

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

5

(DESTRUCTION OF RECORD RULES,1990)

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SECTION OFFICER (Judl.)

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 66/2003
Misc. Petition No. /
Contempt Petition No. /
Review Application No. /

Applicant (s) Kameswar Kardong & others

- Vs. -

Respondent (s) Govt & ors.

Advocate for the applicant (s) Mr. N. Borah & D. Borah

Advocate for the respondent (s) Case

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time Condonation Petition is filed / do: J C F for Rs. 5/- deposited vide IPO/BE No. <u>79/6077/56</u> Dated <u>21/04/03</u></p> <p><i>[Signature]</i> Dy. Registrar</p> <p>Steps taken <i>[Signature]</i></p>	<p>7.4.2003</p>	<p>Heard Mr. N. Borah, learned counsel for the applicants.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Returnable by three weeks.</p> <p>List on 9.5.2003 for admission.</p> <p>Mr. N. Borah, learned counsel for the applicants is allowed to make necessary correction in the application.</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>
<p>Notice prepared and sent to D/S for using the respondents No 1 to 5 by Respondent No 1 to 5 by Regd. Ad.</p> <p><i>[Signature]</i> 9/4 DIN 96/700 dtd 16/4/03</p>	<p>mb 9.5.2003</p>	<p>Heard Mr. N. Borah, learned counsel for the applicant and also Mr. A. K. Chaudhuri, learned Addl. C.G. S.C. for the respondents.</p> <p>Mr. Chaudhuri prays for some time to obtain necessary instructions on the matter. Mr. N. Borah, on the other hand, submits that the case</p>

Contd.

Contd.

9.5.2003 is squarely covered by the judgment and order passed by the Bench in O.A.321 of 2000 disposed on 1.8.2001.

Let Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. obtain necessary instruction on the matter. Put up the matter on 10.6.2003 for further orders.

[Signature]
Vice-Chairman

bb

*10.6. Single Ben Ch did not sell today
The case is adjourned to 10.6.03
Ms
Ary*

13.6.2003 On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents further four weeks time is allowed to file written statement.

List again on 18.7.2003 for admission.

[Signature]
Vice-Chairman

mb

*No. wks has been
filed
21
17.7.03*

18.7.2003 Put up again on 22.8.2003 to enable the respondents to file written statement.

[Signature]
Vice-Chairman

mb

*No. wks has been
filed
21
21.8.03*

22.8.2003 List again on to enable the respondents to file written statement.

[Signature]
Vice-Chairman

mb

19.9.03

List again on 24.10.03 to enable the respondents to file written statement.

[Signature]
Member

lm
24.10.03

NO Bench had. adj. to 28.10.03 16/0

(3)

M

O.A. 66/2003

Office Note

Date

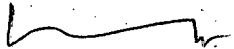
Tribunal's Order

28.10.03

No written statement so far filed. Application is admitted. Call for the ~~xxx~~ records. Respondents are ordered to file written statement, if any by 228.11.03.

List on 28.11.03 for order.

Office to show the name of Sri N. Borah and D.Bora instead of Sri M. Chanda and G.N.Chakraborty in the cause list.


Vice-Chairman

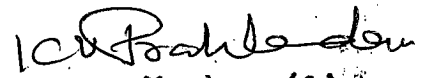
No. wks has been filed.

200
17.12.03.

pg

18.12.2003

List on 9.2.2004 for orders.


Member (A)

No. wks has been filed.

200
27.2.04

mb

1.3.2004

On the prayer of the learned counsel for the respondents let the case be listed on 24.3.04.


Member

No. wks has been filed.

200
2.4.04

nkm

24.3.2004

On the plea of Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents the case is adjourned and again listed on 7.4.2004.


Member (A)

bb

J.

Office Note	Date	Tribunal's Order
-------------	------	------------------

7.4.04

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

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

ICR [Signature]
Member(A)

pg

22.4.04

Copy of the order
has been sent to the
Office for issue of the
Order to the L/Adv.
for the parties

HS

22/4/04

Recd. a copy of
OA-66/2004.

Sanjay
SI/CS/1/9/04

Recd copy
[Signature]
26/4/04

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 66 of 2003.

Date of Order : This the 7th Day of April, 2004.

