

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No. 10/05

E.P/M.A No. 62/06

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 110/03

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Sunit Das

Respondents: - H. O. P. Jom

Advocate for the Applicants:-

Advocate for the Respondents:-

Notes of the Registry	Date	Order of the Bench
<p>Original application in by <u>Sunit Das</u> for <u>110/03</u> Dated <u>19.5.03</u> 86490439 Dr. Registrar 22/5/03</p> <p>Steps taken with envelopes.</p>	<p>30.5.2003</p>	<p>Heard Miss U. Das, learned counsel for the applicant. The application is admitted. Call for the records. Issue notice to show cause as to why the interim order as prayed for shall not be granted. Returnable by four weeks. In the meantime, the respondents are directed not to disengage the applicant till the returnable date. Put up again on 4.7.2003 for orders.</p>
<p>Notice forwarded & sent to BLS for filing the respondents No 1 to 6 by Regd. A.D. X/No <u>1121 to 1124</u> Dtd <u>2/6/03</u></p>	<p>4.7.2003</p>	<p>On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents further four weeks time is allowed to file written statement. List again on 8.8.2003 for orders.</p>

Vice-Chairman

Vice-Chairman

8.8.2003 Put up again on 4.9.2003 to enable Mr. A. Deb Roy, learned Sr. C.G. S.C. for the respondents to file written statement.

No written statement has been filed.

20
7.8.03.

Vice-Chairman

mb

4.9.03

List on 23.10.03 to enable the respondents to file written statement.

No. Wks has been filed.

20
3.9.03.

K. V. Prahladan
Member

Vice-Chairman

lm

23.10.03

There is no Bench today.
Adjourned to 19.11.03.

No written statement has been filed.

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18.11.03

19.11.2003 Present : The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman
The Hon'ble Shri S.K.Naik Administrative Member.

No. Wks has been filed.

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16.2.04

Respondents seek and are allowed further four weeks time to file reply and two weeks time to the applicant to file rejoinder.

List the case on 12.1.2004 for order.

K. V. Prahladan
Member

Vice-Chairman

bb

19.2.04

Wks Submitted by the Respondents.

17.2.2004

Present: Hon'ble Mr K.V. Prahladan, Administrative Member

No written statement has been filed.. List the case for hearing on 19.3.04. The respondents may file written statement within two wseks and rejoinder may be filed by the applicant within two weeks thereafter.

K. V. Prahladan
Member

29.3.04

Copy of the order
has been sent to the
Office for issue of
the same to the applicant
as well as to the
D.C.G.S.C. for the
Record.

SI 29/3

19.03.04.

Heard learned counsel for
the parties. Judgment delivered in
open Court. Kept in separate sheets.
Application is allowed. No costs.


Member

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. 110 . . . of 2003

DATE OF DECISION ..19.03.04.....

..Shri Sujit Das.APPLICANT(S).

.. Miss Usha Das.. ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Ors

.. . . .RESPONDENT(S).

Mr.A. Deb Roy, Sr.C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE

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 Ho'ble MEMBER(A)

Out

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.110 of 2003.

Date of Order ; This the 19th Day of March, 2004.

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

Shri Sujit Das,
S/o Late Ananta Das,
Casual Mazdoor, under Sub-Divisional Officer,
Haflong.

...Applicant

By Advocate Miss Usha Das.

- Versus -

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, Telecom,
Assam Circle, Ulubari,
Guwahati.
3. The General Manager, Telecom,
Silchar SSA, Silchar-1.
4. The Sub-Divisional Officer, Telecom,
Haflong.

...Respondents

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

O R D E R (ORAL)


K.V.PRAHLADAN, MEMBER(A)

The applicant Sri Sujit Das joined the Telecom Department as a casual worker in 1987 and he continued as such till 1998. As per the letter issued by B.S.N.L dated 1.10.2001 in Annexure-9 since he has completed 240 days he is eligible for grant of temporary status in terms of "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989".

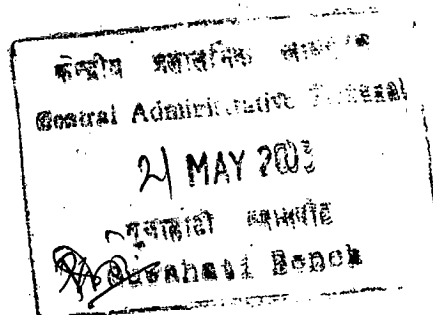
2. Heard Miss Usha Das, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C. for the respondents. Mr Deb Roy submitted that the applicant was not in engagement since 1993 and therefore no question of regularisation can arise.

3. Considering the facts and circumstances of the case, the respondents are directed to re-engage the applicant as casual worker and consider his case for grant of temporary status and regularisation as per the scheme, since he was eligible for temporary status on 1.8.1998. The applicant is not eligible for any backwages, he will not be eligible to claim any arrears of pay and allowances. The above direction shall be completed within three months from the date of receipt of this order.

The application is accordingly allowed. No order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

bb



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No. 110 of 2003

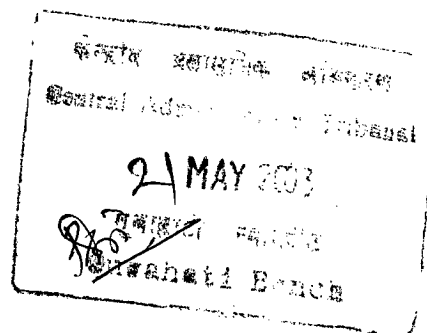
Sujit Das

-VS-

Union of India and Ors.

SYNOPSIS OF THE CASE

1. Annexure-1 Order dated 30.4.87 forwarding the name of the applicant by the Employment Exchange for the post of Mazdoor.
2. Annexure-2 Order dated 16.7.91 revision of daily wages of the Casual Workers.
3. Annexure-3 Extract of the service particulars sent by the SDOT Halflong.
4. Annexure-4 Judgment and order dated 31.5.1999 passed in OA No. 167/99.
5. Annexure-5 Representation dated 9.9.99 submitted by the applicant.
6. Annexure-6 Judgment and order dated 11.1.2000 passed in OA No. 5/2000.
7. Annexure-7 Order dated 14.3.2000 rejecting the case of the applicant.
8. Annexure-8 Judgment and order dated 5.7.2001 passed in OA No. 357/2000 allowing the OA.
9. Annexure-9 Impugned order dated 1.10.2001 rejecting the claim of the applicant.
10. Annexure-10 Order dated 8.5.2001 indicating the fact of continuance of service of the applicant even after 1.8.98.
11. Annexure-11 Order showing allotment of work to the applicant w.e.f. Aug. 2002.
12. Annexure-12. Order dated 29.1.2003 indicating the fact of applicant's engagement w.e.f. Jan 2002 to Jan 2003.
13. Annexure-13 Judgment and order dated 17.4.90 in Rangopal's case.
14. Annexure-14 Scheme for grant of temporary status and regularisation scheme 1989.
15. Annexure-15 Order dated 1.9.99 clarifying the scheme of 1989.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 110 of 2003

BETWEEN

Shri Sujit Das

..... Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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Filed by : *Alsha Das*,

Regn.No.:

File : c:\WS7\sujitdas

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No. of 2003

BETWEEN

Sri Sujit Das
S/o Late Ananta Das
Casual Mazdoor, Under Sub-Divisional Officer,
Haflong

..... Applicant.

- 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, Telecom
Assam Circle, Ulubari,
Guwahati
3. The General Manager, Telecom
Silchar SSA, Silchar-1.
4. The Sub-Divisional Officer, Telecom
Haflong

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION

IS MADE:

This application is directed against the action of
the respondents in not considering the case of the applicant
for grant of temporary status under the scheme of 1989. This
application is also directed against the action of the
respondents in rejecting the case of the applicant by
issuing various orders as reflected in the paragraphs below.

S. Das

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Filed by
the applicant through
Usha Das
Advocate
8/5/03

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This application is also directed against the action of the Respondents in not implementing the judgments passed by this Hon'ble Tribunal.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE:

4.1. That the applicant has come before this Hon'ble Tribunal seeking an appropriate direction towards the respondents for granting temporary status under the scheme of 1989. This instant application is in fact fourth round of litigation before this Hon'ble Tribunal claiming the aforesaid benefit under the scheme, the applicant came before this Hon'ble Tribunal for the first time by way of filing OA. 167/99 claiming the benefit of temporary status under the scheme. The aforesaid OA was disposed of vide judgment and order dated 31.5.99 directing the respondents to consider their cases under the scheme. However the respondents rejected their claims and the applicant along with others once again approached this Hon'ble Tribunal by way filing OA. 5/2000 which was disposed of vide judgment and order dated 11.1.2000 directing the respondents to reconsider the matter in the light of the scheme of 1989.

6/

The applicant submitted his representation before the concerned authority in the light of the judgment dated 11.1.2002 in OA No. 5/2000. The General Manager, Telecom, Silchar SSA, Silchar, issued an order dated 14.3.2000 rejecting the claim of the applicant on the ground that the claim of the applicant is not entitled to the benefit of the scheme. Situated thus, the applicant once again approached this Hon'ble Tribunal by way of filing OA No. 357/2000. The Respondents in the said OA preferred written statement and assumed that the case of the applicant would be considered for grant of temporary status and matter was under consideration. In the said written statement the respondents have admitted the fact that the applicant has completed more than 240 days in a calendar year. The aforesaid OA was disposed of by the Hon'ble Tribunal vide judgment and order dated 5.7.2001 directing the respondents to complete the exercise within a stipulated time frame of 2 months.

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

4.3. That the applicant got his initial recruitment as Mazdoor on casual basis pursuant to a selection. The Employment Officer Haflong, issued an order dated 30.4.1987 forwarding the survive particulars of the applicant to the respondents and he was directed to appear before an interview scheduled to be held on 7/5/87 at Haflong telephone exchange. The applicant was selected and he was appointed as Casual Worker in the year 1987 in the said capacity the applicant is still working under the respondent

without any break.

A copy of the order dated 30.4.87 is annexed herewith and marked as Annexure-1.

4.4. That the initial appointment of the applicant was as Casual Mazdoor. Although in the advertisement the post was shown to be Mazdoor but in fact he was given appointment as Casual Mazdoor. The respondents used to pay him the salary under the departmental pay bill that is A.C.G-17. Subsequently said emolument was revived and the rate of bonus was also revised the respondent issued an order dated 16.7.91 by which it was decided to pay the arrear of wages and bonus to the applicant and other similarly situated employees. Pursuant to the aforesaid order applicant received arrear wages and bonus.

