for the information of all concerned that the rate of wages to be paid to the daily labourers should not be more than Rs.51/- henceforth. Suitable instructions may be given to the subordinate also.

(P.K.Abdikari)
Telecom District Engineer
Nagaon Telecom District
Nagaon-782001.

E-5/Radar and Rangefinder/11.12.96/AM-11.12.96.

Attested
Sach.
Advocate
26/12/96

Payment of Daily wages to TSMs. A/C Operators
DRM (Comp. ground) for the m/o Jan'97 SDE(P)/NGO Section.

SL. No.	Name and Designation.	No. of days working	Rate	Payable amount	Nature of work performed	Signature of Payee
1.	Sri. Kushal Baikia. (TSM)	31	Rs. 79.85	Rs. 2475/-	Office work of SDE(P), LNGS Office.	Kushal Baikia
2.	Umesh Das. (TSM)	31	Rs. 79.85	Rs. 2475/-	Office office work of IET-2048, 14KC-DOT and TAX ire.	Umesh Das
3.	" Hemakanta Maitra. (TSM)	31	Rs. 79.85	Rs. 2475/-	Undergoing P/M training	Hemakanta Maitra
4.	" Prabir K. Banerjee. (A/C OPR)	31	On contract basis	Rs. 1650/-	Operating A/c plant	Prabir K. Banerjee
5.	" Shambu Chakrabarty (A/C OPR)	31	No -	Rs. 1650/-	No -	Shambu Chakrabarty
6.	" Sibu Shankar Kundu. (A/C OPR)	31	-Do-	Rs. 1650/-	No -	Sibu Shankar Kundu
7.	" Rajen. Rajkhowa. (A/C OPR)	31	-Do-	Rs. 1650/-	-Do-	Rajen Rajkhowa
8.	" Malania. (DRM)	19	Rs. 51/-	Rs. 969/-	Changeal. duty in the office of SDE(P)/NGO	Malania

Rs. 14,994/-
Amount to be remitted in Indian rupees only.

Attest
Smt.
Subrata
9/1/98

Bull. Court of Eq. (2)
equator. Annexure -
W.E.f. 20.6.96 (contd.)

No.	Name.	3/6	1-7	2-7	3-7	4-7	5-7	6-7	
	Mr. R. Raykhan	2100- 0500	2100- 0500	2100-0000 0000-0500	21-00 00-05	21-00 00-05	21-00 00-05	21-00 00-05	
	" S. Chakrabarty	05-13	09-17	13-21	05-13	09-17	13-21	05-1300	
	" P. Banerjee	09-17	13-21	05-13	13-21	05-13	09-17	09-17	
	" S. Kundu	13-21	05-13	09-17	09-17	13-21	05-13	132100	

* Reptd. - 20/6 s. kumar mutual with s. chakrabarty

Mr.
29/6/96
G.G.O. 1/1

Attested
S. Chakrabarty
Advocate
26/9/03

74-82
- 67 -

Duty chart of the A/C operators
Nagaon telephone exchange.

SL NO	Name	29/3	30/3	31/3	1/4	2/4	3/4	4/4	5/4
1	R. Raykhow (D.R.M)	N	N	N	N	N	N	N	E
2	P. Devarjee D.R.M	M	D	E	M	D	E	M	N
3	S. Chakraborty D.R.M	D	E	M	E	M	D	D	M
4	S. Skinner D.R.M	E	M	D	D	E	M	E	D

N.B:

~~N = 21-05~~ 22-06
~~M = 05-13~~ 06-14
~~D = 04-17~~ 10-18
~~E = 13-21~~ 14-22

X

AE

Affected
Gard.
Advocate
26/9/63

AE
28/3/63
Chief Technical Supervisor
I.T. Exchange
Nagaon

78-68-1, C. O. S. T. C.
DUTY CHART OF THE A/C OPERATOR.

I.L.T. & C.D.T. EXCHANGE N.G.G.