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

Sri Kameswar Kardong (146) and 8 others.
All the applicants are Casual Labourers
under Telecom Department, Guwahati Circle.

...Applicants

By Advocate Sri N.Borah.

- Versus -

Union of India & four others.

...Respondents

By Sri A.K.Choudhuri, Addl.C.G.S.C.

O R D E R (ORAL)

K.V.PRAHLADAN, MEMBER(A)

Heard Sri N.Borah, learned counsel for the applicants
and Sri A.K.Choudhuri, learned Addl.C.G.S.C for the
respondents.

It is submitted at the Bar that vide letter
No.269-94/98-STN-II/Pers.IV (Vol.III)/AS dated 24.09.2003
all the applicants have been granted temporary status and
regularisation with all consequential benefits. Hence this
O.A. has become infructuous and accordingly the same is
disposed of as infructuous.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O.A.No. 66/2003

List of dates and synopsis:-

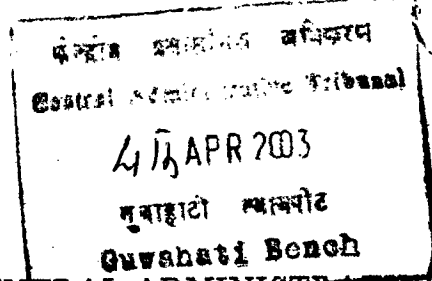
Kameswar Kardong & Others

Versus

Union of India & Others

- 1.1.1990 Applicant engaged as casual labourer for a night guard and fresh cum Waterman under Divisional Engineer, Guwahati Circle.
- 30.9.1997 They are retrenched from their service w.e.f.30.9.1997.
- 29.5.1998 Hon'ble Tribunal pass an Interim order "Applicant shall not be removed from their service.
- 16.10.1998 The Government of India, Deptt. of Telecommunication, Assam Circle, issued a letter directed to implement the Hon'ble Tribunal order dated 29.5.1998.
- 10.11.1998 The Divisional Engineer, CTO, Guwahati the applicant have been as casual labourer after the recommendation of legal advisor (DOT) letter dated 9.10.1998.
- 29.6.2001 The Divisional Engineer (Admn) Telecom, Kamrup Telecom District was issued disengaging the applicant as casual labourer, prospectively w.e.f. 31.7.2001.
- O.A.No.273/2001 The applicant approached the Hon'ble Tribunal by way of filing Original Application.
- 7.3.2002 O.A.273/2001 was finally disposed of by the Hon'ble Tribunal and Hon'ble Tribunal allowed the application.

X
Niran Banah
Advocate
Filed



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH

O.A NO. 66/2002

BETWEEN

Sri Kameswar Kardong & others.

...Applicants.

- Versus -

The Union of India and others.

...Respondents.

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(NIRAN BARAH)

Signature of the Advocate.

For use in the Tribunals' Office.

Date of filing: 4.4.03

Registration No.: 66/3

Signature.

Contd..

DISTRICT KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: GUWAHATI.

O.A. No. 66 /2003

IN THE MATTER OF: -

1. Sri Kameswar Kardong (146).
S/O - Rupeswar Kardong.
R/vill.- Birubari.
P.O.- Gopinath Nagar, P.S.- Paltan Bazar,
Guwahati-16.
2. Sri Dhaniram Deka (147).
S/O - Nirupan Deka.
R/vill.- Shapawia.
P.O.- Rangia, P.S.- Rangia, Dist.- Kamrup,
Assam.
3. Sri Kushal Medhi (148).
S/O- Madhab Medhi.
R/vill.- Bamundi.
P.O.- Bamundi, P.S.- Sualdushi, Dist.-
Kamrup, Assam.
4. Sri Subash Barman (149).
S/O- Suren Barman.
R/vill.- Tengabari.
P.O.- Salmara, P.S.- Belsar, Dist.- Nalbari,
Assam.
5. Sri Rabin Chandra Bora (150).

Filed by the applicant-
Sri Kameswar Kardong
Through Niran Barah
Advocate. S
(NIRAN BARAH)

Contd..

S/O- Kalaram Boro.

R/Vill.-Silakoroibari

P.O.-Changasari, P.S. - Kamalpur, Kamrup,
Assam.