A copy of the order dated 16.7.91 annexed herewith marked as Annexure-2.

4.5. That the applicant states that the respondents initiated process for grant of temporary status to the present applicant in the year 1996 and in that connection all the sub divisional officials are directed to furnish the service particulars of the Casual Mazdoors enabling considerations of their cases. Pursuant to such decisions the respondents furnished the service particulars of the applicant indicating the account no. and work order no. in a prescribed form.

An extract of the service particular sent by the S.D.O. Haflong is annexed herewith and marked as Annexure-3.

S. 129

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4.6. That the applicant as stated above is still continued in his service without any vague. However even after the repeated persuasion of the applicant the respondents never extended the benefit to the present applicant. Situated thus the applicant had to approach the Hon'ble Tribunal by filing O.A. no. 167/99 before this Hon'ble Tribunal seeking an appropriate relief. The aforesaid original application was disposed of vide judgment and order dated 31.5.99 directing the respondents to consider the case of the applicant for grant of temporary status under the scheme of 1993 within a period of 3 months from the date of receive of this order.

A copy of the said judgment and order dated 31.5.99 is annexed herewith and marked as Annexure-4.

4.7. That the applicant pursuant to the aforesaid judgment submitted his representation enclosing a copy of the judgment and other connected documents. The respondents on receipt of the said representation disposed of the same rejecting his claim by issuing an order dated 13.8.99. The applicant submitted a representation dated 9.9.99 against the aforesaid order dated 13.8.99.

A copy of the said representation dated 9.9.99 is annexed herewith and marked as Annexure-5.

4.8. That the applicant after getting no response from the aforesaid representation, he approached the Hon'ble Tribunal by filing O.A. No. 5/2000 challenging the legality and validity of the order dated 13.8.99. That original application was disposed of vide order dated 11.1.2000 directing the respondents to reconsider the matter afresh.

S. D. S.

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A copy of the said judgment and order dated 11.1.2000 annexed herewith and marked as Annexure-6.

4.9. That the respondents in response to the aforesaid judgment dated 11.1.2000 passed in O.A. No. 5/2000 issued an order dated 14.3.2000 rejecting the claim of the applicant without any valid reason.

A copy of the order dated 14.3.2000 annexed herewith and marked as Annexure-7.

4.10. That the applicant state the aforesaid order dated 14.3.2000 was passed illegally without taking into consideration the scheme of 1989 and its subsequent clarification issued time to time. The applicant making a challenge to the aforesaid illegal order dated 14.3.2000 once again approach this Hon'ble Tribunal by way of filing O.A. No. 357/2000. In the said original application the respondents had filed their written statement pointing out the fact that the applicant has completed 240 days of service. It was also pointed out in the written statement that the case of the applicant has been taken out for granting temporary status under the scheme and the matter has been referred to the concerned authority for approval. The Hon'ble Tribunal after hearing parties to the proceeding was pleased to direct the respondents to pass reasoned order for granting temporary status and regularisation within a stipulated period of 2 months.

A copy of the said judgment and order dated 5.7.2001 is annexed herewith and marked as Annexure-8.

S. Des

4.11. That the applicant states that on receipt of the copy of the judgment passed by the Hon'ble Tribunal the respondent reiterating their stand once again rejected the case of the applicant by issuing impugned communication dated 1.10.2001.

A copy of the said communication dated 1.10.2001 is annexed herewith and marked as Annexure-9.

4.12. That the applicant states the grounds stated by the respondents are baseless and not in conformity with the guidelines contained in the scheme of 1989 and its subsequent clarifications issued from time to time. The only ground stated in the said impugned is that the applicant was never engaged after March 1998, however, in the said impugned communication the respondents have admitted the fact that he worked for more than 240 days during the Calender year 1992. it is pertinent to mention here that since 1987 the applicant has been serving in the capacity of Casual Mazdoor under the respondents without any break and his such employment is still in continuation. To verify the contention of the applicant and his presence in the department there are various communications which are summarised below.

- a) In the year 2001 some complaints were lodged from Sri N.S. Purkayastha wherein the respondents vide order dated 5.8.2001 directed the applicant along with others to present in the injury. The said official communication indicates the presence of the applicant and continuation of his service.
- b) Communications regarding requisition of service of the applicant for maintenance of new connection with

S. B. S.

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effect from August 2002.

c) Communications regarding requisition of service of the applicant for new connection under Umrangshu Exchange from 2002, 1st January to 31.1.2003.

Copies of the order dated 8.5.2001 and the requisitions are annexed herewith and marked as Annexure- 10, 11, and 12 respectively.

4.13. That the applicant states that in terms of the Apex Court's judgment the respondents circulated the scheme of 1989 under the name and style "Casual Labour Grant of Temporary Status and Regularisation Scheme of 1989." Under the aforesaid scheme the applicant is entitled to that the benefit of the temporary status and subsequent regularisation in against any Group-D vacancy.

Copies of the Apex Court's judgment and the scheme of 1989 is annexed herewith and marked as Annexure 13 and 14.

4.14. That the applicant states that the aforesaid Annexure 14 scheme of 1989 was subjected to number of clarifications of which mention may be made of order dated 1.9.99 by which the aforesaid scheme has been made applicable to the recruitees upto 1.8.98.

A copy of the said order dated 1.9.99 is annexed herewith and marked as Annexure 15.

4.15. That the applicant begs to state that even if a issuance of the Annexure 15 communicated the order 1.9.99 the respondents issued various orders clarifying the cut off date of the scheme. It is pertinent to mention here that the

S. D. S.

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applicant right from the date of initial appointment has been continued in his service without any break however the verification committees reports enclosed along with the Annexure 9 impugned order dated 1.10.2001 indicates the fact that the applicant worked upto 1993 August and thereafter for one day in March 1998 which is not at all correct. The attendance register as maintained by the office of the respondent it is clear that he worked continuously till date without any break.

4.16. That the applicant states that the respondents have acted illegally and not granting the benefit of the scheme to the present applicant with retrospective effect. Even if for the sake of agreement if the contentions of the respondent is taken to be correct, then the applicant is entitled to get the benefit of temporary status w.e.f. 1992. There has been no justification for denying him the benefit of the scheme in the year 1992 when he has completed 296 days of continuous service as specified in the impugned order dated 1.1.2001. In such an eventuality the applicant prays for an appropriate direction towards the respondents to extend him the benefit of temporary status at last w.e.f. 1992 with all consequential service benefits including arrears salary and seniority etc.

4.17. That the applicant states that the respondents are now making a move to replace his service by another without any justified reason. That applicant who is still continuing in the service is now apprehending discontinuance of his service and as such he prays for an appropriate interim order directing the respondents not to disengage him from his present employment.

S. DB

5. GROUND'S FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the Respondents have acted illegally in not considering the case of the applicant for grant of temporary status and subsequent regularisation.

5.2. For that the applicant who has fulfilled all the requisite qualification as per the scheme of 1989 and as such non consideration of his case under the said scheme is arbitrary, illegal and violative of principle of natural justice more so when the said benefit has been extended to the similarly situated employees.

5.3. For that the impugned Annexure-9 order dated 1.10.2001 is not at all sustainable as the same has been passed without proper application of mind and as such same is liable to be set aside and quashed.

5.4. For that the Respondents have violated the judgment passed by this Hon'ble Tribunal in earlier proceeding and for such violation they are liable to punished for contempt of court.

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

S. DQ

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

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

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

8. RELIEF SOUGHT FOR:

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

8.1. To set aside and quash the impugned communication dated 1.10.2001 with a further direction to extend the benefit of the scheme of 1989 with retrospective effect that is at least with effect from 1992.

8.2. To direct the respondents to reflect the pay of the applicant after granting temporary status at least w.e.f. 1992 and to pay him all the arrears and to regularise his service at least w.e.f. 1995.

S. DS

8.3. Cost of the application as the instant OA is the fourth round of litigation assailing the illegalities committed by the respondents.

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 applicant prays for an interim order directing the respondents not to terminate his service.


10.

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

1. I.P.O. No. : 86 490439
2. Date : 19/5/03
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

S. 

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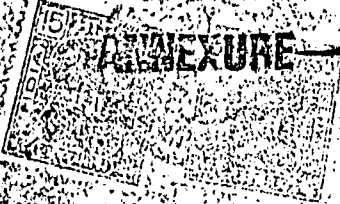
VERIFICATION

I, Shri ,Sujit Das, son of Ananta Das, aged about 35 years, at present working as Casual Mazdoor, under Sub Divisional Officer, Telecom, Haflong, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 2, 4, 15 to 4, 17 & 5 to 12 are true to my knowledge and those made in paragraphs 4, 1, 4, 3 to 4, 14 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 well acquainted with the facts and circumstances of the case and am competent to sign this verification.

And I sign on this the Verification on this the 8th day of May of 2003.


Signature.



GOVT. OF ASSAM
DEPARTMENT OF LABOUR & EMPLOYMENT
DISTRICT EMPLOYMENT EXCHANGE
HAFLONG

NOT. 13/87-1-967-1012 Dated Haflong, the 30-1-1947

Shri/Shrimati Sujit Singh
C/o Ananta Das, A.E.N. Office
N.E. Rly. Post, Haflong, N.C. Hills

Sub: Recruitment of Minister
Interview there of 1/5/47

Your particulars have been forwarded to the
against the post of Minister

The interview will be held on 7/5/47 at N.A.

You are therefore, directed to appear for inter-
view to the employer on the date and time and at the venue
indicated above with the Employment Registration Card, this
letter original certificates and testimonials etc sharp in time.

No. P.A. / D.A. is admissible for the the journeys
in this connection.

Yours faithfully,

Employment Officer,
District Employment Exchange,
Haflong.

Attested
Advocate.

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE AREA DIRECTOR TELECOMMUNICATION
GUWAHATI- 7

15 -
ANNEXURE- 2 27

NO. AMT/GH/4-17/RJCM/91-92/

Dt at Ghy the 16/7/91

To

Shri U.C. Das
TOS/SC

SUB:- Non payment of Arrear of wages and bonus.