SL NO	Name	SUN	MON	TUE	WED	THU	FRI	SAT	Remarks
1	S. P. Benazee D.R.M	06-12 22-00	N	N	N	N	N	06-14 22-00	
2	S. Chakraborty D.R.M	B	A	-	-	-	-	-	
3	S. Kundu D.R.M	D	B	-	-	-	-	-	
4	R. Raykhowa D.R.M	06 08	D	-	-	-	-	-	

N = 22-00
00-06

A = 06-14

B = 10-18

D = 14-22

AM
27/8/98

Chief Technical Supervisor
I.L.T. Exchange
Nagaon

76-
94

DUTY CHART OF THE A/C OPERATOR.

I.I.T. P.C.-D.O.T. EXCHANGE, NAGAON.

SL NO	NAME	SUN 21/6	MON 22/6	TUE 23/6	WED 24/6	THU 25/6	FRI 26/6	SAT 27/6
1	SRI R. RAJAKHONG (DRM)	08-12 22-00	N	N	N	N	N	N
2.	S. BANERJEE. (DRM)	B.	9.	-	-	-	-	-
3.	" S. CHAKRABORTY (DRM)	D.	B.	-	-	-	-	-
4.	" S.S. KUNDU. (DRM)	00 08	D.	-	-	-	-	-

N = 22-00
00-08.

9 = 08-14.

B = 10-18.

D = 14-22.

A/c
25/6/98
Chief Technical Supervisor
I.I.T. Exchange
Nagaon

✓

By 1st Sept 1998
(3) 85

Department of Telecommunications
Office of the Chief General Manager, Assam Telecom Circle,
Uluberia, Guwahati - 781 007

No. EST1-9/12/

Dated the 27th Aug., 1998

To

1. Sri J. D. Yadav, GM, Kamrup Telecom. Dist., Guwahati.
2. Sri S. S. Ghosh, TDM, Hongaigaon.
3. Sri B. K. Goswami, TDM, Tezpur.
4. Sri B. N. Singh, TDM, Dibrugarh.
5. Sri K. Mani, TDM, Jorhat.
6. Sri S. Rajhans, TDM, Nagaon.
7. Sri S. K. Samanta, TDM, Silchar.

Sub:- Case for grant of Temporary Status of the Casual Mazdoors
(full time) working the SSAs.

Kindly submit the information regarding the number of casual labourers working, not yet conferred Temporary Status, for a period of more than 240 days in your SSA as per authenticated records in the enclosed proforma. The detail particulars of such casual labourers may also be furnished as indicated below:-

1. Name of Casual Labourer
2. Father's Name
3. Educational Qualification
4. Date of Engagement
5. Whether working in the job of regular nature or casual/ seasonal nature
6. Date of sponsorship
7. Official/officer who engaged the casual labourer
8. Particulars of service rendered since engagement
Year
Total no. of days worked

You are also requested to furnish a certificate signed by IFA and Head of the SSA to the extent that it has been verified/checked from the authenticated records for the enlisted casual labourers for the period they worked in the Department.

The information must be submitted latest by 9.9.98.

(R. S. Tripathi)
Dy C.M. (Admn), Guwahati-7.

Attestd
Karma
Advocate
26/09/07

Case for grant of Temporary Status of the Casual -

Ministry (Finance) works of Works, S.D.E.C./C.I.G.G.

Sl. No.	Name of Casual Labourer	Father's Name	Educational Qualification	St. of engagement	Nature of work	Ex. of Spouse	Official/Officer in service	Particulars of service rendered by the Casual Labourer	Total nos. of days Work (Year wise)					
									1993	1994	1995	1996	1997	Up to June '98
1.	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)						
1.	Sri. Prabir K. Banerjee	Avil K. Banerjee	B.A.	16-3-93	Regular nature.	1986. E.E. 120. 291/86.	J.T.O(I/D) 8 A.E.(Ph)/NGG		169	365	365	366	365	181
2.	Shambhu Chakraborty	Manmath K. Chakraborty	Class VIII	16-7-93	Regular nature.	1995. E.E. 120. 1421/95.	— DO —		169	365	365	366	365	181.
3.	Sojen Rajkhowa	Deben Rajkhowa	H.S.L.C	1-10-93	Regular nature.	1987. E.E. 120. 102/87.	— do —		92	365	365	366	233	181.
4.	Siba Shankar Kundu	Late Sainendra Chayan Kundu	H.S.S.L.C	1-9-93	Regular nature.	1992. E.E. 120. 1085/92.	— do —		122	365	365	366	365	181.

