

30/100

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

(DESTRUCTION OF RECORD RULES, 1990)

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*Farhan*  
16/11/07

( RULE - 4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. 89/2003

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) Shri Ashim Roy

- Vs. -

Respondent (s) Govt. of Assam

Advocate for the applicant (s) Mrs. P. Roy M/s R. Dutta

Advocate for the respondent (s) CSC A.K. Choudhury

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Condonation Petition is filed / not filed C.R. for Rs. 50/- is resisted vide IPO/BT No 86 490202 Dated 23/4/03.	29.4.2003	Put the case on 30.5.2003 alongwith the Misc. Case No. 52 of 2003.
<i>Shri By Register</i>	30.5.2003	Heard Mrs. R. Dutta, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.
Steps taken before the Committee, No. 6 28/4/03		The application is admitted. Call for the records.
Enquiries not taken. Notice preferred & sent to DCS for removing the non-ordination No 1 to 6 to Lynd A.D.		List on 4.7.2003 for orders.
Den. 1338 to 1342		
Dtd. 25/6/03	mb	
2/26.		
① Service report are still awaited.		
<i>37/03.</i>		

(2)

4.7.2003 On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents further four weeks time is allowed to the respondents to file written statement. List again on 8.8.2003 for orders.

No written statement has been filed.

*7/8/03*

*Vice-Chairman*

mb

8.8.2003 On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents four weeks time is allowed to the respondents to file written statement. List again on 10.9.2003 for orders.

*Vice-Chairman*

mb

19.9.03 On the prayer of learned counsel Mr. A.K. Choudhury, Addl. C.G.S.C. case is adjourned to 24.10.03 for orders.

*I.C. Padhmanabhan*  
Member

lm

24.10.03 There is no Bench today.  
Adjourned to 4.11.03.

*10/10  
b.*

4.11.03 No Bench today.  
Adjourned to 24.11.03.

*10/10  
b.*

24.11.03 No Bench today.  
Adj. to 23.12.03.

*10/10  
b.*

\* 5.1.2004

List it on 27.1.2004 for

orders.

3

KV Parkash  
Member (A)

30.1.04

mb

W/S Submitted

17.2.2004

Written statement has been filed.

List the matter for hearing on 22.3.200

by the Respondent Nos.

1, 2, 3, 4 & 5.

*(Signature)*

KV Parkash

Member (A)

mb

22.3.2004

None appears for the applicant. Mr. A.K. Chaudhury, learned Addl. C.G.S.C. for the respondents was present. List again on 7.4.2004 for hearing.

KV Parkash  
Member (A)

30.4.04

mb

28.4.2004

Judgment delivered in open Court, kept in separate sheets. The application is disposed of. No order as to costs.

KV Parkash  
Member (A)

mb

Received copy  
AN/Chaudhury  
11/5/04

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A./R.A. No. 111 89 of 2003

DATE OF DECISION 28.04.2004.

.....Sri Ashim Roy.....APPLICANT(S).

.....Mr. P. Roy, Mrs. R. Dutta.....ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS-

.....Union of India & Ors.....RESPONDENT(S)

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

THE HON'BLE MR. K.V. PRAHALDAN, 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 Hon'ble Member (A)

bw

CENTRAL ADMINISTRATIVE TRIBUNAL :::: GUWAHATI BENCH

Original Application No. 89/2003

Date of Order : This the 28th day of April, 2004.

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

Sri Ashim Roy  
Son of Sri Atul Roy  
Resident of Village - Matiguri  
P.O. - Tempur,  
Dist. - Hailakandi, Assam.

... . . . Applicnat.

By Advocates Mr. P. Roy, Mrs. R. Dutta.

- Versus -

1. The Union of India - represented by the Secretary to the Govt. of India, Ministry of Communication, New Delhi.
2. The Chief General Manager (Telecom), BSNL, Assam Telecom Circle, Ulubari, Guwahati - 7.
3. The General Manager, Telecom, B.S.N.L., Silchar S.S.A, Silchar, Assam.
4. Member, Scrutinizing Committee, Divisional Engineer (P&A), O/o the G.M. Telecom, BSNL, Silchar, Assam.
5. The Sub-Divisional Officer (T), Telecom, B.S.N.L., Hailakandi, Assam. . . . Respondents.

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

O R D E R

K.V. PRAHLADAN, MEMBER (A) :

The application is against the order of the General Manager, Telecom, BSNL, Silchar dated 26.09.2000 at Annexure - 13, which rejected the representation of the applicant for grant of Temporary Status. The applicant seeks a direction to be issued to the Respondents to work as a Temporary Status Labour till regularisation of his services. The applicant claims to be in engagement by the Respondents from 1.4.1988. ON the recommendations of a DPC he was conferred provisional Temporary Status vide Order of 9.12.97 and 22.12.97 at

Contd...2

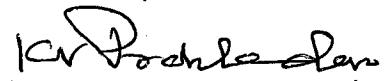
Annexures - 6 and 7 respectively. The applicant was posted to Jalalpur Telephone Exchange on 29.1.97 vide Annexure - 8. vide letter No. E/Rectt/loose/98-99/22 dated 29.6.98 at Annexure - 9, the Sub-Divisional Officer, Telegraph, Hailakandi withdraw the provisional temporary status conferred on the applicant without giving any opportunity to him. The applicant <sup>vide Judgment</sup> approached the Tribunal by way of O.A.141/98 and the Tribunal dated 31.8.99 at Annexure - 11 directed the Respondents to examine the case of each applicant after a scrutiny of all relevant records and "pass a reasoned order on the merits of each case". The respondents appointed a Committee which vide its report of 26.9.2000 at Annexure - 13, stated that the applicant did not meet the minimum eligibility criteria of of completing 240 days before 1.8.1998 and was not in engagement on 1.8.1998. It is against this order that the present O.A. has been filed.

2. The Respondents claim that the applicant has not completed 240 days in a year. He completed six days in 1991 and 22 days in 1995. He was given temporary status based on false records from 2.12.97 to 29.6.1998. The Field Officer, without verifying the certificate issued by the line staff, showed the applicant as engaged from 1.4.88 to 1993. The applicant and others alongwith various leaders had brought "unbearable" pressure on the Telecom District Authority and others for grant of Temporary Status to all such person on the fake certificates." The local Officials were forced to grant Temporary Status on a provisional basis pending verification of records from genuine records.

3. Heard both the counsel for the applicant and counsel for the Respondents and gone through all their papers. In O.A. No. 141 of 1998 this Tribunal passed an interim Order on 2.7.1998 directing the Respondents not to disengage the applicants and to continue them in service.

4. In the Judgment in O.A. No. 141 of 1998 dated 31.8.1999 this Tribunal directed the Respondents to consider the representation of each applicant and give a reasoned order. The respondents gave a decision on the above Judgment vide letter dated 26.9.2000 at Annexure - 13. From the records made available to the Tribunal it is not clear whether the applicants were engaged from 29.6.1998 when their temporary status was withdrawn, to the date of disposal of their application on 26.9.2000. Therefore, the applicant if he so wishes, may send a fresh representation to the Respondents within 10 days from the date of receipt of this order. The respondents shall give a considered and reasoned reply within three months from the date of receipt of such a representation from the applicant.

The O.A. is thus disposed of. No order as to costs.

