

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 91/2003

R.A/C.P No.

E.P/M.A No. 17/04

1. Orders Sheet..... OAPg. 1to. 3
2. Judgment/Order dtd. 17/3/2004Pg. 1to. 2 17/3/04
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 91/2003Pg. 1to. 24
5. E.P/M.P. 17/04Pg. 1to. 29
6. R.A/C.P.....Pg.....to.....
- ✓ 7. W.S.....Pg. 1to. 6
- ✓ 8. Rejoinder.....Pg. 1to. 12
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Salita

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 91/02
Misc. Petition No. /
Contempt Petition No. /
Review Application No. /

- Vs. -

Advocate for the applicant (s) Mr. S. S. Singh, M. A. D. S.

Advocate for the respondent (s) case

Notes of the Registry	Date	Order of the Tribunal
<p>Application No 100 for admission to practice in the High Court of India at Delhi filed by Mr. S. S. Sarma, learned counsel for the applicant.</p> <p>Rs. 50/- deposited on 10/03/03 No. 899022</p> <p>Dated 27/4/03</p> <p><i>[Signature]</i> By Registrar. <i>[Signature]</i> NB 30/4/03</p> <p>No 929 to 934 dtd 13/5/03</p> <p>o. reply has been</p>	1.5.2003	<p>Heard Mr. U.K. Nair, learned counsel on behalf of Mr. S. Sarma, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Also, issue notice to show cause as to why interim order as prayed for shall not be granted Returnable by four weeks. In</p> <p>List on 6.6.2003 for admission.</p> <p>In the meantime, the respondents are directed not to oust the applicant and allow him to continue in the respective post till the return date</p> <p><i>[Signature]</i> Vice-Chairman</p>

No reply has been
 liked.

My
5.6.03.

mb

6.6.2003

Mr. A. Deb Roy, learned Sr. C.G. S.C. appearing on behalf of the respondents prayed for time to obtain necessary instruction for filing written statement on the matter. List again on 11.7.2003 for written statement.

In the meantime, interim order order dated 1.5.2003 shall continue.

[Signature]

Member

[Signature]
Vice-Chairman

mb

11.7.2003

On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents further four weeks time is allowed to written statement.

List again on 12.8.2003 for admission. Interim order dated 1.5.2003 shall continue.

[Signature]
Vice-Chairman

mb

12.8.2003

Put up again on 12.9.2003 to enable the respondents to file written statement.

Interim order dated 1.5.2003 shall continue.

[Signature]
Vice-Chairman

mb

12.9.2003

Present : The Hon'ble Sri K.V. Prahaladan, Member (A).

Further four weeks time is allowed to the Respondents to file written statement on the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C.

List on 24.10.2003 for admission. Interim order dated 1.5.2003 shall continue.

[Signature]
Member

mb

24.10.03

no Bench today. adj. to 27.10.03.

Order dtd 6/6/03
Communicated to the
Parties Counsel.

[Signature]
9/6/03

No. written Statement
has been filed.

[Signature]
10/7/03

Pl. comply order dated
11/4/03
NTS
11/7/03

Order dtd. 11/7/03 Communicated
to the Parties Counsel.

[Signature]
15/7

No. written Statement
has been filed.

[Signature]
11/8/03

Order dtd. 12/8/03 Communicated
to the Parties Counsel.

[Signature]
14/8

No. Ws has been
filed.

[Signature]
11/9/03

please comply order
dated 12/9/03.

Above order sent to
D/S, for issuing the
both parties. *[Signature]*
12/9/03

3)
O.A. 91/2003

Office Note	Date	Tribunal's Order
<p>No. Wks has been filed. By 17.12.03</p> <p>W/s has been filed one copy on behalf of the respondents. 19/12/03</p> <p>15.3.04 Rejoinder filed by the applicants against W/s.</p> <p>23.3.04 Copy of the order has been sent to the Dy. Sec. for forwarding the same to the applicant as well as to the Sr. C.S.C. in the Regdm.</p> <p>29/3</p>	<p>27.10.2003 mb</p> <p>28.12.2003 mb</p> <p>8.3.2004 bb</p> <p>17.3.2004 bb</p>	<p>The application is admitted. List the matter for hearing on 28.10.2003 28.11.2003.</p> <p>On the request of Ms. M. U. Das, learned counsel for the applicant, the case is adjourned. List again on 22.1.2004 for hearing.</p> <p>On the request made by the applicant the case is adjourned and again listed on 17.3.2004 for hearing.</p> <p>Heard counsel for the parties. Judgment delivered in open Court, kept in separate sheets. The O.A. is disposed in terms of the order. No costs.</p>

Member

Member (A)

Member (A)

Member (A)

Office Note

Date

Tribunal's Order

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./REV.No. 1110.A.91 of 2003.