Refer your No. ACE-2/AE(W)/HFL/91-92/12 dt. 17-6-91 on above subject. This with reference to the case of non payment of arrear of wages and bonus to the casual Mazdoors under AE(W)/Hafalong. The following decisions were taken in the 7th RJCM meeting:-

- (a) The dues arrear of wages and bonus as reported by V.O may be paid after proper verification.
- (b) As per the requirements of work the casual Mazdoors should be utilised at Hafalong or anywhere in silchar division.
- (c) The details of arrear of wages and bonus has already been sent to you vide this office letter NO AMT/GH/4-17/RJCM/91-92 dt. 12-6-91.

R.K. SAHA
Assistant Director Telecom.
o/o the Area Director Telecom.

Copy for:-

- 1. The V.O o/otha CGMT/GH for information.
- 2-3 The Circle secretaries/NETE/HFLC/Class-IV & LV/
- 4. Spare.

R.K. SAHA
Assistant Director Telecom.
o/o the Area Director Telecom.

Attested

Wsa
Advocate

Month	M/R & C.A. No.	Work Order No.	No. of Day	Mastering Official
1987				
Mar	1895 9/4	30	31	Anil Ch. Das, LM
June	1895 4/13	59	30	A.P. Sarkar, PI
July	1895 4/19	19	31	G. Sharma, SI
August	1844 1/2	73	31	Joginder Ram, SI
Sept.	1844 1/16	87	30	L.K. Goswami, SI
October	19206 7/7	17	31	B.K. Malakar, SI
Nov.	19206 F 15	20/F-15	30	-----do-----
Dec.	18373 F/D	30	31	-----do-----
1988			245	
January	1837 3/25	36	31	B.K. Malakar, SI
February	1837 4/10	6	29	G. Sharma, SI
March	1919 5/18	134	25	Anil Ch. Das, LM
May	ACG-17		25	-----do-----
June	1919 24/F-16	6	30	G. Sharma, SI
July	ACG-17		26	-----do-----
August	ACG-17		10	-----do-----
October	19941/10	59	31	-----do-----
Nov.	19982/21	54	30	-----do-----
Dec.	19971/10	68	31	-----do-----
1989			268	
January	19971/10	68	31	G. Sharma, SI
February	19971/17	75	28	-----do-----
March	18953	22/43	24	Anil Ch. Das, LM
April	19972/18	3	30	-----do-----
May	17573/5	15	31	-----do-----
June	ACG-17		23	-----do-----
July	ACG-17		20	-----do-----
August	ACG-17		26	-----do-----
Sep.	ACG-17		21	-----do-----
Oct.	ACG-17		22	-----do-----
1990			266	
January	ACG-17		21	
Feb.	-----do-----		25	
March	-----do-----		22	Banka Karmakar, SI
April	-----do-----		18	
May	-----do-----		20	
June	-----do-----		17	
July	-----do-----		10	G. Sharma, SI
August	-----do-----		25	
Sep.	-----do-----		26	Joginder Ram, SI
Oct.	-----do-----		19	
Nov.	-----do-----		24	Narendra Singh, SI(o)
Dec.	-----do-----		20	
1991			247	
January	ACG-17		26	
Feb	-----do-----		25	
March	-----do-----		24	
April	-----do-----		26	
May	-----do-----		26	Digendra Malakar-II, SI
June	-----do-----		26	
July	-----do-----		25	
August	-----do-----		25	
Sep.	-----do-----		30	
Oct.	-----do-----		31	U.C. Das, TDE/Sc
Nov.	-----do-----		30	
Dec.	-----do-----		31	
1992			325	
January	ACG-17		31	
Feb.	-----do-----		29	U.C. Das, TDE/Sc
March	-----do-----		31	
April	-----do-----		30	P.C. Bhattacharjee, TDE/Sc
May	-----do-----		31	

*Uda
Advocate.*

16-A

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July	do	31	P.C. Bhattacharjee, T.O.
Aug.	do	31	
Sep.	do	30	
Oct.	do	31	A.K. Tripathi, TDE/So
Nov.	do	30	
Dec.	do	31	
1993		336	
January	ACG-17	31	B.N. Sarma, SI
Feb.	do	28	
March	do	31	Manjur Ali Laskar, SI
April	do	30	
May	do	31	
June	do	30	Masaraf Ali, SI
July	do	31	
August	do	30	
Sep.	do	31	Digendra Malakar-II, SI
Oct.	do	30	
Nov.	do	31	
Dec.	do	365	
1994		21	
June	ACG-17		

SDO, Telegraphs
Haflong

Attended
Vpa
Advocate.

- 17 -

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE-4

Original Application No.163 of 1999, 167 of 1999 & 168 of 1999.

Date of Order: This the 31st Day of May 1999.

HON'BLE MR.JUSTICE D.N.BARUAH, VICE-CHAIRMAN

HON'BLE MR.G.L.SANGLYINE, ADMINISTRATIVE MEMBER

O.A.163 of 99

1. Shri Anu Kharkhunger, Casual Worker,
At present working under Microwave Project,
Division Shillong, N.E.Task Force)
2. All India Telecom Employees Union,
Line Staff and Group 'D' employees,
Assam Circle, Guwahati.

-Vs-

Union of India & Ors.

By Advocate Mr.B.K.Sharma, Mr.S.Sarma for the applicant
By Advocate Mr.B.C.Pathak, Addl.C.G.S.C.

O.A. No.167 of 1999

1. Shri Sujit Das
Casual Worker, Applicants.
At present working under S.D.O.T. Haflong,
(Sub Divisional Officer of the Telecom)
2. All India Telecom Employees Union,
Line Staff and Group 'D' employees,
Assam Circle, Guwahati.
(Represented by Shri J.N.Mishra, Circle Secretary)

-Vs-

1. Union of India & Ors.

Mr.B.K.Sharma, Mr.S.Sarma, Advocate for the respondents.

Mr.B.C.Pathak Addl.C.G.S.C. for the respondents.

O.A.No.168 of 99

1. Shri Naba Kumar Das
2. Sri Kandarpa Das
3. Shri Tinku Mandal
4. Shri Kaml Kalita.

All of them are presently working as Casual Worker,
under the Divisional Engineer.

-Vs-

1. Union of India & Ors.

XZ

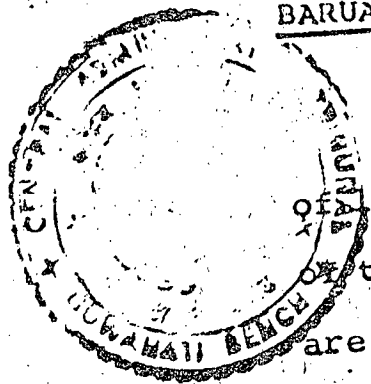
Attested

VaDa
Advocate

By Advocate Mr. B.K. Sharma, Mr. S. Sarma for the applicant.
By Advocate Mr. B.S. Basumatary, for the respondents.

O R D E R.

BARUAH J(VC):



These Original Applications involve common questions of law and similar facts. Therefore, we propose to dispose of these application by this common order. The applicants are casual labourers in the Department of Telecommunication and posted at different stations in the Assam Circle and N.E. Circle. Some of the applicants have been working for more than ten years. The Government of India prepared a scheme for granting temporary status to the casual labourers. The scheme is known as Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989. As per the said scheme those casual employees who had completed more than 240 days of service should be given temporary status. Later on, the Office Memorandum dated 12-2-1999, Annexure 10 in O.A.No.163 of 1989, was issued extending the benefit of the said scheme to those persons who completed the requisite period up to 31-3-1997. As per the said office Memorandum dated. 12.2.99 the applicants who had completed requisite period of service in 1997 are also entitled to get the temporary status. The applicant's grievance is that they have not been granted temporary status. According to the applicants as per the Office Memorandum dated. 12.2.99 the applicants are entitled to get the temporary status and subsequent regularisation of their services. As the applicants were denied temporary status they have approached this Tribunal without submitting any representation.

contd/-

Attested

W.S.
Advocate.

We have heard Mr. S. Sharma, learned counsel for the applicants and Mr. B. C. Pathak learned Addl. C.G.S.C. as well as Mr. B. S. Basumatary for the respondents. As per the decision of the Apex Court dated 17-4-99 (Annexure 1) the case of the applicants is required to be considered. The applicants have approached this Tribunal without submitting any representation. Normally this Tribunal may not entertain any application if departmental remedy is not exhausted. As the facts are not available before us we dispose of the Applications with direction to the applicants to submit representation within a period of one month from to-day. If such representation is filed the respondents shall consider the same as per observations made above. If the applicants are entitled to get the temporary status as under the scheme and or any guideline they shall consider the same. This must be done as early as possible at any rate within a period of 3 months from the date of receipt of this order.

Application is disposed of. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

Certified to be true Copy

प्रमाणित प्रतिलिपि

Section Officer (J)

आयुक्त अधिकारी (अधिकाधिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-6
गुवाहाटी न्यायपीठ, गुवाहाटी-6

Attested
by
Advocate

To,
The General Manager, Telecom,
Silchar SSA, Silchar 788001.

Sub :- Grant of temporary status and regularisation.

Ref :- Order vide No E-20/SKD/13 dated 13.8.99.

Sir,

With due deference and profound submission I beg to state the few following lines before your honour for kind consideration and necessary action thereof.

That I am a casual mazdoor, working under your organisation since long 1987 and my case is covered by the scheme of grant of temporary status and regularisation. It is pertinent to mention here that since long I have been requesting your honour for my regularisation as well grant of temporary status but my such prayer was never acceded to. It is pertinent to mention here also that being aggrieved by the said non regularisation I was constrained to move the doors of the Hon'ble Tribunal by way of filing O.A, No 167 of 1999. The Hon'ble Tribunal while entertaining my such application was pleased to pass an order directing me to file a representation and accordingly I have filed a representation in the month of June 1999 praying for my such regularisation.