Remarks

The above Casual Magdars were engaged for operating Fridge & A/C Plant at ILT-2048 exchange/wayan as per verbal approval of the then A.M.P./D.R and T.D.E./NGG due to abolition of operational contract of A/C Plant with 'Blue Star' company to minimise the expenditure (Operational) from Rs. 1.92,000/- to Rs. 72,000/-. The engagement was purely on contract basis with monthly fixed expenditure and discontinued the same w.e.f. July'98.

AG. E-63/35. Dtd: 14-7-98. Forwarded to the T.D.M./NGG for favours of information and in
council. Dtd. to E-162/Part time/annual Magdars/3 dtd 31-8-98.

Appended
Date:
26/9/98

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.105 of 2002

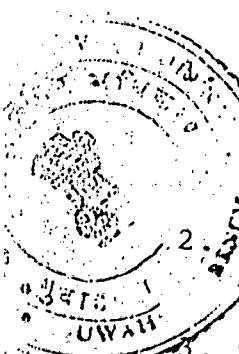
Date of decision: This the 3rd day of June 2003

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

1. Shri Prabir Kumar Banerjee
A/C Operator (Casual Labourer)
New Telephone Exchange,
Nagaon, Assam.
2. Shri Sibu Sankar Kundu
A/C Operator (Casual Labourer)
New Telephone Exchange,
Nagaon, Assam.
3. Shri Sambhu Chakraborty
A/C Operator (Casual Labourer)
New Telephone Exchange,
Nagaon, Assam.

By Advocates Mr M. Chanda and Mr G.N. Chakraborty.Applicants

- versus -

- 
1. The Union of India,
Ministry of Communication,
Department of Telecom, New Delhi;
(represented by the Secretary,
Telecom Commission, New Delhi).
 2. The Chief General Manager
Assam Telecom Circle,
Ulubari, Guwahati.
 3. The Telecom District Manager
Nagaon Telecom District,
Nagaon, Assam.
 4. The Sub-Divisional Engineer (Cons.),
Nagaon Sub-Division,
Nagaon, Assam.
 5. Shrr S.C. Topadar
Divisional Engineer (P & A),
Telecom District,
Nagaon, Assam.
 6. Shri Pankaj Das
Telecom District Manager,
Nagaon Telecom District,
Nagaon, Assam.

By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.Respondents

*Attested
Sark.
Advocate
26/9/03*

CHOWDHURY, J. (V.C.)

The issue relates to conferment of temporary status.

2. The three applicants earlier moved this Bench praying for a direction for conferment of temporary status by way of O.A. No.140 of 2000 disposed of on 27.7.2001. In the earlier application also the applicants claimed that the applicant Nos.1 and 3, namely Shri Prabir Kumar Banerjee and Shri Sambhu Chakraborty were engaged as casual labourers under the SDE (Phones), Nagaon Telephone Exchange on daily wage basis from 16.7.1993. The applicant No.2, namely Shri Sibu Sankar Kundu, was engaged as casual labourer on daily wage basis on and from 1.9.1993. The applicants also mentioned that though they were engaged as casual workers, they were entrusted with the job of Air Conditioner Operator and they were paid daily wages in terms of the prescribed rate for the casual workers. On consideration of the material on record, it was held that the applicants were working as casual labourers and not as contract labourers and therefore, they were also entitled for consideration for conferment of temporary status in the light of the prevailing scheme. Accordingly, the respondents were directed to consider their claim for conferment of temporary status. By the impugned order dated 15.2.2002, the authority rejected the claim of the applicants for conferment of temporary status. Hence this application assailing the legality and validity of the order dated 15.2.2002. The applicants in this application, therefore,

prayed for setting aside of the above impugned order and also for conferment of temporary status in the light of the prevailing scheme.