  
( K.V. PRAHALADAN )  
ADMINISTRATIVE MEMBER

0/4/03

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<b>केन्द्रीय प्रशासनिक अधिकरण</b> <b>Central Admin. Native Tribunal</b> <b>25th APR 2003</b> <b>गुवाहाटी न्यायालय</b> <b>Guwahati Bench</b>
<b>BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH</b>

Filed by: Ashim Roy  
 Through: Ratanjana Datta  
 Date of filing: 25-9-2003  
 Date of cause: 25-9-2003

O. A. NO. 89 OF 2003.

SRI ASHIM ROY

-Vs-

THE UNION OF INDIA & ORS.

I N D E X

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Date of filing :-

Filed by :-

*R. Datta*

(ADVOCATE)

*Ashim Roy*

## SYNOPSIS

The applicant engaged in the Department of Telecommunication on 1.4.88 and he was working as such till 9.12.97. Then he was granted Temporary status on 9.12.97 and was working as temporary status Mazdoor vide order dated 9.12.97 and 22.12.97. The temporary status was conferred upon the applicant along with others. Against this order applicant working at his place of posting. But vide order dated 27.6.98. The respondent No. 3 cancelled the earlier order of conferring temporary status. And by this order respondent terminated the service of the applicant W.E.F. 29.6.98.

Against this order the applicant filed an appeal the O.A. No. 141/98 before the Central Administrative Tribunal the appeal was admitted.

The Hon'ble Tribunal Disposed the appeal by its judgement & order dated 31.8.99 directing the respondents to scrutinise and examine the Case.

As per order of respondents the applicant appear before the scrutinizing committee on 3.5.2000. On 26.9.2000 the respondents informed the applicant that the applicant did not completed the 240 days in any calendar year preceding 1.8.98 and he was not engaged on 1.8.98. Hence as such he can not be granted temporary status of Mazdoor.

Against the said illegal and perverse order, The applicant filed an application before this Tribunal.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH.

O.A. NO. /2003.

BETWEEN :

Sri Ashim Roy,  
S/o Sri Atul Roy,  
resident of Village Matiguri,  
P.O. Tempur, Dist-Hailakandi, Assam.

..... Appellant.

- AND -

1. The Union of India - represented by the Secretary to the Govt. of India, Ministry of Communication, New Delhi.
2. The Chief General Manager(Telecom), B.S.N.L. Assam Telecom Circle, Ulubari, Guwahati-7.
3. The General Manager, Telecom, B.S.N.L., Silchar S.S.A Silchar, Assam.
4. Member, Scrutinizing Committee, Divisional Engineer(P&A), O/o the G.M.Telcom, BSNL, Silchar, Assam.
5. The Sub-Divisional Officer(T), Telecom, B.S.N.L., Hailakandi, Assam.

..... Respondents.

Contd.....<sup>2</sup>.

*Ashim Roy*

DETAILS OF THE APPLICATION

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

The instant application is made against the order dated 26.9.2000 passed by the General Manager, Telecom, BSNL, Silchar rejecting the prayer for granting temporary status by setting aside the order dt. 27.6.98, passed by the Telecom District Manager, Silchar communicated by order dt. 29.6.98 by the Sub-Divisional Officer (T) Telecom, Hailakandi whereby the earlier order dt. 9.12.97 of granting temporary status to the applicant was cancelled illegally. This application is also made for an appropriate direction to the respondents to regularise the services of the applicant and to allow him to work as a Temporary Status Mazdoor till such regularisation is made affective., in the light of various guidelines issued by the respondents for regularisation of the services of Group-D employees.

2. JURISDICTION :

The applicant further declare that the subject matter of the instant case is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicant declares that the instant

Contd....3.

Ashim Roy

application has been filed after the period of limitation and as such an application u/s 5 of the Limitation Act, 1963 is filed for condonation of delay.

**4. FACTS OF THE CASE :**

4(a). That the applicant is a citizen of India and permanent resident of Assam and as such he is entitled to all the rights protections and privileges as guaranteed by the Constitution of India and the laws framed thereunder

4(b). That the applicant was a Casual labourer engaged in the Department of Telecommunication on 1.4.88 and was working as such till he was granted temporary status on 9.12.97 and thereafter he was working as Temporary Status Mazdoor under the respondents at Jalalpur Telephone Exchange under Hailakandi Sub-Division, Dist-Hailakandi, Assam till he was terminated illegally.

4(c). That claiming the similar benefit of the Judgment delivered in respect of casual labourers in the department of Posts, the Casual labourers working in the Department of Telecommunication had approached the Hon'ble Supreme Court for similar direction as was rendered in respect of casual labourers of the Department of Posts. The Hon'ble Supreme Court acting on several similar writ petitions issued certain directions for the casual labourers in the Department of Telecommunication in the same line as

Contd.....4.

*Ashim Roy*

that of the judgment delivered in respect of the Casual labourers of the Department of Posts. It will be pertinent to mention here that both the Departments i.e. the Department of Posts and the Deptt. of Telecommunication fall under the same Ministry i.e. the Ministry of Communication.

A copy of the said Judgment is annexed herewith and marked as ANNEXURE-1.

4(d). That pursuant to the aforesaid Judgment, the Govt. of India, Ministry of Communication has prepared a Scheme under the name and style " Casual Labourer (grant of temporary status and regularisation) scheme " 1989 giving its effects on and from 1.10.89 and the same was communicated vide letter No. 269-10/88-STN dated 7.11.89 directing for immediate implementation.

A copy of the said letter dated 7.11.89 together with scheme is annexed herewith and marked as ANNEXURE-2.

4(e). That as per the said scheme certain benefits have been granted to the Casual Workers such as conferment of temporary status, wages and daily rate with reference to the minimum pay scale for regular Gr.D officials including DA and HRA etc. and for regularisation and absorption as regular Grade-D Cadre.

Contd.....5.  
Ashem Roy

4(f). That the respondents after issuance of the aforesaid annexure-2 letter dated 7.11.89 communicating the scheme has also issued further clarification from time to time of which mention may be made of letter No. 269-4/93-STW-II dated 17.12.93 by which it was stipulated that the benefits of the scheme should be confined to the Casual Labourers who were engaged during the period from 31.3.85 to 22.4.88.

A copy of the said letter dated  
17.12.93 is annexed herewith and  
marked as ANNEXURE-3.

4(g). That on the other hand the Casual Labourers working in the Department of Posts who were employed as on 29.11.89 were eligible to be conferred as temporary status Mazdoor on satisfying other eligibility criteria. The said stipulated criteria dated 29.11.89 has now further been extended upto 10.9.93 pursuant to a Judgment of Earnakulam Bench of Hon'ble CAT delivered on 13.3.95 in O.A.No.750/94. Pursuant to the said Judgement Govt. issued a letter No.66-52/92-SPB-I dated 1.11.95 by which the aforesaid cut off date has been extended to the recruits upto 10.9.93.

A copy of the aforesaid letter dated  
1.11.95 is annexed herewith and  
marked as ANNEXURE-4.

Contd.....6.

*Ashim Roy*

The applicant has not been get hold of an authentic copy of the aforesaid letter and accordingly he prays for a direction to the respondents to produce the same at the time of hearing of the case.

