

01/10/03

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No 249/03.....

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SECTION OFFICER (Judl.)

Bahar
20/11/17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 249/03

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Rabin Chelie 2018.

Respondants: - Govt 2018

Advocate for the Applicants: - Mr S. Sarma & Miss U. Das

Advocate for the Respondants: - CSC.

Notes of the Registry	Date	Order of the Tribunal
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31.10.2003

Heard Mr. S. Sarma, learned counsel for the applicant.

Issue notice to show cause as to why the application shall not be admitted. List on 5.12.2003 for admission.

This application is in form but not in time
~~Condonation~~ Petition is filed / not for Rs.
vide No. 99 70388
Dated 30/10/03

[Signature]
Registries

mb

[Signature]
Vice-Chairman

24.12.2003

Heard learned counsel for the parties.

The application is dismissed at the admission stage in terms of the order passed in separate sheets. No order as to costs.

Pl. comply order dated 31/10/03.

[Signature]
31/11/03

Notice & order dt. 31/10/03, Sent to D/Section for issuing the respondent No- 1 to 4, by R/post.

[Signature]
Member

[Signature]
Vice-Chairman

D/No.

Dt.

Recd copy
6/5/04

16.1.84

Copy of the budget
has been sent to the
Office for info
in line to the
Advocates for
the parties.

83 PHE

2009 Budget

2009 PHE

2009 PHE

2009 PHE

2009 PHE

2009 PHE

2009 PHE

2009 PHE

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 1111 249/2003

DATE OF DECISION 24.12.2003

.....Sri Robin Chetia & Ors.....APPLICANT(S).

.....Mr. S. Sarma.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

.....U.O.I. & Ors.....RESPONDENT(S)

.....Mr. A. K. Chaudhury.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE B. PANIGRAHI, VICE CHAIRMAN.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble ~~Member~~ Vice-Chairman.

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 249 of 2003.

Date of Order : This, the 24th Day of December, 2003.

THE HON'BLE MR. JUSTICE B. PANIGRAHI, VICE CHAIRMAN.

THE HON'BLE MR.K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Sri Robin Chetia
2. Sri Loken Doweri
3. Sri Probin Chetia
4. Sri Girin Dowari
5. Sri Lokhinath Chetia
6. Sri Bimal Chetia
7. Sri Sanjay Goswami.

. . . . Applicants.

By Advocates Mr.S.Sarma & Ms.U.Das.

- Versus -

1. The Union of India
Represented by Secretary
to the Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi.
2. The Chief General Manager
Assam Telecom Circle
Ulubari, Guwahati-7.
3. The Telecom District Manager
Assam Telecom Circle
Jorhat.
4. The Chief Managing Director
Bharat Sanchar Nigam Limited
New Delhi.

. . . . Respondents.

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

ORDER (O R A L)

PANIGRAHI, J.(V.C.):

A prayer has been made by the applicants for granting of temporary status under the Scheme of 1989 prepared as per the direction of the Hon'ble Supreme Court. This is the second round of litigation between the parties claiming the same reliefs.

1. The applicants, on an earlier occasion, challenged the action of the respondents in O.A.Nos.297 & 298 of 2001 which was disposed of 3.9.2002 whereby the Tribunal passed the following orders:

"It is expected that the authority shall take appropriate order by notifying these persons concerned. This exercise shall not be confined only to the applicants and the authority shall also deal with the cases left out from the process and examine their case independently."

After such directions issued to the respondents the matter was thoroughly probed by constituting a committee. The committee examined the individual documents but since the applicants could not produce any satisfactory records to show that they were engaged any time as casual labour, therefore, question of incorporating their name in the report did not arise. Mr.S.Sarma, learned counsel appearing for the applicants, has submitted that in this case the Screening Committee in a mechanical manner rejected the claims of the applicants without going thoroughly into their case. It is said that even the documents were not produced, it was open to the respondents to verify from their own records and find out as to whether the applicants were at any time engaged a casual labourer.

2. Mr. A.K. Chaudhury, learned Addl. C.G.S.C. appearing for the respondents, brought our attention to the impugned order dated 6.11.2002 in which it is reflected that as the applicants could not satisfy the eligibility criteria as laid down in the Scheme for conferring temporary status their case was rightly rejected. On being asked to Mr.Sarma, learned counsel for the applicants, as to whether any document showing that the applicants were working as casual labourer was produced, he wanted to submit some documents at the time of hearing. We are unable to accept those documents since those were not produced before the committee constituted for verification/reverification/scrutiny of the applicant's cases.

3. The Tribunal does not have any mechanism to go into the aspects of truths or otherwise of those documents though those documents were intended to be produced at the time of hearing. From our experience it is gathered that

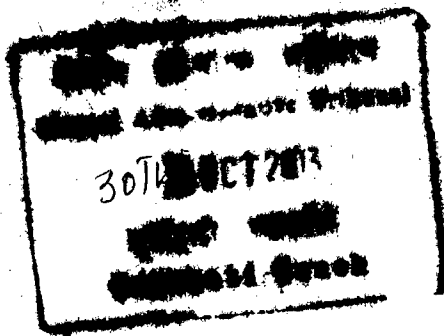
large number of persons have approached the Court/Tribunal claiming conferment of temporary status on forged and slanderous document. In that view since no documents were produced before the Screeing Committee, the Committee has rightly rejected the claim of the applicants for conferring temporary status.