6. Sonto Chakraborty, (151)

S/O Late Sukumar Chakraborty,

Vill. - Lalganesh

P.O. Lalganesh, Kamrup, Assam.

7. Jai Nkrayan Malakar, (152)

S/O Kalkash Malakar, *AK*

Vill.: Khudradadi,

P.O. Gersah,

Dist. Kamrup, Assam.

8. Sri Champak Talukdar, (154)

S/O U.N. Talukdar,

Vill. New Lewpara,

P.O. Lowhankutha, P.S. Mukalmuwa,

Dist. Nalbari, Assam.

9. Sri Kulen Das, (155)

S.O. Rajendra Das,

Vill. Hazu Panpara, P.O. Hazo,

Dist. Kamrup Assam.

10. Sri Khargeswar Kalita,

S/O Mitharam Kalita,

Vill. Mahari Para,

P.O. Mahari Para,

P.S. Goreswar,

Dist. Kamrup, Assam. (156)

(Same cause of action)

. . . Applicants.

Sri Kameswar Kardong

S/O- Katakam Boro.

R/M. - Silakoroibari. *sh*

R/O.- Changzari, K.S.- Kamalpur, Kamrup,
Assam.

...Applicants.

-AND-

1. The Union of India, represented by the Secretary, Department of Telecommunications, B.S.N.L., New Delhi.
2. The Chairman-Cum-Managing Director, Bharat Sanchar Nigam Limited, Sanchar Bhawan, New Delhi.
3. The Chief General Manager, Assam Circle, Telecommunication, Ulubari, Guwahati-7.
4. The General Manager, Telecommunication, Kamrup Telecom District, Guwahati-7.
5. The Divisional Engineer, Central Telegraph Office, Guwahati-1.

Sri - Kameswar Karmakar

...Respondents.

DETAILS OF APPLICATION:

1. Particulars of the order against which the application is made:-

In action of the respondents to grant temporary status to the applicants as Casual Labours.

Contd..

2. Jurisdiction:-

The applicants declare that the subject matter of the order against which they want redressal is within the Jurisdiction of the Hon'ble Tribunal Act, 1985.

3. Limitation:-

The applicants further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:-

4.1. That, the applicants are citizens of India by birth and permanent residents of Kamrup and Nalbari districts and as such they are entitled to the rights and privileges guaranteed by the Constitution of India and other relevant law. The petitioners/applicants belong to basically SC/ST community.

4.2. That, the petitioners/applicants were appointed since 01-01-90 to as indicated in the engagements orders as a casual Mazdoor/labour as a night Guard and Farash-cum-W/Man under Divisional Engineer, Telecom Office, Guwahati Circle for the last several years and received regular salaries from the aforesaid office under Telecom Department.

4.3. That, the applicants/petitioners state that an order on 30-09-97 vide Memo No. STA-51/CD/96-97/18 issued under the signature of Divisional Engineer C.T.O., Guwahati (respondent No.5) by which the applicants were informed that

Contd.

Sri Kameswar Karmakar

they are retrenched from their service w.e.f. the afternoon of 30-09-1997.

4.4. That, the applicants/petitioners alongwith others similar situated casual labourers of the Department of the Telecommunications (Union) has moved this Hon'ble Tribunal for regularisation of their services by filing O.A. No.112/96 (All India Telecommunication Unit & Ors. -Vs- The Union of India & ors., Line & Staff and Group 'D'). The Hon'ble Tribunal had passed an interim order dated 29-5-98 that the members of the applicants (Union) shall not be removed from their services.

4.5. That, the applicants beg to state that after the receipt of the above interim order on 16-10-98, vide Memo No.STES-21/160/36 issued by the Government of India, Department of Telecommunication, Assam Telecom Circle, under the signature of Deputy General Manager (Admn) interalia asked for implementation of Hon'ble Central Administrative Tribunal, Guwahati interim order on O.A. No.107/98, 100/97, 142/98, 120/98, 114/98, 131/98, 112/98, 141/98 and 118/98. The Chief General Manager T/F North Telecom Region and others sought legal opinion from the Advisor, D.O.T. New Delhi which is directed to implement the Hon'ble Tribunal order dated 29-05-98 and the earliest to avoid any contempt proceedings from the Hon'ble Tribunal.