4(h). That the aforesaid Judgment and the circular of the Govt. of India is required to be extended to the Casual Labourers of the department of Telecommunication more so when they are similarly situated like that of the casual labourers working under the department of Posts. As stated above both the Departments are under the same Ministry and in both the cases the schemes prepared pursuant to the direction of the Hon'ble Supreme Court and hence the workers under the department of Telecommunication are also entitled to the similar benefits as has been granted to the workers under the Department of Posts.

4(i). That as stated above the applicant fulfills the eligibility criteria laid down in the aforesaid scheme since he was engaged on 1.4.88 and was continuing and so the Sub-Divisional Officer (T), Deptt. of Telecom, Hailakandi recommended the name of the applicant along with others for grant of temporary status and submitted the particulars of the applicant along with the other relevant service records including total No. of working days etc.

Contd.....7.

*Ashim Roy*

A copy of the aforesaid recommendation alongwith the service particulars of the applicant is annexed herewith and marked as ANNEXURE-5.

4(j). That, after the aforesaid recommendation and the names of the applicant and others were forwarded to the D.P.C. for consideration of their cases for granting temporary status as per the scheme and the D.P.C. found them eligible for granting temporary status. To that effect the respondents issued order on 9.12.97 and 22.12.97 whereby temporary status was conferred upon the applicant alongwith others.

Copies of the orders dated 9.12.97 and 22.12.97 are annexed herewith and marked as ANNEXURES-6 & 7 respectively.

4(k). That, after granting temporary status by aforesaid order dt. 9.12.97 and 22.12.97 the applicant was posted at Jalalpur Telephone Exchange where he joined on 22.12.97, which was approved by T.D.M, Silchar and was communicated to the applicant on 29.1.98.

A copy of this letter dt. 29.1.98 is annexed herewith and marked as ANNEXURE-8.

Contd.....9.

*Ashim Roy*

4(l). That after the aforesaid orders the applicant had been working sincerely and honestly at his place of posting and was getting his pay and allowances. He was also with a bonafide belief and expectation that his service would be regularised in due course but instead of regularising the service of the applicant, the respondent No.3 all of a sudden have issued an order on 27.6.98 communicated by Respondent No.5 by his order dt. 29.6.98 to the applicant by which the earlier order of conferring temporary status was cancelled. By this order the respondents have terminated the service of the applicant w.e.f. 29.6.98.

A copy of this order dated 29.6.98 is annexed herewith and marked as  
ANNEXURE-8.

4(m). That the applicant states that the aforesaid order dt. 27.6.98 and 29.6.98 have been passed illegally, without giving any opportunity of hearing to the applicant and without any prior notice to the applicant. The Annexure-7 orders for granting the temporary status clearly states that before termination of the services of the temporary status Mazdoor one month notice is compulsory.

4(n). That the applicant states that the respondents have issued the aforesaid impugned orders illegally and without giving any opportunity of hearing to them. The

Contd.....9.

Ashwin Roy

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respondents have issued the aforesaid orders as per the dictation of the higher authority without applying their mind. In the aforesaid orders itself there is mention about the order dated 27.6.98 issued by the Telecom District Manager but the content of the aforesaid order is not clear from the impugned orders and hence the same are liable to be set aside and quashed.

4(o). That the applicant immediately made several requests to the authority concerned but when nothing has been done in the matter he was constrained to approach through his Union, this Hon'ble Tribunal by way of filing an appeal being No. O.A.141/98. The appeal was admitted on 2.7.98 and the respondents were directed not to disengage him and others and to allow him to continue in his service by order dt. 2.7.98 passed in O.A.No. 141 of 1998.

A copy of this order dt. 2.7.98 is annexed herewith and marked as  
ANNEXURE-9.

4(p). That, thereafter the respondents entered their appearance and filed their written statements denying all the claims of the Union. But it is pertinent to mention that the respondents admitted the position that the scheme is applicable to the Casual Employees who were engaged before the Scheme came into effect. However, this Hon'ble Tribunal disposed of the appeal

Contd.....10.

Ashim Roy

by its Judgment and order dt. 31.8.99 directing the respondents to scrutinize and examine the case of the applicant and others in consultation with the records of each case on the basis of representation also and to pass reasoned order of each case within a period of six months. It is further directed that till disposal of the representation the interim order passed would remain in force.

A copy of the Judgment & Order dt.

31.8.99 is annexed herewith and marked as ANNEXURE-10.

4(q). That the applicant then filed a representation stating his case and praying for revoking, the cancellation order of conferring Temporary Status. The Respondent Scrutinizing Committee also vide letter dt. 26.4.2000 asked the applicant to appear before it on 3.5.2000 with all particulars.

A copy of this letter dt. 26.4.2000 is annexed herewith and marked as

ANNEXURE-11.

4(r). That on receipt of the aforesaid letter the applicant appeared before the Scrutinizing Committee on 3.5.2000 and submitted his all particulars including the statement of working particulars.

Contd.....11.

Ashim Roy

4(s). That thereafter on 26.9.2000 the applicant was informed by the Respondent No.3 that the Scrutinizing Committee after examination of records submitted its report that the applicant did not fulfill the minimum eligibility criteria i.e. he did not complete 240 days in any calendar year preceding 1.8.98 and he was not in engagement on 1.8.98 and as such he can not be granted temporary status Mazdoor and hence his prayer rejected.

A copy of this order dt. 26.9.2000 is annexed herewith as ANNEXURE-12.

4(t). That the applicant begs to state that this order of disposal of representation amounts to approval of the illegal action of the respondents No. 3 & 5 whereby temporary status granted earlier was cancelled by order dt. 27.6.98 and 29.6.98.

4(u). That the applicant begs to state that on plain reading of the order it is crystal clear that the so called inquiry report is perverse and not based on any records and also non-application of judicial mind. The applicant was engaged on 01.04.1988 and was continuing as such till 29.6.1998 and the Chart enclosed as ANNEXURE-'5) clearly shows the working days and as such the inquiry report to the effect that the applicant did not complete 240 days in any calender year preceding 1.8.1998 is perverse and not based on any records. Secondly

Contd.....12.

*Ashim Roy*

the applicant was illegally terminated on 29.6.98 and as such the inquiry report to the effect that he was not in engagement on 1.8.98 is without any application of mind since prior to that date he was already illegally terminated.

**5. GROUNDS WITH LEGAL PROVISIONS :**

5.1. For that the action of the respondents are *prima-facie* illegal, arbitrary and violative of the principles of natural justice.

5.2. For that the respondents have acted contrary to the settled principles laid down by the Constitution of India in not giving any opportunity of hearing at the time of issuing the impugned orders dated 29.6.98.

5.3. For that the respondents have issued the impugned orders violating their own commitments and hence the same are liable to be set aside and quashed.

5.4. For that the respondents have issued the impugned orders dated 29.6.98 without any notice to the applicants and hence the same are liable to be set aside and quashed.

5.5. For that the alleged report of the Scrutinizing Committee is perverse and not based on any records and as such the same is not acceptable.

Contd.....13.

*Ashim Roy*

5.6. For that the alleged report of the Committee is apparently perverse and not on application of mind which is apparent from the report mentioned on in the impugned order dt. 26.9.2000.