That on receipt of my such representation, the aforesaid order on reference has been passed rejecting my prayer made on the said representation. My parawise reply to the said order dated 13.8.99 is as follows:

a) That my aforesaid representation pursuant to the aforesaid order of the Hon'ble Tribunal was not vague. In my said representation I have categorically mention my year of engagement as casual mazdoor which is the basic criteria for grant of temporary status and regularisation under the scheme of 1989 as well the clarification mentioned in the order dated 17.12.93 and the recent order vide No DOT No 269-4/93-STN -II (pt) dated 12.2.99. It is pertinent to mention here that the last order dated 12.2.99 issued by the DOT is very clear that employees who have completed 10 years of service as on 31.3.97 will be regularised as one time measure. I have completed more than 14 years of service and hence by any of the aforesaid circulars I am entitled to get the benefit of the same.

b) That in support of my aforesaid claim I am enclosing the order dated 12.2.99 issued by the D.O.T and some of the documents showing my service period including Muster Roll Nos. and the notice dated 17.8.94 wherein some of the service particulars are mentioned. On the other hand several documents have been produced before the authority concerned when my name was sought to be sent for regularisation. It is also pertinent to mention here that the muster roll register and pay bills may also be perused to show my service period. From the above it will be crystal clear that I have been working since 1986 as casual Mazdoor.

c) That the aforesaid records submitted by me will show that I am working since 1987 as Casual mazdoor and hence I am entitled

Accepted

W.S.M.
13/8/99

to get the benefit of the aforesaid schemes for grant of temporary status and regularisation.

d) That from the above order dated 13.8.99 it is crystal clear that in our case office has not maintained any record or register and the aforesaid absence has caused a serious harm to my service career. However, I am not at all liable for the said maintenance of records and for the mistake of office I may not be made to suffer as has been done in my case. It is also pertinent to mention here that from the available records maintained by me the aforesaid difficulties can be sorted out and relying on those documents I may be allowed the aforesaid benefit of temporary status as well as regularisation according to the aforesaid scheme and D.O.T's order.

e) That as stated in the order dated 13.8.99 that there was ban on recruitment of Casual labourer after 30.3.85, I beg to state that my recruitment was done by the Asstt. Engineer Wireless Halflong and the said appointment was pursuant to an interview and my name was sponsored through the local employment exchange. To that effect one of the initial order dated 30.4.1987 of appointment is enclosed for ready reference. From the above order dated 30.4.87 it is clear that recruitment to the post of casual mazdoor was also in progress after the said cut of date i.e. 30.3.85.

In view of the aforesaid facts and circumstances I pray before Your Honour to consider my case after scrutinising the aforesaid records enclosed in this application as well as the available records maintained by the office and with a further prayer to grant temporary status and subsequent regularisation.

I hope that Your Honour would be kind enough to grant me the aforesaid relief.

Thanking you.

Shrikha Dey 9/9/99

Sincerely yours

Copy to:-

1. The Director, Department of Telecommunication
Sanchar Bhawan, New Delhi.
2. The Chief General Manager, Telecom,
Assam Circle, Ulubari, Guwahati-7.

Attested

[Signature]
Associate

In The Central Administrative Tribunal
GUWAHATI BENCH GUWAHATI

ORDER SHEET
APPLICATION NO. 72000


OF 199

Applicant(s) *Sri S. S. Das and ors.*

Respondent(s) *Union of India and ors.*

Advocate for Applicant(s) *Mr. B. K. Sharma*
Mr. S. Sharma Mr. U. K. Goshwami

Advocate for Respondent(s) *C. G. S. C.*

Notes of the Registry	Date	Order of the Tribunal
	11-1-2000	<p>Present: Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman and Hon'ble Mr. G.L. Sanglyine, Administrative Member.</p> <p>16 applicants have approached this Tribunal by filing a single petition. They have prayed for permission to join in this single application under the Provision of Rule 4(5)(a) of the C.A.T. Procedure Rules 1987. Heard Mr. B.K. Sharma learned counsel for the applicant and Mr. B.C. Pathak, learned Addl. C.G.S.C. Prayer is granted.</p> <p>In this application the applicants have challenged the Annexure 9 order dated 13.8.99 by which the representation of the applicants was rejected. The case of the applicants is that they have been working since 1986 or 1987. But the Annexure 9 order shows that the authority does not have any record to show that the applicants have been working as such.</p>

contd/-

Attested
[Signature]
Advocate.

22-A

U.N. 3/2000

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Notes of the Registry	Date	Order of the Tribunal
	11-1-2000	<p>Mr. B.K. Sharma submits that this clause is contrary to Annexure 11 chart which eloquently speaks about their working since 1985. Mr. Sharma also submits that they are still working. We have heard Mr. B.C. Pathak, learned Addl. C.G.S.C. also.</p> <p>On hearing counsel for the parties we dispose of the application with direction to the respondents to scrutinise the case and consider the same by giving a reasoned order. The applicants may file separate representations giving details of their case within 15 days from to-day. They may also produce evidence that they have been working since 1986-87. If such representation is filed that should be considered by taking into consideration of Annexure 11 chart and then dispose of the matter by a reasoned order. This must be done within a period of one month from the date of receipt the representation.</p> <p>Application is disposed of. No order as to costs.</p> <p>Till disposal of the representation status quo as on to-day shall be maintained.</p>

Sd/-VICECHAIRMAN
Sd/MEMBER (A)

TRUE COPY

प्रतिलिपि

Section Officer

अनुमान जमिनी
Central Adm. Justice Tribunal
Guwahati
2/2/2000

Attended
Advocate



- 23 -
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM
SILCHAR SSA : SILCHAR

ANNEXURE - 7

No. E-20/SKD/24

Dated at Silchar, the 14-03-2000

To

Sri Sujit Das

Haflong Telephone Exchange

N.C Hills.

Sub: - Grant of Temporary status Mazdoor.

Ref: - 1. Your representation dtd. NIL

2. Hon'ble CAT/Guwahati order dtd. 11-01-2000 in OA No. 5/2000.

With reference to your application dtd. NIL received by this office on 15-02-2000 along with a xerox true copy of the court order dtd. 11-01-2000, you are hereby intimated that your representation has been thoroughly examined & engagement particulars thoroughly scrutinised in view of the judgement and observation of Hon'ble CAT/Guwahati dtd. 11-01-2000 in OA No. 5/2000 and observed that: -

1. Your representation dated NIL does not contain vital informations & particulars which are relevant for the disposal of the present case.
2. It is found that your representation is not supported with copies of documents which are made Annexures along with your application before the Hon'ble CAT at Guwahati.
3. You have not produced documentary evidence too in support of your engagement, as per direction of the Hon'ble Tribunal.
4. Ban on recruitment of casual labourer after 30-03-1985 is still in force.
5. You were engaged, time to time, for works purely on casual basis and for jobs of intermittent nature on verbal requisition which donot itself create any right over the status in question.
6. You had never been appointed as casual mazdoor by any Telecom authority.
7. Your engagement particulars do not fulfil the eligibility criteria for granting you as "Temporary Status Mazdoor" as per norms & records available at this end.

Under the circumstances stated above, your request for granting of Temporary Status can not be acceded to and as such your representation stands rejected.

[Signature]
14/3

General Manager Telecom
Silchar SSA : Silchar.

General Manager Telecom
SILCHAR

[Signature]
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.357 of 2000

Date of decision: This the 5th day of July 2001

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

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

1. Sujit Das
2. Kajal Nath
3. Kajal Das
4. Badal Banik
5. Naru Ch Das
6. Paritosh Ch Das
7. Shyamal Biswash
8. Satyandra Kumar Das
9. Ajay kr Das
10. Paresh Malakar
11. Paresh Das
12. Pratap Malakar
13. Parimal Malakar
14. Sambhu Das
15. Mainul Haque Laskar
16. Sankar Roy

.....Applicants

The applicants are working as casual labourers under the Sub Divisional Officer, Telecom, Haflong.

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

versus -

1. The Union of India, represented by the Secretary to to the Government of India, Ministry of Communication, New Delhi.
2. The Chief General Manager, Telecom, Assam Circle, Ulubari, Guwahati.
3. The General Manager, Telecom, Silchar SSA, Silchar.
5. The Sub Divisional Officer, Telecom Haflong.

.....Respondents

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

.....

Silchar SSA :: Silchar

Copy together with the annexure is forwarded to: -

Shri Sujit Das
S/o Late Gopesh Chandra Das
Vill & P.O. - Katigorah.
Dist. - Cachar.

- 25 -

O R D E R (ORAL)

CHOWDHURY J. (V.C.)

This is the third round of litigation pertaining to the granting of temporary status to the sixteen employees of Telecommunication Department. The applicants in this application claim that they were rendering their service under the respondents for years together from 1986 and 1987. They moved this Tribunal from time to time for granting them temporary status as per the Scheme known as "Casual labourers (Grant of Temporary Status and Regularisation) Scheme, 1989", which provided that casual employees who had completed more than 240 days of service were to be given temporary status. By Memorandum dated 12.2.1999 the benefit of the aforementioned Scheme was extended to those employees who completed the requisite period of service upto 31.3.1997. It was also pointed out that the provision for granting of temporary status to the casual labourers was extended to those employees who were eligible as on 1.8.1998 and regularisation of casual labourers with temporary status who were eligible as on 31.3.1997. The Tribunal by order dated 31.5.1999 in O.A. Nos. 163, 167 and 168 of 1999 directed the respondents to dispose of the representations of the applicants. The Tribunal also directed the applicants to submit representation within a specified period and the respondents to consider the case of the applicants as per Scheme or the prevailing guidelines. The applicants in terms of the aforementioned order of the Tribunal submitted representations alongwith some documents. By order dated 13.8.1999 their representations were turned down. The applicants again moved the Tribunal by way of an

Attested

W. S. A.
Advocate.

O.A. which was numbered and registered as O.A.No.5 of 2000. The Tribunal by order dated 11.1.2000 disposed of the said O.A. directing the applicants to file separate representations within a specified time and also to produce evidence about the period of their service. By order dated 14.3.2000 the respondents again turned down the claim of the applicants. Hence this application.

2. The respondents filed their written statement. According to the respondents the applicants did not complete 240 days work in the Department of Telecommunication in any calendar year and were not in engagement as on 1.8.1998. In their written statement the respondent reiterated the facts, save and except the case of applicant No.1, Shri Sujit Das, who, the respondents admitted, was found to have worked for 240 days in one calendar year, but was not in engagement on 1.8.1998 and afterwards in the Department of Telecommunication. However, his case was considered at the appropriate level. The remaining applicants were not found eligible for regularisation.

3. We have heard Mr S. Sarma, learned counsel for the applicants and Mr A. Deb Roy, learned Sr. C.G.S.C. at length. We have also perused the documents furnished by the applicants, more particularly, the excerpts of the Muster Roll Register, showing the attendance of the applicants from January 1997 till the month of October 1999. The document cited at page 9, Memo No.X-2/CONS/ENQ/SDE(G)-HF/2001-2002/2 dated 8.5.2001 pertaining to enquiry in respect of the complaint from Sri N.S. Purkayastha, Office of the SDE (Phones), Haflong. In that case one of the applicants, namely, Sri Sujit Kr Das, Casual Mazdoor was ordered to attend the office of the Inquiry Officer, SDE (Grp.), Haflong, on 12.5.2001.