DATE OF DECISION 17.3.2004.

..Sri.Umesh.Mahato & two others.....APPLICANT(S).

..Mr.S.Sarma & Ms.U.Das.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

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

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

THE HON'BLE MR. K. V. PRAHLADAN, 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).

LW

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 91 of 2003.

Date of Order : This, the 17th Day of March, 2004.

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

1. Sri Umesh Mahato
Casual Worker
Office of the Divisional Engineer, Telecom
Microwave Maintenance, Guwahati.
2. Mrs. Lakhiya Basfore
Casual Worker
Office of the DGM, ETR
Guwahati.
3. Smti. Sukhi Begum
Central Worker
SDE, Goalpara
De, Bongaigaon. Applicants.

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

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
New Delhi.
2. The Chief General Manager
Eastern Telecom Region (ETR)
7th Khetra Das Lane
Calcutta-2.
3. The General Manager (ETR)
Shillong, Max Building
Meghalaya.
4. The Dy.General Manager (ETR)
Silpukhuri, Guwahati-3.
5. The Telecom District Engineer
Bongaigaon.
6. The Divisional Engineer
Microwave Maintenance
Bongaigaon. Respondents.

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

O R D E R (ORAL)

K.V.PRAHLADAN, MEMBER(A) :

As the issue involved in this case in respect of all the applicants are of similar nature and the reliefs sought by them are also same, they were granted leave to espouse their cause by a single application invoking Rule 4(5) (a) of the Central Administrative Administrative Tribunal (Procedure) Rules, 1987.

6

I have heard Mr.S.Sarma, learned counsel for the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

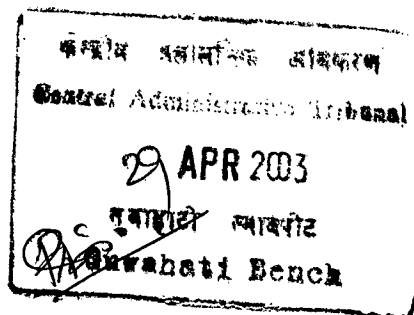
Considering the facts and circumstances of the case, I am of the view that since the applicant no.1 has completed more than 240 days in the year 1996, he is eligible for grant of temporary status/regularisation. Accordingly, respondents are directed to grant temporary status/regularisation to applicant no.1 as per rules within a period of two months from the date of receipt of this order. Regarding applicant nos.2 & 3 I do not want to pass any specific direction upon the respondents. However, as their case has been recommended by DGM (Mtce.) ETR, Guwahati vide letter dated 22.4.2002 and also by a Committee meeting held on 11.4.2002, respondents shall consider their case sympathically and dispose of the aforesaid two letters dated 22.4.2002 and 11.4.2002, both Annexure-2 (colly) within a period of four months from the date of receipt of this order.

Subject to the observations made above, the application stands disposed of.

No order as to costs.


(K.V.PRAHLADAN)
Administrative Member

bb



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case :

O.A.No. 91 of 2003.

BETWEEN

Shri Umesh Mahato & ors.

VERSUS

Union of India & Ors.

INDEX

SL.No.	Particulars	Page No.
1.	Application	1 to 9
2.	Verification	10
3.	Annexure-1.....	11, 12
4.	Annexure-2.....	13 - 16
5.	Annexure-3.....	17 - 19
6.	Annexure-4.....	20, 21
7.	Annexure-5.....	22, 23
8.	Annexure-6.....	24

Filed by : Asha Das

Regn. No

File No.: C:\WS7\Umeshmahato

Date: 24.1.2001.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No.'2003

BETWEEN

1. Sri Umesh Mahato
Casual Worker
Office of the Divisional Engineer, Telecom
Microwave Maintenance, Guwahati
2. Mrs. Lakhiya Basfore
Casual Worker
Office of the DGM, ETR,
Guwahati
3. Smti. Sukhi Bagum
Central Worker
SDE, Goalpara,
DE, Bongaigaon
Applicant

..... Applicants.