5.7. For that the impugned order dt. 26.9.2000 passed on the basis of such report is also illegal and non-application of mind and as such the same is not maintainable in law and liable to be set aside or quashed.

5.8. For that in any view of the matter the impugned orders dt. 27.6.98, 29.6.98 and the order dt. 26.9.2000 are bad in law and liable to be set aside or quashed.

5.9. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and hence same are liable to be set aside and quashed.

The applicant crave leave of this Hon'ble Tribunal to advance more grounds at the time of hearing of this application.

6. DETAILS OF REMEDIES EXHAUSTED :

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

Contd.....14.

Ashim Roy

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

The applicant further declares that he has not previously filed any application, writ petition or suit regarding this new cause of action in respect of which this application is made before any 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. ~~except the~~

8. RELIEF SOUGHT FOR :

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

- 8(a). To direct the respondents not to terminate the services of the applicant.
- 8(b). To set aside and quash orders dated 27.6.98, 29.6.98 and 26.9.2000 passed by the Respondents No. 3.5 and 3 respectively.

Contd.....15.

Ashim Roy

8(c). To direct the respondents to extend the benefits of the scheme prepared by the respondents.

8(d). To direct the respondents to regularise the service of the applicant as Grade-D employee.

8(e). Cost of application.

8(f). Any other relief/reliefs to which the applicant is entitled to and as deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

The applicant pray for an interim order directing the respondents to allow the applicant to continue in his service pending disposal of this application.

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

1. I.P.O. NO.

2. Date :-

3. Payable at

12. ENCLOSURES :- As stated above.

Contd.....16.

Ashim Roy

VERIFICATION

I, Sri Ashim Roy, Son of Sri Atul Roy,  
resident of village-Matizuri, P.O. Tempur, P.S.  
& District - Hailakandi, aged about 33 years by  
caste - Hindu, by profession - Service, do hereby  
solemnly affirm and verify that the statements made  
in paragraphs 1, 2, 3, 4(a), 4(b), 4(l), 4(m), 4(r) and 4(t)  
of the petition are true to my knowledge and those made  
in the paragraphs 4(c), 4(l), 4(o) to 4(s) of the  
petition are matters of records which I believe to  
be true and the rests are my humble submission  
before this Hon'ble Tribunal and I have not suppressed  
any material facts of the case.

And I sign this Verification on this the 25th  
day of April, 2003 at Guwahati.

*Ashim Roy*  
(APPLICANT)

Absorption of Casual Labourers  
Court Directive Department of Telecom to take back  
Casual Mazdoor who have been discharged after 30.3.1995

In the Supreme Court of India  
Civil Original Jurisdiction

Writ Petition (C) No. 1280 of 1989

Ram Gopal & Ors. ... Petitioners

—Versus—

Union of India & Ors. ... Respondents

With

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

Jant Singh & Ors. etc. etc. ... Petitioners

—Versus—

Union of India & Ors. ... Respondents

ORDER

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

The principal allegation in these petitions under Article 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as casual labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30th 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 petitioners though that was rendered in the case of casual employees of Posts and Telegraphs Department. It is also contended by the counsel that the decision rendered in that case also related 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 classification 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 as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department."

*certified to be true copy*

*R. Datta*

*Advocate*

-18-

- 17 -

26

**ANNEXURE- 1**

Annex. 1 contd.

We find the though in paragraph 3 of the writ petition. it has been asserted by the petitioners that they have been working for 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 principle, 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 for 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 fact that the respondents' counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-  
(Kuldeep Singh) J.

Sd/-  
(Ranganath Misra) J.

New Delhi  
April 17. 1990.

certified to be true copy

R. Dutta  
Advocate

*Dutta*

*Atul Pratap*

CIRCULAR NO. 1  
Government of India  
Department of Telecommunications  
STN Section

269-10/89-STN

New Delhi 7.11.89

TO  
The Chief Secretary (Telecom), Telecom Circles,  
M.T.H.I., New Delhi/Bombay, Mumbai Dist., Madras/  
Calcutta.  
Heads of all other Administrative Units.

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

Subsequent to the issue of instruction regarding  
regularisation of casual labourer vide this office letter  
No. 269-29/87-STC dated 18.11.88, a scheme for conferring  
temporary status on casual labourers who are currently  
employed and have rendered a continuous service of at least  
one year has been approved by the Telecom Commission.  
Details of the scheme are furnished in the Annexure.

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

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

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

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

Certified to be true copy.

R. Dutta  
Advocate

Annex. 2 contd.

4. The scheme furnished in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No. SMF/78/89 dated 27.9.89.

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

Sd/-  
ASSISTANT DIRECTOR GENERAL (STN)

COPY TO :

P.S. to MDS(C)

P.S. to Chairman, Telecom Commission

P.S. to Member (S)/Adviser (HRO), GM (Est), GM (IR) for information

Member (S)/Adviser (HRO), GM (Est), GM (IR) for information

MCG/SEA/TE-II/IPS/Admin-I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

Sd/-

ASSISTANT DIRECTOR GENERAL (STN)

certified to be  
true copy

R. Datta  
Advocate

Dated 9/10/89  
Attested by

## ANNEUXRE

## 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 the Department of Telecommunications, 1989"
2. This Scheme will come in force with effect from 1.10.89
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 appointments on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility conditions including the educational qualifications prescribed in the relevant Recruitment Rules. However, regular Group D staff rendered surplus for any reason will have prior claim for absorption against 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 casual labour for the purposes of the age limits 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 Gr. 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

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

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R. Datta

Advocate

Table 2 contd.

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

8. Despite conferment of temporary status, the services of a casual labourer may be dispensed with in accordance with the relevant provisions of the Industrial Disputes Act, 1947 on the ground of availability of work. A casual labourer with temporary status can quit service by giving one month's 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 encashment 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.

000

certified to be true copy.

R. Datta  
Advocate

R.Datta

Sited  
for filing

## ANNEXURE - 3

No.269-4/93 STM - IX

GOVERNMENT OF INDIA

DEPARTMENT OF TELECOMMUNICATIONS

STM SECTION

Dated New Delhi, 17 Dec.  
1993.

To,

All Heads of Telecom, Circles/Metro Telecom Distt.

All Heads of other Administrative Offices.

All Heads of Ntce, Regions/Project Circles.

Sub: Casual Labourers (Grant of Temporary Status and  
Regularisation) Scheme, 1989 engaged in Circles  
after 30.3.88 and up to 22.5.88.

Sir,

I am directed to refer to this office order No.269-4/93-STM dated 25th June, 1993, where in orders were issued to extend the temporary status to all these Casual Mandoora who were engaged by the Project Circles/Electrification Circles, during the period 31.3.88 to 22.5.88 and who were still continuing for much works where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the above said orders.

2. The matter has further been examined in this office and it is decided that all those casual labourers who were engaged by the circles during the period from 31.3.88 to

22-6-88

conjd..... 2.

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R. Datta  
Advocate

22.6.88 and who are still continuing for such works in the Circles where they were initially engaged and who are not absent for the last more 365 days counting from the date of issue of this order, be brought under the above said scheme.

3. The engagement of casual mazdoors after 30.3.88, in violation of the instruction of the Head Quarter, has been viewed very seriously and it is decided that all past cases wherein recruitment has been made in violation of instructions of the Head Quarter dated 30.3.85, should also be analysed and disciplinary action be initial defaulting officers.