We do not find any illegality in the impugned order passed by the respondents. In the result, the application is dismissed at the admission stage.


(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(B. PANIGRAHI)
VICE CHAIRMAN

bb



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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 249 of 2003

BETWEEN

Shri Rabin Chetia & Ors Applicants.

AND

Union of India & ors. Respondents.

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Filed by : Alsha Das
File : c:\WS7\ROBIN

Regn.No. :
Date :

a

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

OA No. 249 /83

Rabin Chetia & Ors.

..... Applicants

-VS-

Union of India & Ors.

..... Respondents

SYNOPSIS OF CASE

The applicants in the instant case have come before this Hon'ble Tribunal seeking an appropriate relief towards redressal of their grievances regarding non-consideration/improper consideration of their cases for grant of temporary status and subsequent regularisation in terms of scheme of 1989. The Hon'ble Tribunal vide its judgment and order dated 31.8.1999 passed in OA Nos. 107/98 and others directed the respondents to scrutinise the cases of the Casual Workers in the light of the scheme of 1989 which was prepared pursuant to a judgment pronounced by the Hon'ble Supreme Court. The respondents to avoid contempt proceeding scrutinised the cases of the applicants in a hurry and committed mistakes and this has resulted serious prejudice to the applicants. In the process of verification there was a common direction from the higher authority of the respondents to forward the service particulars of each of the applicants in proforma specifying the number of days of works performed by each individual and accordingly the controlling authority specifying the master roll number or

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other connected account numbers submitted details before the verification committee for scrutiny. However the said verification committee without taking into consideration those records passed some arbitrary orders/reports indicating that none of them has completed the requisite number of working days in a particular year as stipulated in the scheme of 1989 and its subsequent clarifications issued from time to time. In the instant case of the applicants the verification committee issued identical orders dated 6.11.2002 rejecting their claims and in case of some applicants identical orders have been issued rejecting their claims. The applicants through this application have come before Hon'ble Tribunal seeking an appropriate relief regarding the aforesaid illegalities and denial of similar relief as has been granted to the other casual workers. Hence this application.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No.249.... of 2003

Filed by "
the applicants through
Alka Das,
Advocate
30/10/03

BETWEEN

1. Sri Robin Chetia
2. Sri Loken Dowari
3. Sri Probin Chetia
4. Sri Girin Dowari
5. Sri Lokhinath Chetia
6. Sri Bimal Chetia
7. Sri Sanjay Goswami

..... Applicants.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Communication,
Sanchar Bhawan, New Delhi
2. The Chief General Manager
Assam Telecom Circle,
Ulubari, Guwahati-7
3. The Telecom District Manager
Assam Telecom Circle,
Jorhat
4. The Chief Managing Director
Bharat Sanchar Bhawan Limited,
New Delhi.

..... Respondents.

DETAILS OF THE APPLICATION

1. THE PARTICULARS AGAINST WHICH THIS APPLICATION IS MADE:

This application has been made against the action of the respondents in not considering the cases of the applicants for grant of temporary status under the scheme of 1989 and its subsequent clarifications issued from time to time. This application is also directed against various

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orders by which the claims of the applicants have been rejected. Under this peculiar fact situation the applicants have also challenged the improper consideration of their cases for grant of temporary status under the scheme.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE:

4.1. That the applicants in the instant case have come before this Hon'ble Tribunal seeking an appropriate relief towards redressal of their grievances regarding non-consideration/improper consideration of their cases for grant of temporary status and subsequent regularisation in terms of scheme of 1989. The Hon'ble Tribunal vide its judgment and order dated 31.8.1999 passed in OA Nos. 107/98 and others directed the respondents to scrutinise the cases of the Casual Workers in the light of the scheme of 1989 which was prepared pursuant to a judgment pronounced by the Hon'ble Supreme Court. The respondents to avoid contempt proceeding scrutinised the cases of the applicants in a hurry and committed mistakes and this has resulted serious

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prejudice to the applicants. In the process of verification there was a common direction from the higher authority of the respondents to forward the service particulars of each of the applicants in proforma specifying the number of days of works performed by each individual and accordingly the controlling authority specifying the master roll number or other connected account numbers submitted details before the verification committee for scrutiny. However the said verification committee without taking into consideration those records passed some arbitrary orders/reports indicating that none of them has completed the requisite number of working days in a particular year as stipulated in the scheme of 1989 and its subsequent clarifications issued from time to time. In the instant case of the applicants the verification committee issued identical orders dated 6.11.2002 rejecting their claims and in case of some applicants identical orders have been issued rejecting their claims. The applicants through this application have come before Hon'ble Tribunal seeking an appropriate relief regarding the aforesaid illegalities and denial of similar relief as has been granted to the other casual workers. Hence this application.

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

4.3. That in the instant application, the applicants got their initial appointment as casual mazdoor in various dates and by now they have completed more than ten years of

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continuous service. The applicants are still continuing in the same capacity without any regularisation. The respondents however in the early part of 1978 have changed their mode of employment from casual to contractual. Prior to 1978 all the applicants used to get their pay under A.C.B.-17 pay bills but from 1978 onwards they are drawing their salaries without any pay bills.