Attested
wDm
Advocate.

4. From the above documents it is difficult to accept the assertions of the respondents ruling out that the applicants did not complete 240 days work in the Telecommunications Department in any calendar year preceding 1.8.1998 and the applicants were not in employment as on 1.8.1998. In our view the entire matter requires to be re-examined by the respondents by scrutinising the relevant documents including the Muster Roll etc. We accordingly direct the respondents to look into the individual cases of these applicants by scrutinising the records including the records, which have been made available before us. The subject matter pertains to livelihood of persons who worked as casual labourers and who have been agitating since 1999. Therefore, we direct the respondents to complete the exercise as early as possible, preferably within two months from the date of receipt of the order. If the applicants produce the documents, the respondents shall consider the same through the scrutinising committee and pass a reasoned order thereafter for granting/according the benefit of the Scheme for granting temporary status and regularisation as per law.

5. The application is accordingly allowed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

TRUE COPY

प्रतिनिधि

13/8/2001

Section Officer (J)

संयोजक अधिकारी (प्रशासनिक कार्य)

Central Administrative Tribunal

राष्ट्रीय प्रशासनिक न्यायालय

Central Board, Convener-1

राष्ट्रीय बोर्ड, संयोजक-1

nkm

Attested

18/8/2001

BHARAT SANCHAR NIGAM LTD. (BSNL)
(A Govt. of India Enterprise)
OFFICE OF THE GENERAL MANAGER
SILCHAR SSA :: SILCHAR

No. CAT/GH O.A.357/2000/SC/loose/16

Dated at Silchar, the 01-10-2001.

In compliance to the directions contained in Judgement order dated 05-07-2001 passed by Hon'ble Administrative Tribunal, Guwahati in O.A. No. 357/2000, the case of Shri Sujit Das was taken up for re-examination. For this purpose, a Verification Committee was constituted to scrutinise all available records to work out the engagement particulars for determining his eligibility for the benefit of the departmental scheme.

The Committee scrutinized all Paid Vouchers/ Muster Rolls to ascertain the number of days that Shri Sujit Das was put on duty from time to time beginning from 06-10-1987. The Committee also examined the records / certificates produced by Shri Sujit Das including controversial document claimed and submitted as the copy of the attendance register containing the attendance of 16 persons from January 1997 to October 1999, and cross examined the same with the concerned officials whose signatures appeared in the said document in order to establish the validity and correctness of these records.

It emerged from the examination of records as well as author (s) that the attendance register was false, fabricated and not an official record based on actual engagement. The same is not substantiated by any authenticated/reliable records. The paid Vouchers/Muster Rolls for corresponding period reveal that Shri Sujit Das was not engaged for any Departmental work for the period shown in the fabricated attendance register from January 1997 to October 1999 save and except the number of days shown in the annexure. The said report is, therefore, factually incorrect and cannot be relied upon.

The above exercise has clearly revealed that Shri Sujit Das was occasionally and intermittently engaged as casual labourer for performance of work for which regular post is not justified. The number of days that Shri Sujit Das was engaged in each year is as follows: -

Calendar year	No. of days
1987	85
1988	120
1989	112
1991	30
1992	296
1993	100
1998	01

(Month-wise details are available in Annexure)

It is also established by records that Shri Sujit Das has not been engaged for any work after March 1998.

The length of the casual service rendered by Shri Sujit Das as summarised above, indicate that though he worked for more than 240 days during the calendar year 1992 he, however, was not working in the Department as on 01-08-1998 and therefore, does not fulfil the essential condition for grant of Temporary Status under Departmental Scheme and subsequent clarifications. He is therefore not eligible for the benefit of Temporary Status. Accordingly the claim of Shri Sujit Das for grant of Temporary Status and other benefit of the scheme is rejected.

(Shrihari Roy)
General Manager, BSNL
Silchar SSA :: Silchar

Copy together with the annexure is forwarded to: -

- ✓ Shri Sujit Das
S/o Late Gopesh Chandra Das
Vill & P.O. - Katigorah.
Dist. - Cachar.

Attested
Vsa
Advocate

ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

NAME OF THE APPLICANT : SUJIT DAS.
CASUAL MAZDOOR

YEAR	MONTH	NO. OF DAYS	MODE OF PAYMENT i.e. MASTER ROLL/ACG-17 PARTICULARS i.e. Vr. No.		AMOUNT	ENGAGED BY WHOM	BILLING/PASSING AUTHORITY	NAME (H A.O. WHO HAS PAID
			PARTICULARS	Vr. No.				
1987	October	26	ACG-17	Nil	442.00	COT/SC	DE/TDM-SC	AO(c) /SC
1987	November	28	ACG-17	9	476.00	COT/SC	DE/TDM-SC	AO(c) /SC
1987	December	31	MR	6	527.00	COT/SC	DE/TDM-SC	AO(c) /SC
		85						
1988	January	31	ACG-17	3	527.00	COT/SC	DE/TDM-SC	AO(c) /SC
1988	February	29	ACG-17	4	493.00	Dy. TDE/SC	DE/TDM-SC	AO(c) /SC
1988	June	30	ACG-17	4	847.50	JTO(C) /SC	DE/TDM-SC	AO(c) /SC
1988	November	30	ACG-17	17	885.00	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
		120						
1989	January	31	ACG-17	6	914.50	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
1989	February	28	ACG-17	6	861.00	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
1989	April	25	ACG-17	15	768.75	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
1989	May	28	MR	7	861.00	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
		112						
1991	October	15	ACG-17	97	570.00	AO(c) /SC	DE/TDM-SC	AO(c) /SC
1991	December	15	dir/Vr		600.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
		30						
1992	January	15	dir/Vr		600.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	January	15	dir/Vr		600.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	February	15	dir/Vr		600.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	February	14	dir/Vr		560.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	March	30	dir/Vr		1200.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	April	15	dir/Vr	59	645.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	April	15	dir/Vr	58	645.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	May	15	dir/Vr		645.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	May	15	dir/Vr		645.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	June	30	dir/Vr		1290.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	July	26	dir/Vr		1118.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	August	19	dir/Vr		817.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	September	19	dir/Vr		874.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	October	19	dir/Vr		874.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	November	19	dir/Vr	135	874.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	December	15	dir/Vr		690.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
		296						
1993	January	26	ACG-17	23	1040.00	SDOT/SC	DE/TDM-SC	AO(c) /SC
1993	February	19	dir/Vr		874.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1993	March	24	dir/Vr		1104.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1993	August	31	ACG-17	12	1395.00	SDOT/SC	DE/TDM-SC	AO(c) /SC
		100						
1998	March	1	ACG-17		40.00	AO(c) /SC	DE/TDM-SC	AO(c) /SC

SIGNATURE OF THE COMMITTEE MEMBERS

Sankar Das
Sankar Das
SDE (RRC)/GH
Circle Office Member

M.R. Choudhury
M.R. Choudhury
Sr. AO (Cash)
O/O the GMT, Silchar

I.R. Paul
I.R. Paul
DE (P&A)
O/O the GMT

Attested
[Signature]
Advocate.

OFFICE OF THE SDE(GRP.) HAFLONG

No: -X-2/CONs/ENQ/SDE(G)-HFL/2001-2002/2 Dated at Haflong, the 08-05-2001

Sub:- Enquiry in respect of the Complaint from Sri N.S. Purkayastha, O/O the SDE(Phones), Haflong.

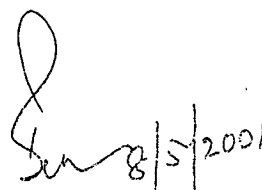
Following Officials are ordered to atten in the Office of undersigned on 12/05/2001 at 14:00 hrs. on above cited subject.

- | | |
|---------------------------------------|----------------------------|
| 1. Sri N.S.Purkayastha, Sr. TOA(G). | } O/O the SDE(P), Haflong. |
| 2. Sri Biraj Barman, P.M., Haflong. | |
| 3. Sri Sujit Kr. Das, Casual Mazdoor. | |
| 4. Sri Bikash Baruah, TOA(G) | } O/O the SDE(G), Haflong. |
| 5. Sri Prasanna Kr. Malakar, P.M. | |

Sa/-
B.B. Chakraborty
Enquiry Officer.
SDE(Grp.), Haflong.

Copy to:-

1. The D.E.(O), O/O the G.M. BSNL, Silchar for favour of information please. This has a reference of Order No. D.E.(O)/SLC/HFL/Corr/2000-2001 dt. 25/04/2001.
2. The SDE(P), Haflong for information please. He may please be release the Official (1) to (3) for holding enquiry.
3. The S.P., Haflong for favour of information please. This has a reference of F.I.R. lodged by Sri N.S. Purkayastha, Sr. TOA(G) on 04/04/2001 to O/C, Haflong Police Station.
4. Notice board of Staff. If any information with any B.S.N.L. Staff may be submitted written statement to I.O.


 B.B. Chakraborty
 Enquiry Officer.
 SDE(Grp.), Haflong.

Attested
u/s
Advocate.

Dr. D. K. Das directed for
first filing of telephone
connection provided w.e.f.
August. 2002.

Sub-Divisional Engineer (T)
D.S.P.L. Deptt.

Attested
L. S. S.
Advocate.

Directed for first fittings, New connection
for Hwangajao, Maibong, Umhangam Exchanges
2002 to 31 Jan. 2003
Sub-Divisional Engineer
B.S.N.L. Maibong.

Attested

US
Advocate

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 then 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 then 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 Rated 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

W.S.
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, 1998.

Sd/-

(Kuldeep Singh) J.

Attested
hSa
Advocate.

ANNEXURE - 14

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. 1987"
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.
6. Temporary status would entitle the casual labourers to the following benefits :

Attested

W. S. A.
Advocate.

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 quite 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
 L. D. S.
 Advocate

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.269-13/99-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
u. S. S.
Advocate.

79
1615 FEB 2004

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI.

49
Filed by

(A. DEB ROY)

Sr. C. C. C.

C. A. T. Guwahati Bench

O.A. NO. 110 OF 2003

Shri Sujit Das.

..... Applicant.
-Vs-

Union of India & Ors.

..... Respondents.

- And -

In the matter of :

Written Statement submitted by
the respondents.