3. I have heard Mr. M. Chanda, learned counsel for the applicants and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. appealing on behalf of the respondents. By the impugned order dated 15.2.2002 the respondent authority refused the claim of the applicants for conferment of temporary status on two grounds. In the order itself the respondent authority indicated that for conferment of temporary status of the casual worker, one must fulfil two conditions: (a) the casual worker must be in service on 1.8.1998 and (b) the casual worker must have completed 240 days in a year during the engagement period.

According to the respondents the service of the applicants were terminated on 10.7.1998 and the applicants were engaged on fresh contract with effect from 1.8.1998. The applicants, since could not fulfil the requirements mentioned above were not conferred with temporary status. The authority also mentioned that the applicants were not allotted any fixed duty, i.e. eight hours per day, as per verbal contract and the payment made to them was a lumpsum amount of Rs.1500 per month, which was enhanced to Rs.1650 per month and not the prevailing departmental rate. Therefore, the claim of the applicants could not be considered. Three separate orders were passed in case of the three applicants of similar nature. There is little variation in the order of the applicant Nos. 2 and 3, wherein it was shown that the engagement of these two applicants came to an end on 20.7.1998 due to the fresh contract that the department

entered into with M/S Sudarshana Cooling Firm, Nagaon with effect from 1.8.1998. In the written statement the respondents reiterated the stand mentioned in the impugned order. In the written statement the respondents annexed the certificate issued by the J.T.O. upto February 1996. Even the certificate relied upon by the respondents indicated that the these applicants were indeed working under the respondents in ILT-2040 Exchange as Air Conditioner Operator on daily wage basis and payment was made in ACG-17 since 1993. On the own showing of the respondents, the applicants worked for three hundred and sixtyfive days in a year in the years 1994 and 1995 without giving any rest day. They have not shown anything as regards 1997 onwards. An affidavit of the Sub-Divisional Engineer (Internal/Construction) under the Telecom District Manager, Bharat Sanchar Nigam Limited, Nagaon is also annexed to the written statement. In the affidavit the deponent indicated that these three persons were working as Package Type A/C Operator in the Nagaon Exchange. The deponent further indicated in the affidavit that the certificates were countersigned by him and that he recorded the number of days worked in each year by the three persons. The respondents chose not to produce any records.

4. I have perused the sanction order whereby the Telecom District Engineer, Nagaon accorded for payment of wages to the S.D.E. (Construction), Nagaon who swore the affidavit, as Temporary advance under Rule 123 of E.R. Vol.III Part-I vide Memo dated 1.1.1998, 14.8.1998, 5.6.1998 and 8.9.1998 (Annexure 2 series to the application), which included the wages of the A/C Operators for the period December 1997. In the year 1996

it was shown as operational charges of A/C Plant. The connected documents also indicated that those were paid to these persons as wages. The following communication bearing No.MI-3000/OP/98-99/83 dated 22.9.2998 is revealing:

"To

Sri Sibu Kundu
M/8 Sudarshna Cooling Centre & Electricals
R.K. Road, Nagaon (Assam),
Pin-782001.

Subject : Round the clock operational Contract for all days in a week of 2X7.5 TR Package Type A/C Plant at Telephone Exchange, Nagaon.