4.4. That the respondents introduced a scheme namely "The scheme of grant of temporary status and regularisation scheme, 1989" pursuant to a judgment passed by the Hon'ble Apex Court.

In the said scheme certain benefits have been introduced to bring the casual workers under the regular establishment and temporary status is one of the basic benefit extended through the scheme. the illegibility criteria laid down in the said scheme for grant of temporary status is 240 days of continuous service as daily waged/casual. It is pertinent to mention here that all the applicants have completed 240 days of continuous service as casual worker and as such they are entitled to the benefit of temporary status under the scheme of 1989.

A copy of the Apex Court's judgment and the scheme of 1989 are annexed herewith and marked as Annexure 1 & 2 respectively.

4.5. That the respondents after issuance of the aforesaid Annexure 2 scheme of 1989 issued clarification from time to time clarifying the terms and conditions of the said scheme.

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The respondents have issued an order dated 1.9.99 by which the cut off date of the scheme of 1989 has been extended to the recruities upto 1.8.98.

A copy of the said order dated 1.9.99 is annexed herewith and marked as Annexure 3.

4.6. That some of the similarly situated employees approached the Hon'ble Tribunal by way of filing DA Nos. 107 and others of 1998 claiming the benefit of the scheme of 1989. Those DA,s were disposed of vide judgment and order dated 31.8.99 directing the respondents to scrutinies the cases of the applicants thereto and to pass speaking orders in this regard. The respondents authority issued various orders by which directions have been issued to the local head/local officers to furnish the service particulars of the casual workers working under them.

A copy of the said judgment and order dated 31.8.99 is annexed herewith and marked as Annexure-4.

4.7. That pursuant to the aforesaid Annexure-4 judgment and order dated 31.8.99 the Respondent authority issued various orders directing the subordinate local officers under whom casual workers were in engagement to furnish the details within a stipulated timeframe. The Respondents to that effect issued various orders by which similar nature of directions have been issued. In fact, in phase manners the verification committee scrutinised the cases of the casual workers basing on those records. In the process names of some casual workers were never furnished and the respondents

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reiterating earlier orders issued similar orders directing the local authorities to furnish the details of the leftout casual workers. To that effect maintain may be made of order dated 7.11.2000 by which similar direction was issued.

A copy of the said order dated 7.11.2000 is annexed herewith and marked as Annexure-5.

4.8. That the applicants approached this Hon'ble Tribunal by way of filing against OA No.298/2001 the action of the Respondents in not considering their cases for grant of temporary status in the light of Apex Court verdict and the scheme prepared pursuant to the said verdict as well as subsequent clarification issued from time to time by the Ministry concerned. The applicant also prayed for an appropriate direction towards the Respondents to extend the benefit of the scheme as well as its subsequent clarifications by granting temporary status and subsequent regularisation. This Hon'ble Tribunal after hearing was pleased to dispose of the said OA directing the respondents to complete the verification process and pass appropriate order as per law for conferment of temporary status on these applicants.

A copy of the judgment and order dated 3.9.2002 is annexed herewith and marked as Annexure-6.

4.9. That pursuant to the aforesaid queries made by the respondents authorities the local Head furnished the details of the applicants in the pro-forma specifying the working

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days. It is pertinent to mention here that before sending the pro-forma the Divisional Authority took personal interview of each applicants and they were allowed to verify the records basing on which the pro-forma was filled up. In the said pro-forma it was notice that each applicants have completed 240 days of continuous service. It is noteworthy to mention here that while sending the service particulars of the applicants the Divisional authority also mentioned the Accounts No. and the Head Under which the payments have been made. The service particulars were subsequently furnished before the verification committee. The verification committee after verifying the particulars furnished by the Divisional Authority passed the impugned orders dated 6.11.2002 rejecting the claim of the applicants. It is stated that the Respondents have issued similar order to each of the applicants. It is noteworthy to mention here that although similar orders have been issued in respect of all the applicants some of them are yet to receive the same impugned orders.

A Copy of one such impugned order dated 6.11.2002 is annexed herewith and marked as Annexure-7.

4.10. That the applicants state that the identical impugned order dated 6.11.2002 issued by the Respondents is not maintainable as same has not been passed basing on the report submitted by the Divisional Authority. In this context the applicants state that the constitution of committee is not as per law as it did not contain any member from the staff side to protect their welfare. Apart from

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that the only material placed before the committee by the Divisional Authority in the service particulars in pro-forma which indicated the fact that each of the applicants have completed 240 days of continuous service and against each spell of such casual employment requisite Account Numbers/Muster Roll Numbers were also placed. The said verification committee however while exceeding its jurisdiction indicated certain imaginary numbers without there being any reason and rejected the claim of the applicants mainly on the ground that they didn't fulfill the eligibility criteria laid down in scheme of 1989.

4.11. That the applicants states that in the judgment and order passed by the Hon'ble Tribunal dated 31.8.99 there has been categorical direction for scrutiny of each case providing personal hearing to the casual workers but before the verification committee no such personal hearing was provided. It is also stated that basing on the materials placed before the verification committee it was difficult to ascertain as to how the said verification committee reduced the number of working days of each applicants. The only material available before the verification committee was the pro-forma indicating the payment voucher number and the number of working days of each applicant.