The humble respondents beg to submit the para-wise
written statement as follows :-

1. That with regard to the statement made in para 4.1,
of the application the respondents beg to state that the respondents
were very much sincere to comply with the judgement order and
directions passed by the Hon'ble Tribunal in each O.A. in the
previous three ~~months~~ rounds of litigation.

The applicant filed a contempt petition against
the respondents in C.P. No.44/2000, arising out of O.A. No. 357/2000,
which was disposed of by the Hon'ble Tribunal vide judgement and
order dated 24.05.2001 with remarks that "the judgement and order
dated 25.10.2000 in O.A. No.357 of 2000 has been implemented,
Accordingly, Contempt proceedings is closed ".

A copy of the judgement and order dated 24.05.2001 in CP. No. 44/2000 (O.A. No. 357/2000) is enclosed herewith and marked as Annexure-B.

There is no information at this end whether any written statement was preferred to the Hon'ble Tribunal stating that the matter was under consideration and would be considered for grant of Temporary Status.

2. That with regard to para 4.2, of the application the respondents beg to offer no comments.
3. That with regard to the statement made in para 4.3, of the application the respondents beg to state that letter dated 30.04.1987 of Dist. Employment Officer, Haflong appears to be a call letter and not any ~~an~~ appointment order. The applicant was not appointed in any capacity in the department.
4. That with regard to the statement made in para 4.4, of the application the respondents beg to state that after imposition of ban on regular engagement of Casual Mazdoor, they used to be engaged in those days against specific work and money receipt used to be taken against payment in ACG-17. This is not a pay bill form of regular employees in the department. The applicant in this OA has no involment in the order dated 16.07.1991 as referred in this para. Order dated 16.07.1991 has no relevance with the claim of the applicant in this O.A. 110/2003.

5. That with regard to the statement made in para 4.5, of the application the respondents beg to state that as per the committee report based on actual payment record of the applicant, he was not in engagement during 1996.

A copy of the committee report dated 09.06.2000, which reflects the engagement status of the applicant in the department from time to time, is enclosed herewith and marked as Annexure-C.

6. That with regard to the statement made in para 4.6, of the application the respondents beg to state that the directions in the orders of the Hon'ble Tribunal were complied with sincerely. The application of the applicant in O.A. No. 167/1999 was disposed of by passing reasoned order vide this office letter No. E-20/SKD/13 dated 13.08.1999.

A copy of letter dated 13.08.99 is annexed herewith and marked as Annexure - 'D'.

7. That with regard to the statement made in para 4.7, of the application the respondents beg to state that it appears that Annexure-5 document of the applicant is a representation dated 09.09.1999 addressed to GMT/Silchar signed by one Shri Shambhu Das and not by the applicant Sri Sujit Das in this O.A.

8. That with regard to para 4.8, of the application the respondents beg to offer no comments.

9. That with regard to the statement made in para 4.9, of the application the respondents beg to state that the direction of the Hon'ble Tribunal ~~in~~ order dated 11.01.2000 was complied with by passing reasoned order vide this office letter No. E-20/

letter No. E-20/SKD/24 dated 14.03.2000 is enclosed herewith and marked as Annexure-E.

10. That with regard to the statement made in para 4.10, of the application the respondents beg to state that the applicant was informed the fact by passing reasoned order on the basis of the report of verification committee placed before the SSA Head.

As per the recommendation of the verification committee on its findings and eligibility criteria laid down in CGMT/Guwahati D.O. No. Estt-9/12/PART-1/23 dated 28.03.2000, the application of the applicant was disposed of vide letter No. CAT/GH O.A. 357/2000/SC/loose/16 dated 01.10.2001 in compliance to the judgement and order dated 05.07.2001 of CAT/GH in O.A. No. 357/2000.

Copy of DO dated 28.03.2002 is enclosed herewith and marked as Annexure-F.

11. That with regard to the statement made in para 4.12(a) of the application the respondents beg to state that the presence of a person in a particular place in a particular occasion does not indicate his presence or continuation in service in the department. In this connection the official communication and statement of SDET/Haflong dated 19.09.2001 addressed to the verification committee is enclosed herewith and marked as Annexure-G. In the said statement at para 1 in page 1, the status of Sri Sujit Das has been clarified.

12. That with regard to the statement made in para 4.12 (b) & (c), of the application the respondents beg to state that in this connection, a letter dated 01.08.2002 from Sri Himadri Dey, Contractor, N.C. Hills, Haflong addressed to SDE (Group)/Haflong is enclosed herewith and marked as Annexure-H.

The communication clearly indicates that Sri Sujit Das is Contractor's Labourer and his services are being utilised by the contractor at Haflong.

Sri Himadri Dey is an authorized contractor of BSNL erstwhile Telecom and doing line construction and cable laying works in N.C. Hills for last few years and in other places in this SSA also.

Regarding status of Sri Sujit Das, the following documents are enclosed herewith :-

(i) Money receipt dated 05.11.2002 from Sri Sujit-Das for work done for the contractor, Sri Himadri-Dey of College Road, Haflong, from 01.10.2002 to 30.10.2002. (Copy enclosed and marked as Annexure-'1').

(ii) Money receipt dated 03.12.2002 from Shri Sujit Das for work done for Sri Himadri Dey, contractor, Haflong during the period 01.11.2002 to 30.11.2002. (Copy enclosed and marked as Annexure-J.

(iii) Money receipt dated 04.04.2003 from Sri Sujit-Das for work done for Sri Himadri Dey, contractor, Haflong during the period 01.03.2003 to 31.03.2003. (Copy enclosed and marked as Annexure-K).

In this connection a copy of letter dated 25.06.2003 from SDE (Group), Haflong, N.C. Hills addressed to GMT, BSNL/Silchar is produced herewith and marked as Annexure-L.

SDE (Group) /Haflong has clarified under what circumstances an identification was given to the contractor's labourer on specific request from the contractor, in view of the prevailing situation there.

Above communications/documents clearly indicate that Sri Sujit Das is not a departmental worker and he is adopting fraudulent means to establish him as a departmental worker. There is no casual labourer in this SSA.

13. That with regard to paras 4.13 and 4.14, of the application the respondents beg to ~~state that~~ offer no comments.

14. That with regard to the statement made in para 4.14, of the application the respondents beg to state that ~~no~~ attendance register used to be maintained for casual engagement. Money receipt against payment for purely casual engagement used to be taken in ACG-17 form and were incorporated account vouchers. The Telephone line maintenance and construction works in the SSA are done through contractors since long back. It is not a fact that the applicant containing in work till date without any break.

For any engagement, payment particulars are incorporated in the ACE-2 A/C vouchers. But thorough scrutiny and examination of the A/C vouchers of the division could not establish the correctness of ~~the~~ statement of the applicant.

15. That with regard to para 4.15, of the application the respondents beg to offer no comments.

Committee report based on actual payment vouchers that the applicant was not in engagement since 1993. Moreover since 1998 works in the department are being done through contractors/contractos labourer. The department has no liability to regularise the applicant, if his service is utilised by any contractors or any other agency.

16. That with regard to the statement made in para 4.16, of the application the respondents beg to state that the applicant was never appointed against any post in the department. As such his continuation in the service does not arise. Records reveal that he was casually engaged upto 1993 and 1st day in 1998.

17. That with regard to para 5.1, of the application the respondents beg to state that the statement is not agreed.

18. That with regard to para 5.2, of the application the respondents beg to state that there has been no violation principles of natural justice.

19. That with regard to para 5.3, of the application the respondents beg to state that the statement is not agreed.

20. That with regard to the statement made in para 5.4, of the application the respondents beg to state that the earlier contempt petition of the applicant has been rejected by the Hon'ble Tribunal.

Hon'ble Tribunal.

21. That with regard to the statement made in para 5.5, of the application the respondents beg to state that the application of the applicant is liable to be rejected.

22. That with regard to paras 6 and 7 of the application the respondents beg to offer no comments.

23. That with regard to the statement made in para 8.1, of the application the respondents beg to state that the applicant was never appointed in the department in any capacity. He was merely engaged as casual mazdoor time to time on actual need basis on the availability of work. He is no longer in engagement in the department since long back. As such, extending of the benefit of the scheme of 1998 with retrospective effect does not arise at all.

24. That with regard to the statement made in para 8.2, of the application the respondents beg to state that the Hon'ble Tribunal may be pleased to reject the application of the ~~applicant~~ applicant.

25. That with regard to para 8.3, of the application the respondents beg to state that the statement not agreed.

26. That with regard to the statement made in para 8.4, of the application the respondents beg to state that the applicant is not entitled for any relief.

Verification.....

-46-
5x

-9-

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

I, Shri Shankar chandra Das, presently working as Asstt. Director Telecom (Legal), being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statements made in paragraph are true to my knowledge and belief and those made in paragraph being matter of records, are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 7th day of November 2003.

Shankar Chandra Das
7/11/03

Deponent.

সহায়ক নিয়ন্ত্রক দূরসংসার (বিভি)
Assistant Director Telecom (Legal)
কোম্পিউটার, এবং আইন বিষয়ক দপ্তর,
Old Law Court, Assistant Manager Telecom
এবং আইন বিষয়ক দপ্তর, জিওসিটি-১
Assam Telecom Circle, Guwahati-১

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 44/2000 (CA 357/2000)

Shri. S. S. Das and ors. Applicant.

Union of India & Ors. Respondents.

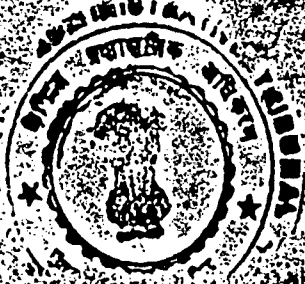
For the Applicant(s)
Mr. B. K. Chakraborty
Mr. S. S. Das
Mr. U. K. Das

For the Respondents.

NOTES OF THE REGISTER DATE ORDER

24.5.01

The judgment and order dated 25.10.2000 in O.A.No.357 of 2000 has been implemented. Accordingly, Contempt proceedings is closed.



Member

Vice-Chairman

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (J)
राज्यपाल अधिकारी (अ) (प्रशासनिक शाखा)
Central Administrative Tribunal
Guwahati Bench, Guwahati
গুৱাহাটী বেঞ্চ, গুৱাহাটী

(71) - *Annexure - C*
ANNEXURE "C" (Page - 1)

Verification of records of Casual Labourers in Assam Telecom Circle. (46)

Ref: Hon'ble CAT Guwahati bench decision dtd. 31-08-99.