The Legal opinion reads as follows:-

Contd..

570' Kame Biswas Secretary

2. "The question has been raised whether these applicants can be allowed to work as a casual labours though they have been removed few works before from the date of the interim orders."

3. "Technically speaking, stay order against disengagement or status quo does not direct to reengage the casual labours and in this view of the situation even when reengagement is not done, such action can be defended. However, there is another side of the picture. The casual labourers are disengage without giving a notice of one month or pay in lieu thereof as provided under Section 25 F Industrial Dispute Act, 1947. It is assumed that these casual labourers have worked more than 240 days in a year and therefore, notice or payment in lieu thereof is a necessity".

4. "In case notice or payment in lieu thereof is absent that the action is illegal and the casual labours have a right to be reinstated with back wages. If such order is given by the Central Administrative Tribunal after full hearing than DOT will be required to reengage the persons and to pay money for the interim period even though no work could be taken from the labourers. Hence, it appears appropriate and beneficial to DOT that these labourers may be reengaged. In case DOT wishes to dispense with their services than proper

श्री कामेश्वर वर्मा

procedure under Section 25 F may be adopted after reengaging the casual labours."

- 4.6. That, the applicants/petitioners respectfully states that thereafter by Government order No.STA-51/CL/98-99/LOOSE/05 dated 10-11-98 issued by Divisional Engineer, C.T.O., Guwahati the 12(twelve) members of the applicants have been reengaged as a casual labours after the recommendation of the legal advisor D.O.T, New Delhi, letter No.1130/LA 98 dated 09-10-98 C.G.M.T., Assam Circle, K.T.D., Guwahati No.GMT/EST-179/98-99 dated 13-11-98. The applicants have accordingly joined in their respective posts. It may be mentioned that each of the applicants have completed more than 240 days work per year even prior to the disengagement order dated 30-09-97 issued by the Divisional Engineer C.T.O., Guwahati.
- 4.7. That, thereafter, the petitioners/applicants has been discharging their duties continuously and to the satisfaction of all concern, till date in their respective post as casual labours.
- 4.8. That, it may further be mentioned that as per the Rules & Norms of he Department of Telecommunications the petitioners are entitled to be regularised/given Temporary Status as casual labour as they have completed more than 240 days work every year after the engagement in the Department.

STI Kameswar Kardey

4.9. That, the petitioners are surprised that an order of retrenchment dated 29-06-2001 bearing No.GMT/EST-179/STM/00-101/152 from the Divisional Engineer (Admn) O/O/G.M. Telecom, Kamrup Telecom District, Guwahati-7 was issued disengaging the petitioners as casual labours, prospectively w.e.f. 31-07-2001, as the Department is "bound to consider only the cases of such eligible casual labours for conferment of T.S.M. against such vacancies/works.

4.10. That, it may further be mentioned that the said orders dated 26-06-2001 indicates that a scrutiny/verification Committee was formed which has scrutinised/verified about the no. of days of engagement yearwise and different units of the petitioners and others and the said committee has submitted report to the Department to the effect that the petitioners "could not satisfy the eligibility criteria as laid down in the scheme for conferment of T.S.M./Regularisation". Although the said order does not specify the eligibility criteria it is understood that it would mean the 240 day engagement per year, as there is no other recognised criteria that regularised the casual labours. However, the while discarding the petitioners as not eligible to be regularised as casual labour, no opportunity whatsoever was given to the petitioners to defend their cases that they were engage more than 240 days per year. The finding of the Scruting Committee absolutely illegal and arbitrary and violative of the Natural Justice.

STJ Name & WOT & Kogor

4.11. That, it may be further mentioned that no opportunity was given to the petitioners to show that they were engaged more than 240 days per year by the Scruting Committee. The finding is one sided and violative of Rules of natural justice. The Sruting Committee has already taken as unilateral decision ignoring the fact that the petitioners worked more than 240 days a year. The finding of the Scruting Committee is absolutely illegal and arbitrary. The report also vague as it had not spelout what is "eligibility criteria".

4.12. That, the petitioners also respectfully stated that while the casual labours engage and disengage by Divisional Engineer, C.T.O, Guwahati who is the Disburshing Officer of the same establishment, it is found that now their being disengage by Divisional Engineer (Admn.), who is the officer of the same status but of the different establishment, who has got to connecting with the requirements of work or necessity of engagement of or disengagement of casual labourers at Divisional Engineer of C.T.O. office establishment.