The applicants inspite of their best effort could not collect the pro-forma submitted before the committee and as such they pray before this Hon'ble Tribunal for a direction towards the Respondents to produce those records alongwith the minutes of the verification committee as the time hearing of this case.

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4.12. That the applicants state that apart from the aforesaid illegality during the verification process the respondents have committed manifest error. It is also noticed that in some cases brick outs have been given against some particular years wherein particular Casual Workers were never engaged. The Hon'ble Tribunal also had occasioned to scrutinised some of the verification committee's report in similar matters and in those cases the Hon'ble Tribunal was pleased to refer the matters before a Responsible Committee for re-verification.

A copy of the judgment and order dated 3.9.2002 passed in OA No. 289/02 & ors. is annexed herewith and marked as Annexure-B.

4.13. That the applicants beg to state that in terms of the official records the Divisional Authority filled up the pro-forma specifying the fact that each of the applicants have completed 240 days continuous service and to substantiate those statements the Voucher Numbers as well as the Muster Roll Numbers are also reflected in the said Pro-forma. The verification committee had only verified the proforma as it was not possible for the said committee to verify each account for each applicant. It was therefore the reason as to why the Divisional Authorities were given direction for submission of pro-forma indicating the Accounts Number. Hence the verification committee had no other material before them to reject or to reduce number of working days but the said verification committee arbitrarily issued the identical impugned orders rejecting the claim of the applicants. The respondents have acted illegally in

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rejecting the cases of the applicants who are still continuing in their employment without any brick.

4.14. That the applicants state that since their initial appointment they continued Casual/Muster Roll Workers till 1998 without any brick but in the early part of 1998 their mode of employment has been changed to contractual one, however without any financial loss. Even after their conversation the applicants are in receipt of similar commuloments/pay and it was because of which the applicants never made a challenge against their such conversation. However, the applicants through this application also challenging the action of the Respondents in converting them from casual to contractual one without any sanction authority and without following the due process of law. It is further stated that the aforesaid action of conversion has been made only to frustrate the claim of the applicants in getting the benefit of the scheme of 1993. Under these circumstances the applicant prays for an appropriate direction towards the Respondents to treat their such services as casual and to grant them the benefit of the said scheme and to regularise their services subsequently.

4.15. That the applicants state that the Respondents now managed to get sanction of almost 400 post and more is going on to fill up those posts by fresh recruites. Apart from that the Respondents are taking steps to terminate the services of the applicants to create vacancy and as such the applicants through this application also prays for an interim order directing the Respondents not to fill up any post of DRM (Grade-D) till finalisation of this OA. With a

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further direction to allow them to continue in their respective services. The principles of balance of convenience lies very much in favour of the applicant and in the event of not passing any interim order as prayed for, the applicants who are in service will suffer irreparable loss and injury.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the respondents have acted illegally in not granting temporary status to the present applicant in the light of the scheme of 1989 and as such entire action on the part of the respondents are liable to be set aside and quashed.

5.2. For that the respondents have acted illegally in not constituting the verification committee in terms of the rules guiding the field and as such their entire action is liable to be set aside and quashed and appropriate direction need be issued to the respondents to reconstitute and reverified the service particulars of the applicant.

5.3. For that the respondents have acted in contrary to the provisions contained in the scheme of 1989 and as such their such action are not sustainable and liable to be set-aside and quashed.

5.4. For that the respondents have acted contrary to the settled proposition of law by extending the benefit of the scheme of 1989 to the similarly situated employees while rejecting the case of the present applicant and as such appropriate direction need be issued to the respondents to extend all the benefits flowing from said scheme to the

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present applicant with retrospective effect with all consequential service benefits.

5.5. For that the respondents have acted contrary to the settled proposition of law in rejecting the cases of the applicant for grant of temporary status and regularisation right from the framing of the verification committee to its findings arrived at and as such the impugned orders are not sustainable and liable to be set aside and quashed.

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

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

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8. RELIEF SOUGHT FOR:

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

8.1. To set aside and quash the identical impugned orders dated 6.11.2002 and any other connected orders rejecting the claim of the applicant for grant of temporary status under the scheme of 1989 with a further direction to the said scheme to the present applicant with retrospective effect with all consequential service benefits.

8.2. To set aside and quash the report of the verification committee basing on which the impugned orders dated 6.11.2002 and other connected orders were issued directing the respondents to evaluate the cases of the applicants independently.

8.3. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants pray for an interim order directing the respondents to not to disengage them from their present

employment under the respondents with a further direction to allow them to continue in their respective services.

10.

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

- 1. I.P.O. No. : 96 703887
- 2. Date : 30-10-03
- 3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

PC

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VERIFICATION

I, Shri Rabin Chetia, son of Late Upen Chetia, aged about 32 years, at resident of village - Barpathar, Babhajan, C/o Telephone Exchange, Borpathar, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 1-4, 3, 4, 10, 4, 13 to 4, 15 & 5 to 12 are true to my knowledge and those made in paragraphs 4, 5 - 4, 9, 4, 11, 4, 12 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

I am the applicant No.1 in the instant application and as such well convergent with the facts and circumstances of the case and also competent and authorised by the other applicants to sign the verification.