48 - 59
Attended by Sister
Accounts Officer (Tech)
Office of the Asst. Telecom. Officer
Silchar, Tezpur.

1. NAME OF THE APPLICANT CASUAL MAZDOOR : *SRI SUJIT DAS.*
2. O/A NO. IF THE LABOURER HAS GONE TO COURT : *- 5/2000*
3. FATHER'S NAME AND ADDRESS : *- Late. Gopesh ch. Das.
Vill - Katigorah, PO - Katigorah
Dist - Cachar*
4. DATE OF BIRTH : *- 01-10-1965*
5. AGE AS ON 01-08-1998 : *32 yrs. 10 months - day.*
6. DATE OF INITIAL ENGAGEMENT MODE OF SELECTION (THROUGH EMPLOYMENT EXCHANGE OR ANY OTHER METHOD : *06-10-1987
engaged locally.*
7. NATURE OF DUTY PERFORMED : *Helper to the line staff for construction and maintenance of Telecom outdoor plants.*
8. PRESENT STATUS OF THE MAZDOOR : *Not in work.*
9. SPECIMEN SIGNATURE OF THE MAZDOOR : *- [Signature]*
10. ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT (as per attached sheet) TILL 01-08-98 : *- Separate sheet attached.*
11. RECOMMENDATION OF THE COMMITTEE WHETHER CASUAL LABOUR SHOULD BE GRANTED TEMPORARY STATUS OR NOT KEEPING IN VIEW GIDE LINE : *Not recommended for granting temporary status.
Not recommended*
12. RECOMMENDATION OF THE SSA HEAD/UNIT : *[Signature] 13/6*

General Manager Telecom
SILCHAR

9/6/2000
SSA/RR-2/614
Circle Office member

Not recommended
AO/SSA
(Cachar) 9/6/2000

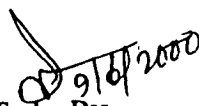
Depd
9/6/2000
DE (P&A)/SSA
Silchar

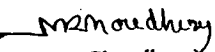
ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT


NAME OF THE APPLICANT : SUJIT DAS.
CASUAL MAZDOOR

YEAR	MONTH	NO. OF DAYS	MODE OF PAYMENT Le. MASTER ROLL/ACG-17 PARTICULARS Le.VR. NO.		AMOUNT	ENGAGED BY WHOM	BILLING/ PASSING AUTHORITY	NAME OF A.O. WHO HAS PAID
			PARTICULARS	Vr. No.				
1987	October	26	ACG-17	Nil	442.00	COT/SC	DE/TDM-SC	AO(c) /SC
1987	November	28	ACG-17	9	476.00	COT/SC	DE/TDM-SC	AO(c) /SC
1987	December	31	MR	6	527.00	COT/SC	DE/TDM-SC	AO(c) /SC
		85						
1988	January	31	ACG-17	3	527.00	COT/SC	DE/TDM-SC	AO(c) /SC
1988	February	29	ACG-17	4	493.00	Dy. TDE/SC	DE/TDM-SC	AO(c) /SC
1988	June	30	ACG-17	4	847.50	JTO(C) /SC	DE/TDM-SC	AO(c) /SC
1988	November	30	ACG-17	17	885.00	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
		120						
1989	January	31	ACG-17	6	914.50	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
1989	February	28	ACG-17	6	881.00	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
1989	April	25	ACG-17	15	788.75	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
1989	May	28	MR	7	861.00	AE(w)/HFL	DE/TDM-SC	AO(c) /SC
		112						
1991	October	15	ACG-17	97	570.00	AO(c) /SC	DE/TDM-SC	AO(c) /SC
1991	December	15	dir/Vr		600.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
		30						
1992	January	15	dir/Vr		600.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	January	15	dir/Vr		600.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	February	15	dir/Vr		600.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	February	14	dir/Vr		560.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	March	30	dir/Vr		1200.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	April	15	dir/Vr	59	645.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	April	15	dir/Vr	58	645.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	May	15	dir/Vr		645.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	May	15	dir/Vr		645.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	June	30	dir/Vr		1290.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	July	26	dir/Vr		1118.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	August	19	dir/Vr		817.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	September	19	dir/Vr		874.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	October	19	dir/Vr		874.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	November	19	dir/Vr	135	874.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1992	December	15	dir/Vr		690.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
		296						
1993	January	26	ACG-17	23	1040.00	SDOT/SC	DE/TDM-SC	AO(c) /SC
1993	February	19	dir/Vr		874.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1993	March	24	dir/Vr		1104.00	AO(c) /SC	AO(c) /SC	AO(c) /SC
1993	August	31	ACG-17	12	1395.00	SDOT/SC	DE/TDM-SC	AO(c) /SC
		100						
1998	March	1	ACG-17		40.00	AO(c) /SC	DE/TDM-SC	AO(c) /SC

SIGNATURE OF THE COMMITTEE MEMBERS


Sankar Das
SDE (RRC)/GH
(Circle Office Member)


(M.R. Choudhury)
Sr. AO (Cash)
O/O the GMT, Silchar


I.R. Paul
DE (P&A)
O/O the GMT.



GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM.
SILCHAR SSA : SILCHAR - I

ANNEXURE - B

No. E-20/SKD/13

Dated at Silchar, the 13th August '99

To

Sri Sujit Das
Haffong Telephone Exchange

Ref : Your representation dated 16-6-99. 15-6-99

Sub : Grant of Temporary status

With reference to above, you are hereby intimated that your representation has been examined thoroughly in view of the judgement and observation of Honourable C.A.T. Guwahati dated 31-05-99 in O.A. No. 167 of 1999 and observed that :-

1. Your representation dated 15-6-99 is vague and without requisite and vital information and particulars.
2. It is not supported with copies of documents filed before the C.A.T. Guwahati in connection with cited case.
3. Available records at this end do not fulfil the minimum criteria for granting you as temporary status.
4. No register or record in regular basis is maintained for casual labourers. Hence, in absence of concrete documentary evidence, it can not be checked and cross-checked at our end.
5. Ban on recruitment of casual labourer after 30.3.85 still in force.

Under the circumstances, stated above your request for grant of temporary status can not be entertained and as such your representation stands rejected.


General Manager, Telecom
Silchar SSA, Silchar-788001

Affected
W. S. Guha
H. S. Guha

(14)
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM
SILCHAR SSA : SILCHAR

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ANNEXURE-E
62

E-20/SKD/24

Dated at Silchar, the 11-01-2000

To

Sri Sujit Das

Haflong Telephone Exchange

N.C Hills.

Sub: - Grant of Temporary status Mazdoor.

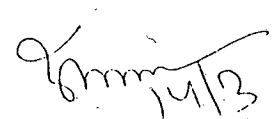
Ref: - 1. Your representation dtd. NIL.

2. Hon'ble CAT/Guwahati order dtd. 11-01-2000 in OA No. 5/2000.

With reference to your application dtd. NIL received by this office on 15-02-2000 along with a xerox true copy of the court order dtd. 11-01-2000, you are hereby intimated that your representation has been thoroughly examined & engagement particulars thoroughly scrutinised in view of the judgement and observation of Hon'ble CAT/Guwahati dtd. 11-01-2000 in OA No. 5/2000 and observed that: -

1. Your representation dated NIL does not contain vital informations & particulars which are relevant for the disposal of the present case.
2. It is found that your representation is not supported with copies of documents which are made Annexures along with your application before the Hon'ble CAT at Guwahati.
3. You have not produced documentary evidence too in support of your engagement, as per direction of the Hon'ble Tribunal.
4. Baa on recruitment of casual labourer after 30-03-1985 is still in force.
5. You were engaged, time to time, for works purely on casual basis and for jobs of intermittent nature on verbal requisition which donot itself create any right over the status in question.
6. You had never been appointed as casual mazdoor by any Telecom authority.
7. Your engagement particulars do not fulfil the eligibility criteria for granting you as "Temporary Status Mazdoor" as per norms & records available at this end.

Under the circumstances stated above, your request for granting of Temporary Status can not be acceded to and as such your representation stands rejected.


General Manager Telecom
Silchar SSA : Silchar.

General Manager Telecom
SILCHAR

15

ANNEXURE F

52-
69

1/C

D.O.No.Estt-9/12/PART-1/23

Government of India,
Deptt.of Telecommunications
O/O the Chief General Manager,
Assam Telecom.Circle,
Guwahati- 781007.

Dated the 28th March, 2000.

My dear Sir,

A list of casual Mazdoors working as on 1.8.98 was forwarded by your office for granting temporary status as per scheme pronounced by Telecom.Directorate in its letter no.269-10/9-STN dated 7.11.89 (copy enclosed). The names of casual mazdoors recommended by your SSA are given in Annexure "A". However, it is observed that apart from these names, additional numbers of Casual Mazdoors have approached Hon'ble CAT from your SSA for granting of Temporary Status to them. (As enclosed Annexure B).

2. The Hon'ble CAT has directed that the matter be sorted out by making detailed scrutiny and examination in consultation with the records and a speaking order be passed in every case individually. For this purpose, it is required that a committee comprising 3 members be constituted by you out of which one member shall be a nominee of Circle Office while 2nd member would be DE(P&A) of your SSA and 3rd member should be Accounts Officer from Finance side of your SSA. Mr. Sanjay Das, SDE(RR)..... of Circle Office is hereby nominated as member for the aforeside committee for your SSA. The above mentioned committee should be constituted immediately so that it completes its task by 30.4.2000 positively.

3. Broad Terms of reference of the committee should be as under.

i) The committee shall interview all casual labourers appearing in Annexure A and B above and obtain their photograph (duly attested by the committee) as well as signatures.

ii) The engagement/payment record of each labourer shall be verified on the basis of payment particulars and signatures of labourers.

iii) A list of Mazdoors eligible for grant of Temporary Status should be prepared on the basis of guidelines for granting temporary status to Casual Mazdoors issued by Deptt. of Telecom vide letter no.269-10/89-STN dtd.7.11.89 and subsequent letter no.269-4/93-STN II dtd.17.12.93 and also 269-4/93-STN II dt.12.02.99 and 269-4/93-STN II(Pt) dt.13.2.2000 (copy enclosed).

Contd...P/2..

85/97-ST
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by
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-:2:-

iv) Further Directorate vide letter no.271-85/97-STN- dtd.17.2.1998 (copy attached) observed that the casual labourers were being engaged on the basis of false certificates for attendance. Needless to mention the verification of records by the committee should be done strictly on the basis of authentic documents.

v) The committee should verify the number of casual labourers without temporary status who have completed 240 days in any preceding year and were in service as on 01.08.1998 as per following details.