4. It has also been decided that engagement of any casual Mazdoors after the issue of order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Heads of Circles, concerned Class-II officers and amount paid to such casual Mazdoors to wards wages should be recovered from the person who has recruited/engaged casual labourer in violation of these instructions.

5. It is further stated that the services of the casual Mazdoors who have rendered at least 240 days (226 days in the case of Administrative offices observing 5 day a week) of service in a year on the date of issue of these orders, should be terminated after following the conditions as laid down in I.D. Act. 1947 under section 25.P.G. & H.

contd... 3.

*certified to be  
true copy*

*R. Dutt  
Advocate*

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No.3811/93-FA-I dated 1.12.93.

Hindi version follows.

Yours faithfully,

(S.K. DHAWAN)

Assistant Director General (STM)

Copy to :-

1. All the staff members of Department JCM
2. All recognised Unions/Associations
3. Budgets TE-I/TE-II/SNA/CVC/PAT/MCS/SR sections of the Telecom Commission.
4. SPP-I Section, Department of Posts, New Delhi.

NO REC/T-3/10 Part-II dated at Guwahati, 4.1.94, copy forwarded for information, guidance and necessary action to :-

- 1-2. The AMTs Guwahati/Dibrugrah.
- 3-5. The TDM, Guwahati.
6. The TDEs BGN/DR/SC/TZ/JRT/NCG
- 10-14. The SPTs BGN/DR/SC/TZ/JRT
15. The C.S.C.T.O. Guwahati.
16. The A.E. I/C CTSD, Guwahati.
17. The Principal CTTC Guwahati.
18. The RTM, Guwahati.
19. The A.D. (Staff) C.O. Guwahati.
20. The Concerned Circle Secretaries of Service Unions.

(K.S.K. Prasad Sarma)  
Asstt. Director Tel-Com(R&R)  
C/O CGMT, Ulubari, Ghy-7.

certified to be  
true copy

R Dutt  
Advocate

- 26 -

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11

ANNEXURE - 4 .

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

No. 66-52/92-SPB/1

Dated. 1.11.95.

I am directed to refer to the scheme on the above subject issued by this office vide letters No. 45-95/87 SPB-I dated 12.4.91 and No. 66-9/91 No. 45-95/87 SPB-I dated 12.4.91 and No. 66-9/91 SPB. I dated 10.11.92 as per which full time casual labourers who were in employment as on 29.11.89 were eligible to be conferred " temporary Status" on satisfying other eligibility conditions .

The question of extending the benefits of the scheme to those full time casual labourers who were engaged recruited after 29.11.89 has been considered in this office in the light of the judgement of the O.A.T. Renkukulam Branch Erakulam delivered on 13-3-95 in O.A. NO 750 / 1994 .

It has been decided that full time casual labourers recruit after 29-11-89 and upto 10-9-93 may also be considered for the grant of benefits under the Scheme .

(2) This issues with the approval of IS and F.A. vide Dy. No. 2423/95 dated 9-10-95.

upto 10-9-93  
1-1-88

certified to be  
true copy

R. Datta  
Advocate

Name & Address of Casual Labourers	Date of Engagement	Year	Total Work days	Under Which Unit.
Sri Ratneswar Nath S/O Sri Kameswar Nath, Vill. Narainpur P.O. Pathar Kandi, Dist - Karimganj.	01-2-88	1988 1989 1990 1991 1992 1993 1994 1995	248 246 253 249 251 260 248 147	SDE/PTKN Qtr by SDE/PTKN
Sri Pritu Bhushan Roy S/O Sri Purna Ch. Roy C/O Prasanna Choudhury P.O. Girishganj Dist. Karimganj	01-01-88	1988 1989 1990 1991 1992 1993 1994 1995	250 245 245 248 250 241 264 220	SDE/PTKN Qtr by SDE/PTKN
Sri Sashanka Kr. Das S/O Sri Suresh Ch. Das Vill. Katigorah, P.O. Katigorah, Dist - Cachar	01-01-1987	1987 1988 1989 1990 1991 1992 1993	062 248 240 244 246 294 288	SDOT/HLK Qtr by SDOT/HLK
Sri Amresh Das S/O Late Hormohan Das Vill - Boktiawar P.O. - Kalinagar Dist - Hailakandi	01-01-1988	1988 1989 1990 1991 1992 1993	273 275 241 246 249 (249) 268 (243)	SDOT/HLK Qtr by SDOT/HLK
Shri Ashim Roy S/O Sri Atul Roy Vill. Matijuri P.O. - Tampur Dist - Hailakandi	01-04-1988	1988 1989 1990 1991 1992 1993	260 247 249 247 247 245	SDOT/HLK Qtr by SDOT/HLK
Sri Arbinda Das S/O Sri Arun Das Vill. - Sripur P.O. - Sripur Dist. - Cachar	01-01-1984	1984 1985 1986 1987 1988 1989 1990 1991 1992 1993	365 365 245 364 287 276 276 269 247 243	SDOT/HLK Qtr by SDOT/HLK

The above Casual Mazdoor has been forwarded to the TDE/SC by the SDE/PTKN vide his letter No. E-27/95-96/Pt-II dated 8-11-95 and SDOT/HLK vide his letter No. E-22/Rect/95-96 dated 14-8-95.

certified to be  
true copy

R. Datta  
Advocate

- 28 -

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE TELECOM DISTRICT MANAGER, SILCHAR.

NO. E-20/Grp-D/Rectt/98 Dated at Silchar, 09.12.97  
To

The Sub-Divisional Officer(Telegraphs),  
Hailakandi.

**Sub :-** Casual labours(Grant of temporary status and regularisation scheme) 1989 engaged after 30.3.85 upto 22.6.88).

In pursuance of the DOT New Delhi letter No. 269-4/93-STN-II dated 17.12.93 and CGMT/Guwahati letter No. Rectt-3/10/Part-II dated 4.01.94, the following four Casual Mazdoors in your Sub-Division are approved for granting of temporary status on the basis of particulars furnished by you vide your letter No. E-22/Rect/95-96 dt. 14.8.95.

You are directed to take further action after verification of their eligibility once again on the points mentioned below :-

- (1) Age at the time of engagement.
- (2) Educational qualification upto VIII standard.
- (3) No of days worked yearwise.

After conferring the provisional approval for granting of temporary status w.e.f. 9.12.97 to the Casual Mazdoors mentioned below. Intimation is to be given to TDM/Silchar for their place of posting which will be decided by TDM/Silchar.

Contd...../-

certified to be  
true copy

Ashim Roy

R. Datta  
Advocate

- 29 -

List of Mazdoors approved for TSM :-

1. Sri Sashanka Kumar Das,  
S/o Suresh Ch. Das,  
P.O. & Vill-Katigorah,  
Dist-Cachar.
2. Sri Amaresh Das,  
S/o Late Harmohan Das,  
Vill-Bakrihawar, Pt-VII,  
Dist-Hailakandi.
3. Sri Ashim Roy,  
S/o Sri Atul Roy,  
Vill-Matijuri, P.O.Tempur,  
Dist-Hailakandi.
4. Sri Arabinda Das,  
S/o Sri Arun Das,  
Vill-Sripur, P.O.Fulbari,  
Dist-Cachar.