And I sign on this the Verification on this the 30th day of Oct. of 2002.

Shri - Rabin - Chetia
Signature.

Absorption of Casual Labours
Supreme Court directive Department of Telecom take back all
Casual Mazdoors who have been disengaged after 30.3.85.

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

Writ Petition Nos 1246, 1248 of 1986 176 , 177 and 1248 of 1988.

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

We have heard counsel for the petitioners. Though a counter affidavit has been filed no one turns up for the Union of India even when we have waited for more than 10 minutes for appearance of counsel for the Union of India .

The principal allegation in these petitions under Art 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as Casual Labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30 th September 1988. It is contended that the principle of the decision of this Court in Daily Ratee Casual Labour Vs. Union of India & ors. 1988 (1) Section (122) squarely applies to the petitioner though that was rendered in case of Casual Employees of Posts and Telegraphs Department. It is also contended by the counsel that the decision rendered in that case also relates to the Telecom Department as earlier Posts and Telegraphs Department was covering both sections and now Telecom has become a separate department. We find from paragraph 4 of the reported decision that communication issued to General Managers Telecom have been referred to which support the stand of the petitioners.

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the posts and Telegraphs Department".

Attested
Advocate.

We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working more than one year, the counter affidavit does not dispute that petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this court in the reported decision. On principles, therefore the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondents shall prepare a scheme on a rational basis absorbing as far as practical who have continuously worked for more than one year in the Telecom Deptt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are also disposed of accordingly. There will be no order as to costs on account of the facts that the respondents counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

Attested
N. D. S.
4.11.90

ANNEXURE-2.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles
M.T.H.I New Delhi/Bombay, Metro Dist. Madras/
Calcutta.
Heads of all other Administrative Units.

Subject : Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

Subsequent to the issue of instruction regarding regularisation of casual labourers vide this office letter No.269-29/87-STC dated 10.11.88 a scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of at least one year has been approved by the Telecom Commission. Details of the scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer temporary status on all eligible casual labourers in accordance with the above scheme.

3. In this connection, your kind attention is invited to letter No.270-6/84-STN dated 30.5.85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/Districts. Casual labourers could be engaged after 30.3.85 in projects and Electrification circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. These instructions were reiterated in D.O letters No.270-6/84-STN dated 22.4.87 and 22.5.87 from member (pers. and Secretary of the Telecom Department) respectively. According to the instructions subsequently issued vide this office letter No.270-6/84-STN dated 22.6.88 fresh specific periods in Projects and Electrification Circles also should not be resorted to.

3.2. In view of the above instructions normally no casual labourers engaged after 30.3.85 would be available for consideration for conferring temporary status. In the unlikely event of there being any case of casual labourers engaged after 30.3.85 requiring consideration for conferment of temporary status. Such cases should be referred to the Telecom Commission with relevant details and particulars regarding the action taken against the officer under whose authorisation/approval the irregular engagement/non retrenchment was resorted to.

3.3. No Casual Labourer who has been recruited after 30.3.85 should be granted temporary status without specific approval from this office.

4. The scheme finalised in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No BNF/78/98 dated 27.9.89.

Attested
W. S. S.
Advocate.

5. Necessary instructions for expeditious implementation of the scheme may kindly be issued and payment for arrears of wages relating to the period from 1.10.89 arranged before 31.12.89.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD); GM (IR) for information.
MCG/SEA/TE -II/IPS/Admn. I/CSE/PAT/SPB-I/GR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Accepted
H. D. on
Ad. 10/11/89

ANNEXURE

CASUAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARISATION) SCHEME.

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989"
2. This scheme will come in force with effect from 1.10.89. onwards.
3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.
4. The provisions in the scheme would be as under.

A) Vacancies in the group D cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointment on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility qualification prescribed in the relevant Recruitment Rules. However regular Group D staff rendered surplus for any reason will have prior claim for absorption against the existing/future vacancies. In the case of illiterate casual labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed age relaxation equivalent to the period for which they had worked continuously as actual labour for the purpose of the age limit prescribed for appointment to the group D cadre, if required. Outside recruitment for filling up the vacancies in Gr. D will be permitted only under the condition when eligible casual labourers are NOT available.

B) Till regular Group D vacancies are available to absorb all the casual labourers to whom this scheme is applicable, the casual labourers would be conferred a Temporary Status as per the details given below.

Temporary Status.

i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.

ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr. D posts.

iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed any where within the recruitment unit/territorial circles on the basis of availability of work.

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

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

Attested
K.D.S.
Ad. Secy.

i) Wages at daily rates with reference to the minimum of the pay scale of regular Gr. D officials including DA, HRA, and CCA.

ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year.

iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of week. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.

iv) Counting of 50 % of service rendered under Temporary Status for the purpose of retirement benefit after their regularisation.

v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr. D employees, provided they furnish two sureties from permanent Govt. servants of this Department.

vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.

7. No benefits other than the specified above will be admissible to casual labourers with temporary status.

8. Despite conferment of temporary status, the offices of a casual labour may be dispensed within accordance with the relevant provisions of the industrial Disputes Act. 1947 on the ground of availability of work. A casual labourer with temporary status can quit service by giving one months notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefit of encasement of leave on termination of services.