4.13. That, the applicants having no other alternative approach the Hon'ble Tribunal by way of filing an Original Application being No.273/01 praying for the following reliefs -

- i. To set aside and quash the retrenchment order dated 29-06-01.
- ii. To direct the respondents to regularise the services of the applicants.

Contd..

Sri Ranegusoor Karthikey

- iii. To Direct the respondents to allow the applicants to continue in their respective services.
- iv. To direct the respondents to extend the benefits of schemes to the applicants who joined in the year of 1994 and taking into consideration the Hon'ble Ernakulam Bench judgment of the Central Administrative Tribunal and to regularise their services. Moreover, the applicants prayed for interim order of this Hon'ble Tribunal directing the respondents to allow the applicants to continue in their post of casual labour in the Telecommunication Department as night Guard and Farash-cum-w/Man 146 to 156 till the disposal of the Original Application No.273/01.

STJ Kameswar Vasuday

4.14. That, the applicants respectfully state that the said application being O.A. 273/01 was finally heard and disposed of by the Hon'ble Tribunal on 07-03-2002, the operative portion of which is reproduce below:-

"4. The respondents though in the impugned order dated 29-06-2001 stated that the applicants could not satisfy the eligibility criteria as laid down in the Scheme but it was nowhere mentioned that the applicants did not complete did not complete 240 days of service in any given year. Whatever may be the reasons the applicants have completed 240 days of service during all these years. It was also stated in the written statement that the applicants were disengaged

Contd..

from service on 30-09-1997 but they were reengaged on 18-11-1998 in view of the order passed by the Tribunal on 29-06-1998 in O.A.112/98. The documents referred to Annexure-A/10 series to the rejoinder also speaks that the applicants rendered their service continuously. In some of the cases payments were made to the applicants through private contractor on the strength of pay order issued by the Accounts Officer, Central Telegraph Office on the basis of a certificate given by the Chief Superintendent, Central Telegraph Office, Guwahati and in some cases by the Sub Divisional Engineer and in some of the cases by the Junior Telecom Officer but pay order was passed by the Divisional Engineer.

5th name-sdwr kardery

5. For all the facts and circumstances stated above, we are of the view that the applicants are working under the respondents and accordingly respondents are directed to consider the case of the applicants sympathetically for grant of temporary status as per law. Before concluding Mr.A. Deb Roy, Sr. C.G.S.C. submitted that the applicant No.8 - Sri Sachin Das (153) is no longer alive and he has expired on 11-04-2001. Mr. A.C. Buragohain, learned counsel for the applicants submitted that his name was wrongly shown in the application. He did not sign in the Vakalatnama, so the name of the applicant No.8 may be deleted.

Contd..

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

A copy of the aforesaid order dated 07-03-2002 is annexed herewith and marked as ANNEXURE - A.

4.15. That, the applicants respectfully states that they duly collected a certified copy of the said order dated 07-03-2002 passed by the Hon'ble Tribunal and submitted the same to all the respondents for their necessary action. However, much to the chagrin of the applicants the respondents have not yet taken any action on the aforesaid order dated 07-03-2002 passed by the Hon'ble Tribunal in O.A. No.273/01, though the respondent authority verbally gave assurance to the applicants to take appropriate action in the light of the order of the Hon'ble Tribunal dated 07-03-2002 passed by the Hon'ble Tribunal for the last one year.

4.16. That, the applicant respectfully state that when enquired, the applicants have come to know that the respondent authority has not taken any decision on the order dated 07-03-02 passed by this Hon'ble Tribunal in O.A. No.273/01 on the plea that "respondents are directed to consider the case of the applicants sympathetically for grant of temporary status as per law."

5/2/10 Name & water boundary

Contd..

4.17. That, the applicants respectfully state that in several similar cases the respondent authority has already given relief to similarly situated applicants.

5. GROUND OF RELIEF WITH LEGAL PROVISIONS:

5.1. For that, direction to the respondent authority for complying with the order dated 07-03-02 passed by the Hon'ble Tribunal in O.A. No.273/01 without any further loss of time.