Sd/-S.K.Samanta,  
Telecom District Manager, Silchar.

Copy to :-

The A.O.Cash, O/o TDM, Silchar.

Sd/-  
Telecom District Manager, Silchar.

certified to be true copy

R. Datta  
Advocate

Ashim Roy

- 30 -

REGISTERED.

GOVT. OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE SUB-DIVISIONAL OFFICER TELEGRAPHS  
HAILAKANDI.

1. Sri Sashanka Kumar Das,  
S/o Sri Suresh Ch. Das,  
P.O. & Vill-Katigorah,  
Dist - Cachar.
2. Sri Amarend Das,  
S/o Late Harmohan Das,  
vill - Bakrihawar, Part-VII,  
Dist - Hailakandi.
3. Sri Ashim Roy,  
S/o Sri Atul Ch. Roy,  
vill - Matijuri,  
P.O. Tempur,  
Dist - Hailakandi.
4. Sri Arabinda Das,  
S/o Sri Arun Das,  
Vill :- Sripur,  
P.O. Fulbari,  
Dist :- Cachar.

Ref :- R-22/Rectt/14 Dated at Hailakandi the 22nd Dec'97.

Sub :- Casual labours (Grant of Temporary Status and  
regularisation Scheme) 1989 engaged after 30.3.85.

With reference to Telecom District Manager, Silchar  
letter No.E-20/Grp.D/Rectt./98 dt. 9.12.97, you have been  
approved by Telecom District Manager, Silchar for  
granting of temporary status of casual Mazdoor subject  
to acceptance of the following certificates/records

Contd...../-

certified to be  
true copy

R. Datta  
Advocate

Ashim Roy

after verification, you are hereby directed to submit the following original certificates/documents along with a attested copy on or before 29.12.97 to this office positively.

- Age proof certificate.
- Educational Qualification certificate.
- Work experience certificate.
- S/C /S/T Certificate if any.
- Two Nos. of Character certificate from Gazetted officers
- Health certificate.
- Employment Registration Card.

(Sd/-J.R.Bhattacharjee),  
Sub-Divisional Officer Telegraphs  
Hailakandi.

Copy to :-

The Telecom District Manager, Silchar-788001  
for favour of his kind information.

Sub-Divisional Officer Telegraphs  
Hailakandi.

*certified to be  
true copy  
R. Datta  
Advocate*

*Ashim Roy*

GOVT. OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE SUB-DIVISIONAL OFFICER TELEGRAPHS,  
HAILAKANDI.

Memo No.B-22/Rectt/16 A Dated at Hailakandi the 29th Dec'97.

In accordance with Telecom District Manager, Silchar, letter No.E-26/Gr.D/Rectt/99 dt. 9.12.97, the following approved casual labours for granting of temporary status are posted under J.T.C.(Phones), Badarpurghat as TSM wef 30.12.97. They are instructed to report to UTO(T) BDS immediately.

1. Sri Sashanka Kumar Das.
2. Sri Amaresh Das.
3. Sri Ashim Roy.
4. Sri Arabinda Das.

The final place of posting order will be issued by the Telecom District Manager, Silchar.

Sd/-  
( J.R.Bhattacharjee)  
Sub-Divisional Officer Telegraphs  
Hailakandi.

Copy to :-

1. The Telecom District Manager, Silchar-788001 for information and necessary action.
2. The Sr. Accounts Officer (Cash), O/o the Telecom District Manager, Silchar.
3. The J.T.O.(Phones), Badarpurghat for information and necessary action.
4. Sri Sashanka Kumar Das, S/o Sri Suresh Ch. Das, Vill & P.O. Katigorah, Dist-Cachar.
5. Sri Amaresh Das, S/o late Harmohan Das, Vill-Bakrihewar Part-VII, P.O.Kalinagar.
6. Sri Ashim Roy, S/o Sri Atul Ch.Roy, Vill-Matijuri, P.O. Tempur, Hailakandi.
7. Sri Arabinda Das, S/o Sri Arun Das, Vill-Sripur, P.O. Fulbari, Cachar.

Sd/-Illegible,  
Sub-Divisional Officer ~~Telephone~~  
Telegraphs, Hailakandi.

certified to be  
true copy

R.D.  
Advocate

Ashim Roy

- 33 -

GOVT. OF INDIA  
DEPARTMENT OF TELECOMMUNICATION  
O/O the Sub-Divl. Officer Telegraph, Hailakandi.

No. E- /Rectt/loose/98-99/22 dt. 29.6.98

To

Sri Ashim Roy,  
Telephone Exchange,  
Jalalpur, Cachar.

Sub :- Casual labourers (Grant of temporary status and regularisation scheme), 1998 engaged after 30.3.95 .....

Ref :- DM/Sc Memo No. XII/TDM-SC/CM-Rectt/98-99/209 and this office letter No. E-22-/Rectt/14 dt. 22.12.97 and E-22/Rectt/14A dt. 29.12.97.

.... provisional temporary status conferred on you vide TDM Silchar letter No. E-20/Grp-D/Rectt/99 dtd. at Silchar, 9.12.97 has been cancelled by TDM, Silchar vide his letter No. X-11/ SC/CM-Rectt/98-99/209 dtd. 27.6.98, as you have not qualified for SM as per your previous engagement record.

The undersigned has been decided not to engage you anymore and as such your services are no longer required with effect from the forenoon of 29.6.98.

Sd/- Illegible,  
Sub-Divl. Officer Telegraph,  
Hailakandi.

Copy to :-

1. TDM, Silchar for favour of kind information pl.
2. CAO O/O TDM Silchar for information pl.
3. DE(P&A), O/O TDM Silchar for information pl.
4. UTO(T) Badarpurghat is instructed to collect the key of Jalalpur xge. from Sri Ashim Roy before 12 noon on 29.6.98 and depute a suitable person to Jalalpur xge on emergency basis.

Sd/-  
Sub-Divl. Officer Telegraph  
Hailakandi.

certified to be  
true copy

R. Dutta  
Advocate

Ashim Roy

- 34 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
G U W A H A T I.

ORDER SHEET

APPLICATION NO. 141 OF 1998.

Applicant(s) : All India Telecom Employees Union & Anr.

-Vs-

Respondent(s) :- Union of India & Ors.

Advocate for Applicant(s) :- Mr. B.K.Sharma,  
Mr. S. Sarma,  
Mr. U.K.Nair.

Advocate for Respondent(s) :- C.G.S.C.

-----  
Note of the Registry. | DATE | Order of the Tribunal.  
-----

2.7.98

Heard Mr. B.K.Sharma learned counsel appearing on behalf of the applicant and Mr.S. Ali, learned Sr.CGSC for the respondents.

Application is admitted. Mr.B.K.Sharma prays for an interim order not to discontinue the services of the applicants. Mr.S.Ali has no instructions in this matter.

Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.

Meanwhile, the casual workers(TSM) shall not be disengaged and they shall be allowed to continue in their services.

List it on 31.7.98 for orders.

Sd/- VICE CHAIRMAN

Sd/- Member (Admn.).

certified to be true copy

Ashim Roy

R. Datta  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.107 of 1998 and others

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

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

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

1. O.A.No.107/1998

Shri Subal Nath and 27 others .....Applicants  
 By Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

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

....