10. The Department of Telecommunications will have the power to make amendments in the scheme and/or to issue instructions in details within the framing of the scheme.

@ @ @

Attested
Adm. Secy.

ANNEXURE-3

No.269-13/99-STN-II
Government of India
Department of Telecommunications
Sanchar Bhawan
STN-II Section
New Delhi

Dated 1.9.99.

To

All Chief General Managers Telecom Circles,
All Chief General Managers Telephones District,
All Heads of other Administrative Offices
All the IFAs in Telecom. Circles/Districts and
other Administrative Units.

Sub: Regularisation/grant of temporary status to Casual
Labourers regarding.

Sir,

I am directed to refer to letter No.269-4/93-STN-II dated
12.2.99 circulated with letter No.267 13/99-STN-II dated 12.2.99
on the subject mentioned above.

In the above referred letter this office has conveyed approval on the two items, one is grant of temporary status to the Casual Labourers eligible as on 1.8.98 and another on regularisation of Casual Labourers with temporary status who are eligible as on 31.3.97. Some doubts have been raised regarding date of effect of these decision. It is therefore clarified that in case of grant of temporary status to the Casual Labourers, the order dated 12.2.99 will be effected w.e.f. the date of issue of this order and in case of regularisation to the temporary status Mazdoors eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Federations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

Attested
MAM
Ad. Dir. Gen.

ANNEXURE.-4.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others.
Date of decision : This the 31 st day of August 1999.

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

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

1. D.A. No.107/1998

Shri Subal Nath and 27 others. Applicants.
By Advocate 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. D.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 -

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

.....

3. D.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. D.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.

.....

5. D.A.No.120/1998

Shri Kamala Kanta Das and 6 others Applicant.
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.B.C. Pathak, Addl.C.G.S.C.

.....

6. D.A.No.131/1998

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

- versus -

The Union of India and others. Respondents.
By Advocate Mr. B.C. Patha, Addl.C.G.S.C.

Attested
Vam
21.10.1999

7. O.A.No.135/98

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

- versus -

The Union of India and others. ... Respondents.,
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 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

- versus -

The Union of India and others. Respondents.
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 another. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

- versus -

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

10. O.A. No.142/1998

All India Telecom Employees Union,
Civil Wing Branch. Applicants.
By Advocate Mr.B.Malakkar

- versus -

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

11. O.A. No.145/1998

Shri Dhani Ram Deka and 10 others. Applicants
By Advocate Mr.I.Hussain.

- versus -

The Union of India and others. Respondents.
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 another. Applicants
By Advocates Mr.B.K. Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

-versus-

The Union of India and others..... Respondents
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 another. Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma.

Attested
Vidhan
Adm. Secy.

- versus -
The Union of India and others .. Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

14. Q.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma,
Mr.U.K.nair and Mr.D.K.Sharma

- versus -
The Union of India and others .. Respondents.
By Advocate Mr.B.C.Pathak, Addl. Sr.C.G.S.C.

15. Q.A.No.293/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma,
and Mr.D.K.Sharma.

- versus -
The Union of India and others .. Respondents.
By Advocate Mr.B.C.Pathak, Addl. Sr.C.G.S.C.

O R D E R

BARUAH, J. (V.C.)

All the above applicants involve common question 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 of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applicants were submitted by the said union, namely the Line Staff and Group-D employees and some other application 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 Mazdoors under the respondents were likely to be terminated with effect from 1.4.1998. 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 benefits of the scheme,

namely casual labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned 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 services 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 their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. 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.269-18/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits 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 D.A. 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 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.758/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable

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WAM

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. No.s 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. Situated thus the applicants have approached this Tribunal by filing the present O.As.

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.As is that the Association had no authority to 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 servant are not eligible to become members or office bearers to 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 in to their engagement as

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H.A.M.
date

casual employees are in progress. The respondents justify the action to discontinue 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.As 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 can not 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. No.302 and 229 of 1996. The applicants do 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 application, 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.Garkan, Mr.I. Hussain and Mr.B.Malakar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C. Pathak, learned Sr.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 up to 1989 and

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[Date]

then extended up to 1973 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 counser for the applicants also submits that the respondents can not 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 directin for conferment 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 in to 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 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 cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

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Attested
[Signature]
Notary Public
State of New York

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Applications No. 297 and 298 of 2001.

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

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

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

O.A. 297 of 2001.

1. Sri Prabir Dutta,
2. All India Telecom Employees Union represented by the Circle Secretary, Sri J.N.Mishra. . . . Applicants.

O.A. 298 of 2001

1. Sri Loken Deori son of Tankeshwar Deori,
2. All India Telecom Employees Union represented by the Circle Secretary Shri J.N.Shax Mishra . . . Applicants

By Advocate Sri S.Sarma.

- Versus -

Union of India & Ors. . . . Respondents

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

O R D E R

CHOWDHURY J.(V.C)

Mr B.C.Pathak, learned Addl.C.G.S.C appearing for the respondents submitted that these cases are under active consideration of the department and further verification is going on in the department. In the circumstances we dispose of the application at this stage allowing the respondents to complete the process and pass appropriate order as per law for conferment of temporary status on these applicants.

The application is accordingly disposed of. We direct the respondents to complete the exercise within three months from the date of receipt of this order.

Certified to be true Copy

No order as to costs.