5.2. For that, it is the settled law that for who some principles have been laid down in Judgment extending certain set of employees, the said benefits are required to be extended to the similarly situated employees without requiring them to approach the Court again and again. The Central Government should set an example of a model employees by extending the said benefit to the applicants.

5.3. For that, the discrimination meted out to the members of the applicants is not extending the benefit of the scheme and in not treating him as per with posted employees in violative of Article 14 and 16 of the Constitution of India.

5.4. For that, the Respondents could not have deprived of the benefits of aforesaid scheme which has been applicable to their fellow employees which is also violative of Article 14 and 16 of the Constitution of India.

श्री कानूनी मंत्रालय

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that they have exhausted all the remedies available to them and there is no alternative remedy available to them.

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

The applicants further declare that they moved this Hon'ble Tribunal for regularisation of their services by filing O.A.No.273/01 of Kameswar Kardong & others -Vs- The Union of India & others). The Hon'ble Tribunal by order directed the respondents to consider the case of the applicants sympathetically for grant of temporary status as per law.

Sri Kameswar Kardong

8. RELIEF SOUGHT FOR:

Under the circumstances stated above, the applicants most respectfully prayed that the instant applicants be submitted, records be called for and after hearing the parties on the course or courses that may be shown and on perusal the records be grant the full reliefs to the applicants.

8.1. To direct the respondents to extend the benefits of the applicants and to regularise their services.

8.2. To direct the respondents to allow the applicants to continue in their respective services.

Contd..

8.3. To direct the respondents to extend the benefits of their scheme to the applicants particularly who have joined in the year 1994 taking into consideration the Hon'ble Ernakulam Bench Judgment and to regularise their services.

8.4. Cost of the application.

8.5 Any other relief/reliefs to which the applicants is entitled to under the facts and circumstances of the case and deem fit and proper.

9. INTERIM ORDER PRAYED FOR:

pending disposal of this application the applicants pray for an interim order directing the respondents to allow the applicants to continue in their posts of casual labours in the Telecommunication Department as Night Guard and Farash-cum-W/Man 146 to 156 till the disposal of this original application.

10. This application has been filed through Advocate.

11. PARTICULARS OF IPO:

1. I.P.O. No. :-
2. DATE :-
3. PAYABLE AT: - GUWAHATI.

12. LIST OF ENCLOSURES:

As stated in the "INDEX".

SR Kameswar Vardey

VERIFICATION:

I, Sri Kameswar Kardong, aged about years, son of Rupeswar Kardong, resident of village Birubari, P.O.- Gopinath Nagar, P.S.- Paltan Bazar, Guwahati-6 do hereby verify the contents of paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15 & 16 are true to my knowledge, and paragraphs 14 belief to be true on legal advice and that I have not suppressed any material facts.

And I set my hand on this verification today the 3rd June 2003, at Guwahati.

Sri Kameswar Kardong

Signature of the applicant.

16-

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 273 of 2001

Date of decision : This the 7th day of March, 2002.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Sri Kameswar Kardong (146)
S/o Rupeswar Kardong,
Village-Birubari,
P.O. Gopinath Nagar,
P.S. Paltanbazar,
Guwahati-16.
District-Kamrup, Assam & 9 Ors.

...Applicants

By Advocate Mr. A.C.Buragohain and Mr N. Borah.

-versus-

1. The Union of India (Represented
by the Secretary, Department of
Telecommunication).

2. The Chairman-cum-Managing Director,
Bharat Sanchar Limited,
Sanchar Bhawan, New Delhi.

The Chief General Manager,
Assam Circle, Telecommunication,
Guwahati-7.

4. The General Manager,
Telecommunication, Kamrup
Telecom District, Guwahati-7.

5. The Divisional Engineer,
Central Telegraph Office,
Guwahati-1.

Respondents

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

O R D E R (ORAL)

CHOWDHURY J.(V.C.)

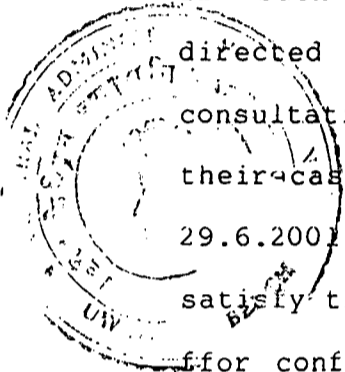
The applicants are ten (10) in number who are similarly situated. Leave was accordingly granted upon them to espouse their cause by a single application. The

Certified to be
True Copy.
Advocate.