Period of Recruitment	Numbers
-----	-----
A. upto 30.3.1985	
B. Between 31.3.1985 to 22.06.88	
C. From 23.06.1988 to 01.08.1998.	

The details of each casual labourer should be recorded separately in the format attached herewith as Annexure C (Page-1 and Page-2). More sheets can be attached if needed but recording of details has to be individually for each casual labourer.

vi) The committee shall submit the report to the SSA Head for further necessary action who will complete the formalities of declaring TSM to eligible Mazdoor subject to number authorised by Directorate. In respect of non-eligible mazdoors and the one's who have gone to the court, the speaking orders on their disengagement/non-confirmation of TSM status should be passed by each SSA head and delivered to him through Registered letter/under receipt.

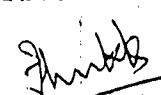
In this connection please note that any delay in deciding the representations of each individual labourer may attract 'Contempt of the Court' proceedings.

vii) The above instructions and term of reference are being issued with the specific approval of CGMT Assam Telecom Circle.

It is requested that the necessary action may kindly be initiated so as to complete the task positively before 30.4.2000.

In case of any queries please write to and call the under-signed on 540167(O)/ 524524(R).

With. Kind regards.


(Manoj Shukla)
Dy. General Manager (Admn)

To,

Shri. C.B. Noir
General Manager, Silchar
Telecom District Manager,

ontd...P/3...

15/97-STN-
labourer
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uthentic
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75

Copy to:

1. CGMT(Task Force),GH ! They are also requested to
! constitute committees for
2. Director(Mtce),ETR,GH. ! verifying the records of each
! casual labourer as above and
! prepared list of eligible C/M
! for conferment of TSM. The list
! duly recommended may be forward-
! ed to the respective head
! of SSA for conferment of TSM.
3. S.E.(Civil),HQ,Guwahati. ! He is requested to forward
! the verification finding
! report to C.O.,Guwahati for
! conferment of TSM.

for C.G.M.T.Assam Circle.
Guwahati-781 007.

(17)

Annexure - G

Page 1

66-54-

The Members
Verification Committee for Silchar SSA
Silchar

- CAT/GH Judgement order dtd. 05-07-2001 in O.A. No. 357/2000 filed by Sri Sujit Das & 15 others.

Ref: - Your letter No. O.A.-357/2000/SC/loose/14 dtd 14-09-2001.

Sir,

With reference to the subject and reference cited above and your queries to me I beg to state as follows: -

That Sir, I have seen the documents placed before me today the 19-09-2001 as referred in Para 3, Page 2 of the Judgement order dtd. 05-07-2001 of Hon'ble CAT/GH. My observations and comments are as follows: -

1. Regarding Memo No. X-2/CONS/ENQ/SDE (G)-HF/2001-2002/2 dtd. 08-05-2001 it is clarified that in the said letter Sri Sujit Das was shown as Casual Mazdoor due to typing mistake. This should have been "Ex-Casual Mazdoor".

There is no Casual Mazdoors in Haflong Sub-Division after July 1998 and Departmental works are done by contractors or through contractor's Labourers. To my knowledge, Sri Sujit Das might have worked through contractor time to time and not engaged by DOT/BSNL.

Sri Sujit Das was shown as an witness by Sri N. S. Purkayastha, perhaps he was incidentally present in the place of occurrence of the incident with Sri N. S. Prukayastha and hence called as an witness. This do not justify his engagement in Department on that date.

2. Regarding the so called extracts of attendance of the applicants from January 1997 to October 1999 submitted by the applicants which were produced before me for comments, it is stated that —

The documents furnished by Sri Sujit Das are neither copy/extracts of the Muster Roll nor copy of any official record.

Muster Roll contains —

- i) Book No.,
- ii) Foil No.
- (iii) Mustering official's Name
- (iv) Signature of the SDO etc.

Contd. to Page 2

25

Documents furnished by Sri Sujit Das in the name of extract of Muster Roll do not contain any of the above informations. No official attendance register is maintained or, available in the office in connection with engagement of labourers. This is neither in practice nor official instruction is there in view of ban on regular engagement of Casual labourers.

The actual engagement and payment to any individual will be reflected in the payment vouchers only, which are most authentic records.

If any official (s) had prepared/signed any such register without official instructions for any specific motive or purpose, it is his/their personal responsibility to establish the correctness/authenticity of the said engagement particulars.

It is astonishing that Sri Narendra Singh SI (O) is posted in Maibong & Sri Abdul Jabbar is posted in Hatikhali for last more than 10 years. How could they monitor the attendance of labourers at Haflong, if engaged at all.

SI(O)s works under supervision JTO/SDO and not under Phone Inspector. Phone Inspector is not authorised to sign any such documents.

In my opinion, the statement prepared is false, fabricated and to embarrass the officers and other officials and the Department as well.

Dated at Silchar,
The 19th September 2001

(B. B. Chakraborty)
SDE (Group)/Haflong

19/9/01
SDE/220-1/42
Member, Verification
Committee

Japand
19/9/2001
DE(PdA)
Member, Verification
Committee

19/9/01
As (Cash)
Member Verification
Committee.

(18)

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ANNEXURE - H

55-18

HIMADRI DEY

Govt. Regd. Class-I (B) Contractor for PWD, Bharat
Sanchar Nigam Ltd. (BSNL), TCIL, Kolkata, Commission
Agent of the Manufacturers & Distributors of reputed firm
of India, Genl. Order Supplier, Carrying Contractor etc.

HEAD OFFICE
College Road, Haflong, N.C.Hills.
Ph : 36737

BRANCH OFFICE
Kaji Nazrul Sarani, Meherpur, Silchar.
Ph : 42235

Ref. No.

Date 1-8-02

To

The S.D.E(A), B.S.N.L, Haflong

Sub: - Prayer for identification of my L2W worker

Ref: - your letter No:- P-43(A)/H.Dey/SDE(A)-HFL/2002-03 DTD 31-7-02

Sir,
you are requested to authorise my worker Shri Sujit Kr. Das S/O. Late Gopesh Ch
Das, vill - Katigona, Dist - Cachar whose signature is attested below for execution of first
fittings work at subscribers premises and obtaining subscribers signature in connection
of the completion of 1st fitting work on my behalf as N.C. Hills revenue district
is an insecure area for insurgency he may not be allowed to do work
inside their premises without identification.

So, I therefore, request you to issue a order for identify him in the
registers of different exchanges with your seal and signature where name
& Telephone No. of new connection are entered.

Thanking you

yours faithfully

H. 18/02
(HIMADRI DEY)

Sujit Dey
Signature of
Shri Sujit Das is
attested by me.

H. 8/02

(19)

ANNEXURE -

64-56-

ANNEXURE - I

Received Rs 2345.00 (Rupees two thousand three hundred forty five) only from Sh. Himadri Day, Contractor, Collage Road, Heflong for the work First fillings of N.T.C. at Jatinga @ Rs 35/- per connection for 67 Nos. on Contractual basis for work done during the period 1-10-02 to 30-10-02

67 Nos x 35/-

= Rs 2345.00



Des
5/11/02

S/O. Late Gopesh Ch. Das
Vill - Katigora
P.O. P.S. Katigora

Sub
Signature
Subject
attached to
11/18/02

(20)

ANNEXURE - J P 57-

from
Received Rs 3500.00 (Rupees three thousand only) Sri Himadri Dey, Contractor,
Collage Road, Haflong for the work First fittings of N.Ties at Maibong @ 35/- per ft. 100 ft
on Contractual basis (work done during the period 1-11-02 to 30-11-02).

100 NOS X 35/-

= Rs 3500.00



Sd/- Des
21/12/02


S/o. Sri Gopesh Ch. Das
vill - Katigora
P.O. P.S. Katigora

(21)

ANNEXURE - K -58-

X

Received Rs 15,000/- (Rupees fifteen thousand) only from Sri Himadri Dey Contractor, College Road, Haflong for the work - Rly shifting from 97 km to 98.5 km on contractual basis. (work done during the period 1-3-03 to 31-3-03)

Sd/-  4/4/03

S/o. Late Gopesh Ch. Das

Vill - Katigora

P.O. P.S. - Katigora

(22)

ANNEXURE - L - 59 -

BHARAT SANCHAR NIGAM LTD.
O/O the SDE (Group), Haflong

No. X-1/SDE(G)/HFL/CAT GH 0A. 110/03/03-04/2 Dated at Haflong, the 25-06-2003

✓ To

The General Manager Telecom
BSNL, Silchar.

Sub:- CAT/Guwahati Case in OA No. 110/03 – Sujit Das Vs. U.O.I. & Ors.

Sir,

I have received a copy of the notice from Hon'ble CAT/Guwahati vide OA No. 110/03/1124 dated 03-06-03 as one of the respondents in the case filed by Sri Sujit Das against U.O.I & others.

That Sir, after going through the contents and documents I noticed with surprise that Sri Sujit Kumar Das, a contractor's worker of N.C. Hills has produced the photocopy of the page of a register as an exhibit to the CAT in order to establish him as a departmental worker. In this connection, I would like to clarify the circumstances and ill motive and foul played by Sri Sujit Das.

That Sir, there is no departmental labourer / mazdoor in N.C. Hills within my jurisdiction. Sri Sujit Das is a worker of Sri Himadri Dey, a departmental authorised contractor of Haflong doing the job contract. N.C. Hills is a disturbed insurgent active area. On receipt of a request letter dated 01-08-02 from Sri Himadri Dey, Contractor, for issuing an identification to his worker for access to the subscriber's premises in connection with the first fitting works, an identification was given to his worker in the register.

That Sir, the contents in respect of date etc. is also tempered as will be evident from the different handwriting. The original register has been taken to safe custody. It will also be evident from the letter of the contractor dated 01-08-02 that Sri Sujit Das is his worker only. Photocopies of some money receipts against contractor's work done by Sri Sujit Das during the relevant period obtained from the contractor are annexed herewith.

That Sir, it is beyond my imagination that a contractor's worker could adopt such a fraudulent means and tamper the contents for his personal gain and embarrass the department and to me as well. I regret for the consequences.

Encl: - As above
(Four sheets)

N. Das 25/6/03
SDE (Group), Haflong.
Haflong, N.C. Hills Dist.