Reference : Your offer No.MI dated 24-8-98

Dear Sir,

Your above referred offer for the round the clock operation on all days in a week of 2X7.5 TR Package Type A/C Plant at Telephone Exchange, Nagaon at Rs.8000/- (Rupees Eight thousand) only P.M. is hereby accepted for a period of one year w.e.f. 1.9.98 as per terms and conditions given below:

TERMS AND CONDITIONS

- 1) You will be responsible for manning and operation of the package type A/C Plant for Telephone Exchange Building at Nagaon round the clock on all days in a week.
- 2) The Plant should be operated as per maintenance manual. The relevant log sheet/log book for the A/C Plant will be maintained by you and same should be submitted every week to the SDE (Construction)/Nagaon or any other to whom the SDE (Cons) enmarked for the purpose for checking the record.
- 3) The operation of A/C Plant cover all recommended routine daily/weekly/monthly/half yearly/annually operation if any as per operation manual.
- 4) All labour charges for operation are included in the contract.
- 5) You are also responsible to maintain a room temperature of 20 - 20C and relative humidity 40 to 60% in all conditions in the Exchange room and shall be confirmed by the SDE(Construction) on the bills claimed by you. For this purpose necessary copies of log entries attested by the SDE (Cons), Nagaon should be forwarded to the TDM, Nagaon.
- 6) No rate enhancement of any type will be permissible during the currency of the contract i.e. one year (W.e.f. 1.9.98 to 31.8.99).

: 5 : *84* - 92

7) Period of contract for 12 (twelve) months. This contract is valid for the period one year from the date 01.09.98 to 31.08.99.

INSPECTION

The CGMT of Assam Telecom Circle, Guwahati or any of his representative may inspect the operation of the Plant at any time without giving any prior intimation.

PENALTY.

As the said equipment is under operation with you, you will be liable to a suitable penalty if there is any damage and theft of the said equipment during the terms of the contract. Undue shut down of the Plant due to your faulty workmanship or mismanagement etc. are may be decided by the SDE(Cons), Nagaon mutual basis will cause deduction from your progressive bill.

The decision of the SDE(Cons), Nagaon for such deduction will be final and conclusive.

TERMS OF PAYMENT

The payment for the ongoing month will be made within one month of succeeding month possibly by Accounts Payee cheque payable to M/S Sudarshna Cooling Centre & Electricals against the prereceipted invoice on satisfactory completion of work in the month. The proforma invoice bills in duplicate are to be rooted through SDE(Cons), Nagaon within 5 days of completion of succeeding month.

You may indicate the name and address of the technicians and other representatives for issue of gate pass for security purpose.

The receipt of the order may please be acknowledged and acceptance letter may be sent.

.....

5. In the list of payment of daily wages of TCM A/C Operators the names of these applicants regularly appeared. I have also perused the communication No. ESTT.9/12/ dated 27.8.1998 issued by the Deputy General Manager (Admn.), Guwahati to the concerned TDMS. By the said communication the authority asked for the information regarding number of casual labourers working not yet conferred temporary status for a period of more than 240 days in the respective SSAs as per authenticated record in the enclosed proforma. In the said communication.....

communication the authority amongst others also asked from the TDM, Nagaon the detailed particulars of the casual labourers. The said communication included the names of these three applicants showing them to have been working as regular casual labourers. The aforementioned communication dated 27.8.1998, annexed to the O.A. is not in dispute.

6. The materials on record clearly indicated that these applicants were discharging duties as casual labourers under the respondents even in August 1998 and the label 'contract labourers' that was all along sought to be put by the authority cannot change the character of these applicants/casual labourers. The issue was already adjudicated upon in the earlier O.A. No.140 of 2000, disposed of on 27.7.2001, which attained its finality. There is no justification for the respondents in the set of facts and circumstances in not conferring temporary status to the applicants on the norms cited above. The order dated 15.2.2002 passed by the respondents is accordingly set aside and the respondents are directed to take necessary steps for conferment of temporary status to the applicants in the light of the decision rendered in O.A.No.140/2000, keeping in mind the findings and observations made in this O.A. The respondents are directed to complete the exercise with utmost expediency, preferably within three months from the date of receipt of the order.

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

Sd/ VICE CHAIRMAN

17/2/03
Section Officer (D)
C.A.T. GUWAHATI BAZAR
Guwahati
J.B. /6