Sd/VICE CHAIRMAN

Sd/ MEMBER (ADM)



Signature
Joint Officer (Admin)
Central Administrative Tribunal
Guwahati Bench, Guwahati

Signature

BHARAT SANGHAR NIGAM LTD.

(A GOVERNMENT OF INDIA ENTERPRISE)
OFFICE OF THE GENERAL MANAGER
JORHAT TELECOM DISTRICT
JORHAT - 785001

No. X-1/Con/Pt.-V/2002-2003/132

Dated at Jorhat the 06-11-2002

To

Shri ... Robin Chetia,
Vill. ... Borpatgar
P.O. ... Borpatgar
Dist. ... Golaghat

As you are aware that as per direction given by Hon'ble CAT Guwahati Branch Guwahati in OA No. 298/2001 the department constituted the verification / re-verification Committee for this SSA for conducting detailed verification / re-verification / scrutiny about the no. of days of engagement year wise in different offices and also to collect proof / evidence for such casual labourer including yourself. The Committee verified / re-verified all the documentary as well as other proof from the various unit / office and scrutinized your documents as submitted by you. The verification / re-verification Committee comprised of following three members namely :

1. Sri M. C. Modak, Assistant Director Telecom (Welfare), o/o the CGMT, Assam Circle, BSNL, Guwahati.
2. Sri D. Payeng, D. E. (Plg.), o/o the GMTD, BSNL, Jorhat.
3. Sri D. Baruah, Sr. A. O., o/o the TDM, BSNL, Tezpur at Jorhat.

The aforesaid committee, has submitted its report to the department detailing all about their findings/ proof against each casual labourer including you. The detail of such examination / re-examination / verification / re-verification / scrutiny report is enclosed and furnished herewith as in Annexure - A for your information.

Under the above circumstances as you could not satisfy the eligibility criteria as laid down in the scheme for conferment of TSM / Regularisation, your case could not be considered favourably. Please take notice that you have not been in engagement under the department since ... 15-05-98

Deputy General Manager
O/o the GMTD, BSNL, Jorhat

Amended
15/11/02
15-05-98

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Applications No. 289/2001, 364/2001,
366/2001, 372/2001, 403/2001, 109/2002 and 160/2002.

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

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

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

O.A. 289 of 2001

1. Sri Dondi Ram Gayan,
 2. Sri Gobin Nath,
 3. Sri Joy Gopal Das,
 4. Sri Kandeswar Konwar.
 5. Md Abdul Gafar Choudhury,
 6. Sri Thanu Ram Jha,
 7. Md. Abul Kalam and
 8. Sri Anup Bora
- By Advocate Sri S.Sarma.

. . . Applicants

- Versus -

Union of India & Ors.

. . . Respondents

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

O.A. 364 of 2001

Sri Deo Kumar Rai
By Advocate Sri S.Sarma.

. . . Applicant

- Versus -

Union of India & Ors.

. . . Respondents.

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

O.A. 366 of 2001

Sri Jun Das,
By Advocate Sri S.Sarma.

. . . Applicant

- Versus -

Union of India & Ors.

. . . Respondents

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

O.A. 372 of 2001.

Sri Khitish Deb Nath
By Advocate Sri S.Sarma

. . . Applicant

- Versus -

Union of India & Ors.

. . . Respondents.

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

W.D.

34-2-
O.A. 403 of 2001

1. Md. Nurmahammad Ali,
2. Md. Sahabuddin Ahmed,
3. Md. Alamid Choudhury,
4. Md. Harimurraman Ali,
5. Sri Benudhar Das and
6. Md. Tafik Ali
By Advocate Sri B. Malakar
- Versus -

... Applicants

Union of India & Ors.

... Respondents.

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

O.A. 109 of 2002

Sri Dilip Kumar Tante
By Advocate Sri N. Borah.
- Versus -

... Applicant

Union of India & Ors.

... Respondents

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

O.A. 160 of 2002

1. Th. Subendra Singh
2. All India Telecom Employees Union
Line Staff and Group-D,
Manipur Division, Imphal
represented by Divisional Secretary,
Sri M. Kulla Singh

... Applicants.

By Advocate Sri S. Sarma.

- Versus -

Union of India & Ors.

... Respondents.

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

O R D E R

CHOWDHURY J. (V.C)

The issue involved in these cases pertains to conferment of temporary status in the light of the scheme prepared by the Telecom Department pursuant to the decision of the Supreme Court in Ram Gopal and others vs. Union of India and others dated 17.4.90 in Writ Petition (C) No. 1280 of 1989. Keeping in mind the plight of the casual