2. O.A.No.112/1998

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

-versus-

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

....

3. O.A.No.114/1998

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

-versus-

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

....

4. O.A.No.118/1998

Shri Bhupan Kalita and 4 others .....Applicants  
 By Advocates Mr J.L. Sarkar, Mr M. Chanda  
 and Ms N.D. Goswami.

-versus-

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



certified to be true copy

R. Datta  
 Advocate

O.A.No.120/1998

Shri Kamala Kanta Das and 6 others .....Applicant  
By Advocates Mr J.L. Sarkar, Mr M. Chanda  
and Ms N.D. Goswami.

-versus-

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

6. O.A.No.131/1998

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

-versus-

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

7. O.A.No.135/98  
7. All India Telecom Employees Union,  
Line Staff and Group 'D' and  
6 others .....Applicants

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

-versus-

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

8. O.A.No.136/1998

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

-versus-

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

9. O.A.No.141/1998

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

-versus-

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

*R.Dutta*

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*R Dutta*  
Advocate

## 10. O.A.No.142/1998

All India Telecom Employees Union,  
Gwalior Branch. ....Applicants  
By Advocate Mr B. Malakar

-versus-

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

## 11. O.A.No.143/1998

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

-versus-

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

## 12. O.A.No.192/1998

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

-versus-

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

## 13. O.A.No.223/1998

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

-versus-

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

## 14. O.A.No.269/1998

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

-versus-

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

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Advocate

## 15. O.A.No.293/1998

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

-versus-

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

.....  
O R D E R

BARUAH.J. (V.C.)

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

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

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Advocate-

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

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

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Advocate

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

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

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

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Advocate

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

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Advocate

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

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

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

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Advocate*

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

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

No order as to costs.

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

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मान्यता प्राप्ति

Deputy Registrar (O)  
Central Administrative Tribunal  
Gurukul Benchar

8/1/2013

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R. Dutt  
Advocate

Government of India  
Department of Telecommunications  
Office of the General Manager Telecom Silchar SSA:Silchar

No.E-20/Scrutiny/CM/2000-2001/03

Dated at Silchar, 26-4-2K

To

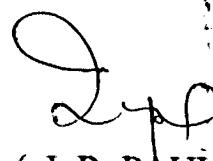
✓ Shri.....Ashim Roy  
S/o .....Sri.....A. Paul Roy  
Vill .....Mati juri .....  
P.O. .....Tempur .....  
Dist. ....Nalakandi .....

Sub:- Call for appearing before scrutinizing committee of records  
Of casual Mazdoors.

You are hereby requested to appear before the scrutinizing committee on ....03-05-2001.... with the following documents /particulars, in original, on the specified date, time and at the specified venue given below :

1. Initial engagement particulars as casual mazdoor, appointment order /sponsorship of employment exchange in your possession.
2. All documents i.e. working particulars, payment particulars till last working day, if any, available with you.
3. Age proof certificate.
4. Two copies of recent passport size photographs.

Venue :- Hotel Indraprastha Regency,  
Lochan Bairagi Road, Ground floor  
Silchar - 788005.

  
( I. R. PAUL )  
Member, Scrutinizing Committee  
Divisional Engineer(P&A)  
O/o the G.M. Telecom/Silchar  
Silchar SSA : Silchar

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true copy*

*R. Datta  
Advocate*

- 45 - Annexure - 13

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

No. E-20/TSM Regularisation/SC/04

Dated at Silchar, the 26-07-2000

To

✓ Shri.....Ashim Ray  
S/o .....Sri....A. full Ray  
Vill .....Mati Juri.....  
P.O. .....Tempur.....  
Dist. ....Nalbari Kan. ....

Sub: - Grant of Temporary Status Mazdoor.

Ref: - Hon'ble CAT/Guahati order dtd. 31.8.99 in OA No. 141/98

With reference to the above, you are hereby intimated that as per the instructions of the Hon'ble CAT/Guahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guahati vide Memo No. Estt-9/12/PART-1/23 dtd. the 28-03-2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dt. 12-02-1999, on the basis of your engagement records, as you did not fulfil the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom. in any calendar year preceding 01-08-1998.
- 2) You were not in engagement as on 01-08-1998.

The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status Mazdoor cannot be acceded to and as such your representation stands disposed of.

  
General Manager Telecom  
Silchar SSA :: Silchar.

General Manager Telecom  
SILCHAR

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true copy  
R. Datto  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: : GUWAHATI

29/1/04 JAN 2004

RECEIVED  
Guwahati Bench

In the matter of :-

O.A. No. 89 of 2003

Shri Ashim Roy ... Applicant  
- Versus -

Union of India & Ors.

... Respondent

WRITTEN STATEMENTS FOR AND ON BEHALF OF  
RESPONDENTS NOS. 1, 2, 3, 4 & 5.

I, S.C. Das, Asstt. Director Telecom(Legal), Office of the Chief General Manager, Assam Circle, Ulubari, Guwahati, do hereby solemnly affirm and say as follows :-

1. That I am the Asstt. Director Telecom(Legal) in the Office of the Chief General Manager, Telecom, Assam Circle, Ulubari, Guwahati and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements may be deemed to have been denied. I authorised to file the written statements on behalf of all the respondents.
2. That with regard to the statement made in paragraph 1 of the application, the respondent beg to state that the impugned order dated 26-9-2000 was passed by the Office of the GM Silchar, after a thorough review of the case in consultation with the records available with the Department and in due compliance of the common judgement and order dated 31-8-1999 passed by the Hon'ble Tribunal in OA No. 141/98 and 13 other OAs.

The Departmental authority scrutinized the all relevant records to work out the engagement particulars of the applicant and his eligibility for grant of Temporary Status under the departmental scheme. The examination of all authenticated records revealed that the applicant is not eligible for grant of

Temporary Status, as he had not put in continuous service for 1 year. Accordingly his request for the undue benefit was rejected and his representation was disposed off vide order dated 26-09-2000.

The above examination and decision also confirm the earlier order dated 27-06-98 whereby the irregularly issued order of conferment of temporary status was cancelled.

3. That the respondent have no comment to the statement made in paragraph 4(a) of the application.

4. That with regard to the statement made in paragraph 4(b) of the application, the respondent beg to state that the applicant had not worked for 240 days in a year. He was engaged in 1991 for 6 days and again in 1995 for 22 days. He was wrongly granted Temporary Status on a provisional basis in December, 1997 and thereafter on the basis of the irregularly acquired Temporary Status the applicant worked from January, 1998 to June 28, 1998.

5. That with regard to the statement made in paragraph 4(c) & 4(d) of the application, the respondent beg to state that the Hon'ble Supreme Court of India issued direction to the department to prepare a scheme on a rational basis for absorption as far as practicable who have continuously worked for more than 1 year in Telecom Department.

Compliance of the above direction, the DOT prepared and introduced a scheme 'Casual Labourers (Grant of Temporary Status and Regularization) scheme' 1989, which came into effect from 1-10-1989.

6. That with regard to the statement made in paragraph 4(e) and 4(f) of the application, the respondent beg to state that according to the provision of the scheme the casual labourers who have worked continuously for more than one year as on the date of introduction of the scheme, would be granted Temporary Status as such Temporary Status casual labourers would be entitled for daily wage with reference to the minimum of the pay scale for regular Group 'D' employee.