In 320/2000
d/d
1.8.2001

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L applicants earlier also came before this Tribunal for conferment of temporary status in O.A. No. 112 of 1998 through their Union. In the said O.A. an interim order was passed on 29.5.1998 directing the respondents not to remove the members of the Union from service. Pursuant to that interim order dated 29.5.1998 the applicants were engaged and they continued to work till now. The said O.A. was finally disposed of along with others on 31.8.1999 by a common judgment and order by the Tribunal directing the applicants to file representation individually within a period of one month from date of receipt of that order and if such representations are filed, respondents were directed to scrutinize and examine each case in consultation with the records. It appears that their cases were considered and by the impugned order dated 29.6.2001 it was communicated that the applicants did not satisfy the eligibility criteria as laid down in the Scheme for conferment of temporary status. By the said order it was also informed that they were disengaged as casual labourer with effect from 31.7.2001. By interim order dated 25.7.2001 the Tribunal suspended the operation of the impugned order dated 29.6.2001. So the applicants are virtually working under the respondents.



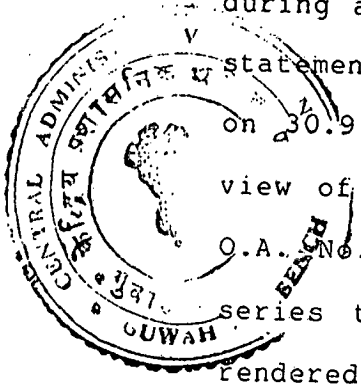
2. The respondents submitted its written statement. In the written statement the respondents took the plea that the applicants were not regularly engaged by the D.E. and they were appointed in contravention of the departmental rules. It was also stated that as per order of the Tribunal dated 29.5.1998 passed in O.A. No. 112/1998 applicants were re-engaged on 18.11.1998 after a break of about thirteen months. According to the respondents break in service

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exceeding twelve months is not condonable in any circumstances as per the circular No. 269-3/92-STN dated 21.10.1992 issued by the Telecom Directorate, New Delhi.

3. Heard Mr. A.C.Buragohain, learned counsel for the applicants and Mr. A.Deb Roy, learned Sr. C.G.S.C. for the respondents.

4. The respondents though in the impugned order dated 29.6.2001 stated that the applicants could not satisfy the eligibility criteria as laid down in the Scheme but it was nowhere mentioned that the applicants did not complete 240 days of service in any given year. ✓ Whatever may be the reasons the applicants have completed 240 days of service during all these years. It was also stated in the written statement that the applicants were disengaged from service on 30.9.1997 but they were re-engaged on 18.11.1998 in view of the order passed by the Tribunal on 29.5.1998 in O.A. No. 112/98. The documents referred to Annexure-A/10 series to the rejoinder also speaks that the applicants rendered their service continuously. ✓ In some of the cases payments were made to the applicants through private contractor on the strength of pay order issued by the Accounts Officer, Central Telegraph Office on the basis of a certificate given by the Chief Superintendent, Central Telegraph Office, Guwahati and in some cases by the Sub Divisional Engineer and in some of the cases by the Junior Telecom Officer but pay order was passed by the Divisional Engineer. ✓



5. For all the facts and circumstances stated above, we are of the view that the applicants are working under the respondents and accordingly respondents are directed to

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consider the case of the applicants sympathetically for grant of temporary status as per law. Before concluding Mr. A. Deb Roy, Sr.C.G.S.C. submitted that the applicant no. 8 - Sri Sachin Das (153) is no longer alive and he has expired on 11.4.2001. Mr. A.C.Buragohain, learned counsel for the applicants submitted that his name was wrongly shown in the application. He did not sign in the Vakalatnama, so the name of the applicant no.8 may be deleted.

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



Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)

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तस्मिन्

Handwritten signature and date: 16/4/02

Section Officer (A)
आयुक्त अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायपीठ, गुवाहाटी-8

Handwritten signature and date: 16/4/02