contd..3

Amended
1/10/02

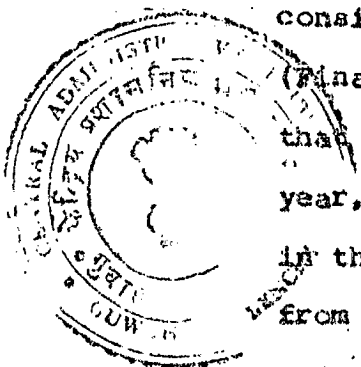
44

labourers the Supreme Court in the above mentioned case directed the authority to prepare a scheme on rational basis for absorbing as far as possible casual labourers those who continuously worked for more than one year in the telecom department. The department of Telecom also followed the suit and prepared a scheme of conferment of temporary status on casual labourers who were employed and have rendered continuous service for more than one year in the telecom department. Accordingly the scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" was prepared. By order dated 1.9.99 the Government of India, Department of Telecommunications mentioned about its approval on grant of temporary status to the casual labourers who were eligible as on 31.3.97. By the said communication it was clarified that the grant of temporary status to the casual labourers order dated 12.2.99 would be effective with effect from 1.4.97. By the said communication it was also clarified that the persons would be eligible for conferment of temporary status who were eligible as on 1.8.98. It may be mentioned that the said communication was issued to the authorities for judging the eligibility on 1.8.98 and did not naturally mean that one was to be in service on the date prescribed on 1.8.98, what was insisted was to attain the eligibility. Numerous applications were filed before us for conferment of temporary status in the light of the scheme. In some of the cases we directed the authority to consider the cases and to pass appropriate order. In some of the cases the authority passed orders rejecting their claim. Against which the aggrieved person moved this Tribunal by way of these applications. In some of the applications written

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statements were filed and some documents also annexed. On assessment of documents it appears that there was no conformity with the findings reached by the authority alongwith the records produced regarding their engagements. In some cases records indicated that they were engaged for more than 240 days, whereas in the finding they were shown that they did not served for 240 days. In our opinion the matters requires a fresh re-consideration by a responsible authority so that cases of eligible casual labourers are fairly considered. To cite example with the case of O.A.372/2001 the Verification Committee report dated 12.3.02 was shown to us. The Committee consisting of S.C.Tapadar, D.B.(Admn), N.K.Das, C.A.O (Finance) and G.C.Sharma, ADT(Legal) verified and mentioned that the applicant did not complete 240 days in a calender year, whereas again column No. of days yearwise/monthwise in the Annexure the authority referred to his engagement from August 97 to August 98 which comes around 240 days on arithmatical calculation. By another verification committee meeting dated 12.3.2002 consisting of M.C.Pator, D.B(Admn), N.K.Das, C.A.O(Finance) and S.C.Das, ADT(Legal) Circle Office, Guwahati. The committee stated that the applicant completed 45 days in 1994, 20 days in 1995, 24 days in 1996, 15 days in 1997 and one day in April, 1998. The documents contradict itself. We are of the opinion that such type of enquiry or verification committee does not inspire confidence, it was seemingly done in sloven and slip shod fashion. On the other hand it should be entrusted to a responsible authority who would act rationally and responsively. After all it involves to the livelihood of persons concerned and the commitments of the Government.



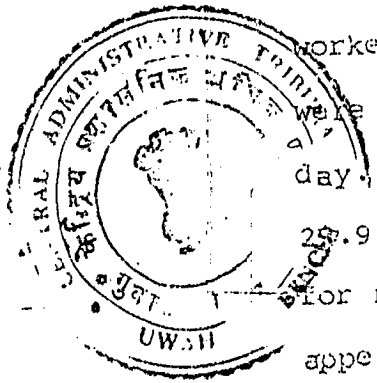
Attorney
W.S.
Advocate

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We have perused background story of the scheme which itself reflected the approval of the authority for absorption of those people for giving the benefit of Government of India at the instance of the Supreme Court. The counsel for the respondents however pointed out that there is a big change in the administrative ^{set up} of the Telecom department.

Referring to the new telecom policy of the Government of India 1999, whereby it decided to corporatise the Telecom department ^{through} Bharat Sanchar Nigam Limited and stated that the matters are now within the domain of the BSNL. We are basically concerned in these applications as to the absorption of those casual labourers who were

worked under the telecom department as on 1.8.98 and who were eligible for grant of temporary status as on that day. The office memorandum No.269 94/98 STN.II dated 28.9.2000 itself indicated the commitment of the authority for regularisation of the casual labourers. It also appears from the communication issued by the department of Telecommunication dated 3.9.2002 which expressed its concern for resolving the situation. Mr B.C.Pathak, learned Addl.C.G.S.C sought to raise a question of maintainability in some of the cases where BSNL is a party. BSNL since not notified under Section 14(2), the Tribunal has no jurisdiction to entertain the matter. In these applications the real issue is absorption of the casual labourers those who worked under the telecom department from 1.8.98. The respondents, more particularly, Telecom department committed to its policy for regularisation of such employees. In the circumstances we are of the opinion it will be a fit case to issue appropriate direction to the department of Telecom and the Chief General Manager, Assam Telecom Circle, Guwahati to take appropriate steps for considering the case of these applicants afresh by constituting a responsible committee to go through it ^{all} once for ^{all} the



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scan their record and if in the end it found these people really fulfilled the requirement it will issue appropriate direction to the concerned authority for conferment of temporary status and their absorption as per the scheme. It is expected that the authority shall take appropriate steps after verifying the record and pass appropriate order by notifying these persons concerned. This exercise shall not be confined only to the applicants and the authority shall also deal with the cases left out from the process and examine them case independently. The matters are old and the deficit we expect that the authority shall act with utmost expedition and complete the exercise as early as possible preferably within four months from the date of receipt of this order.

With these the applications stand disposed of. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (Add)

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Section Officer
CIVIL AND SUPPLY
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