Initially the scheme was intended to cover casual labourers who was engaged up to 31-3-85 and have completed more than one year continuous service. Mentionable that a ban on engagement of fresh casual labourer in Telecom Circle was imposed on 1-4-85. Normally there should not have been any casual

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labourer recruited after 31-3-1985. However, on practical consideration the benefit of the scheme was extended to the casual labourers engaged up to 22-6-88 for certain special Type of works for which there was no ban on engagement till 22-6-88.

7. That with regard to the statement made in paragraph 4(g) & 4(h) of the application, the respondent beg to state that according to DOP scheme, the casual labourers who entered the Department of Post up to 10-9-93 and have completed at least one year continuous services are entitled for the benefit of the scheme. Till that time, the benefit of the DOT scheme was confined to the casual labourers who entered the department up to 22-6-88 and had completed continuous casual service for one year. However, on human consideration and as an one time relaxation, the benefit of the DOT scheme has been extended to all casual labourers available as on 1-8-98 provided the mazdoor have completed continuous service of at least one year. Eventually DOT scheme has turned out to be more liable than the DOP scheme as far as the cut off date is concerned.

8. That with regard to the statement made in paragraph 4(i) of the application, the respondent beg to state that the essence of the direction of the Hon'ble Apex Court and the Departmental scheme is to provide the security of service to the daily rated casual mazdoors, who have worked continuously for more than one year. The present applicant does not satisfy the condition of minimum essential service as casual labourer and he is not eligible for grant of Temporary Status under ~~as~~ the scheme.

As mentioned earlier the applicant was not engaged on and from 1-4-88. He was engaged for the first time in 1991 that for only 6 days. After a gap of nearly 4 years he was again engaged in 1995 for 22 days.

The length of casual service for 28 days over a period of 5 years does not make the applicant eligible for grant of Temporary Status.

It is sheer manipulation and prevention of fact that the field officer projected a completely wrong picture of the applicant wherein it was shown that the applicant had been continuously working from 1-4-1988 to 1993. In doing so, the field officer solely relied on the certificates issued by line staff without verifying the correctness of the certificates.

( 4 )

9. That with regard to the statement made in paragraph 4(j) of the application, the respondent beg to state that the applicant and other person in large with the service union created unbearable pressure on the Telecom District Authority and others for grant of Temporary Status to all such person on the fake certificate. Ultimately, the local authority was compelled to approve the grant of Temporary status on a provisional basis pending verification of engagement particulars from the authentic records.

10. That with regard to the statement made in paragraph 4(k) of the application, the respondent beg to state that on the basis of the illegally acquired temporary status as above, the applicant joined service on 22-12-97 and worked as such till 28-6-98 by which time the eligibility was varified on the basis of authenticated records and he was disengaged as he was not eligible for grant of Temporary Status (copy enclosed).

11. That with regard to the statement made in paragraph 4(l) of the application, the respondent beg to state that the applicant acquired the temporary status by sheer manipulation and falsification of records with the ulterior motive of gaining undue benefit of secured service. The applicant in connivance with service union and other prescribed the local authority for issuance of wrongful orders of conferring Temporary Status on the basis of the false certificate. Such orders is liable to ~~cancel~~ cancelled in the first instant on the basis of the result of verification which showed that certificates were false and the applicant was not eligible for the benefit. To set right the matter, the order dated 27-6-98 was issued for cancellation of the earlier wrongful order dated 9-12-97.

12. That with regard to the statement made in paragraph 4(m) & 4(n) of the application, the respondent beg to state that the order-dated 27-6-98 have passed after in-depth examination of the case to restore the rules and orders regarding the grant of Temporary Status to eligible casual labourers. The departmental authority is within his right to cancel his earlier order which was passed under pressure and violation of rules.

As explained in foregoing paras, the applicant was not eligible for grant of Temporary Status. He and others manipulated records and created false certificates in his favours. They have collectively forced the local authority to pass wrong

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order granting Temporary Status on the basis of false certificates without verifying the engagement particulars and eligibility. The said authority was duty bound to make independent examination of the records to assess the eligibility of the applicant and to take further appropriate action in order to ensure that rules on the subject prevail over everything.

13. That with regard to the statement made in paragraph 4(o) of the application, the respondent beg to state that for the reason stated above the applicant was disengaged from 29-6-1998 by a written order. The disengagement was completed and the continuity was broken before the applicant approached the Hon'ble Tribunal. There was no reason for re-engagement of the applicant.

14. That with regard to the statement made in paragraph 4(p) of the application, the respondent beg to state that the respondent department submitted before the Hon'ble Tribunal that a Departmental Scheme is in place to take care of the casual labourers who have worked continuously for more than one year. The present applicant is not covered by the said scheme and he is not worked continuously for one year. In fact, he worked for only 28 days over a period of 4 years up to the stage of wrongful conferment of temporary status in December, 1997. Thereafter, he worked from 2-12-97 to 29-6-98 on the basis of wrongful acquired Temporary Status.

In compliance with the judgement and order dated 31-8-1999 the respondent department formed SSA level verification committee to examine the authenticated records like Mustered Roll, paid vouchers etc. to workout the engagement details of each applicant casual labourer. The Committee set up for Silchar Telecom District headed by DE scrutinized all relevant records including those presented by the present applicant and found that he is not eligible for grant of Temporary Status as he had not worked continuously for one year. The Committee also heard the applicant and considered his arguments before arriving at the decision,. The decision was communicated to the applicant vide letter dated 26-9-2000. The communication was self explanatory and it revealed the reason for rejecting the claim of the applicant in clear term (copy enclosed)

15. That with regard to the statement made in paragraph 4(q) of the application, the respondent beg to state that the order dated 26-9-2000 was passed after detailed examination of the case. It confirm that the decision taken earlier to withdraw/cancel the Temporary Status was correct.

16. That with regard to the statement made in paragraph 4(r) of the application, the respondent beg to state that the enquiry authority examined all the records regarding engagement of casual labourers and the vouchers of wages paid to the casual labourers during the entire period. The paid vouchers bear the name of labourers and the amount to each on every occasion. This is the most reliable officials record to work out the details of casual labourers engaged from time to time. There has to be corresponding paid vouchers for every engagement particulars of casual labourers as no labour would work without remuneration and no remuneration would be paid without a voucher. The Committee has examined all the paid vouchers and found that the applicant had not worked continuously for one year. The revealations unmistakably indicate that he is not eligible for grant of temporary status. Accordingly a conscious decision was taken and the reasoned order dated 26-9-2000 was passed. It also confirms that the certificates issued by the filed staff was utterly wrong, and that the order conferring Temporary Status December, 1997 on the basis of wrong certificates was bad in law.

17. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

#### VERIFICATION

I, S.C. Das, presently working as Asstt. Director Telecom(Legal), Office of the Chief General Manager, Assam Circle, Ulubari, Guwahati being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1 of the application are true to my knowledge and belief, those made in paragraphs 2-16 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 4 th day of Nov. 2003

  
( S. C. Das )

DEPONENT

Asstt. Director Telecom(Legal)  
Guwahati, Assam Circle  
Office of the Chief General Manager Telecom  
X-52, Ghati, Ulubari, Assam-781017  
Assam Telecom Circle, Guwahati