- A N D -

1. The Union of India,
Represented by the Secretary to the
Ministry of Communication. New Delhi.
2. The Chief General Manager,
Eastern Telecom Region (ETR)
7th Khetra Das Lane,
Calcutta-2.
3. The General Manager, (ETR)
Shillong, Max Building,
Meghalaya,
4. The Dy. General Manager, (ETR)
Silpukhuri, Guwahati-3.
5. The Telecom District Engineer,
Bongaigaon
6. The Divisional Engineer,
Microwave Maintenance,
Guwahati. *Bongaigaon*

..... Respondents.

11
Filed by
the applicant through
Asha Das,
Advocate
7/4/03

12

DETAILS OF THE APPLICATION

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

This application is made against the action of the respondents in not considering the case of the applicants for grant of temporary status and regularisation in terms of the scheme circulation vide letter dated 7.11.89.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE

4.1. That the present applicants are aggrieved by the action of the Respondents in not considering their cases in terms of the scheme as communicated vide letter dated 7.11.89. All the three applicants have completed more than 10 years^{and} they have - completed 240 days of continuum service but inspite of there being official records to show that the applicants have completed the requisite number of service even than the Respondents have not yet granted them the benefit of the scheme. The applicants are pursuing the matter but till date nothing has been communicated to them. In terms of a judgment passed by this Hon'ble Tribunal dated 31.8.99, the Respondents scrutinised the cases were recommended

for grant of temporary status and regularisation. Now almost 1 year has elapsed but till date nothing has been done so far in this matter. On the other hand the persons whose cases were never recommended have been granted the benefit of the scheme. The applicants represented their matters in several occasions but nothing has been communicated to them. Situated thus, the applicants have come before this Hon'ble Tribunal as a last resort.

4.2. That the applicants are citizens of India and ~~As~~^{And} such they are entitled to all the rights, protections and privileges as guaranteed by the Constitution of India. The issue involved in this case in respect of all the applicants are similar and the reliefs sought for by them are also same and as such they pray before this Hon'ble Tribunal to join together in a single application invoking Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3. That the applicant No.1 is presently working as a casual Motor Driver, in the office of the Divisional Engineer, Microwave Maintenance, Guwahati and his initial date of engagement 10/3/93. The official communications are available in respect of applicant No.1 regarding his date of initial appointment and continuous service. Since his date of entry he has been working continuously and the Log Book is indicative of the fact that till date he is working. The concerned authority in fact issued him identity card way back in the year 1995 itself. At the time of his initial appointment his name was sponsored by the local Employment Exchange for such appointment and the Department used to pay him salary under ACG-17 pay slips and for all practical purpose, although he is designated as Casual Worker he has been performing regular nature of job against the sanctioned post.

14

Copies of the service records are annexed herewith and marked as Annexure-1 colly.

The applicant No.1 craves leave of this Hon'ble Tribunal to produce extract of the Log Book at the time of hearing of this case.

That the applicant No.2 Smti Lakhiya Basfore has been working as casual worker under the Deputy General Manager Maintenance, ETR, Guwahati since 1/7/91. Since her date of joining the applicant No.2 has been continuing till date as such without any temporary status or regularisation. The applicant No.2 submitted her payment particulars in original before the concerned authority and the concerned authority placed the material before the committee and by it's recommendation forwarded vide letter dated 22.4.2002 recommended the case of the applicant No.2 for conversion of her service from part time to full time Subsequently into TSM. non

That the applicant No.3 Smti Sukhi Begum has been working since 1.5.91 as casual worker under Divisional Engineer Microwave, Bongaigaon. Till date she is continuing as such without any brack. In her case also the verification committee constituted for the purpose of conversion to full time casual worker and subsequent regularisation with temporary status recommended her case for grant of temporary status and regularisation against vacant post of Group-D by the same communication dated 22.4.2002.

Copies of the said communication dated 22.4.2002 and order 16.1.2002 are annexed herewith and marked as Annexure-2 colly.

That in respect of applicant No.3, the Sub-Divisional Engineer, Microwave Maintenance forwarded some information regarding her completion of 240 days in a year and recommended

her case for grant of temporary status.

Copies of those communication are annexed herewith and marked as Annexure-3 colly.

4.4. That the applicants have completed nearly 10 years of service and as such they are entitled to be granted with temporary status and subsequent regularisation in terms of the scheme of 1989 as communicated vide order dated 7.11.89. The aforesaid scheme came into force pursuant to a judgment passed by the Hon'ble Apex Court in W.P.(C) No. 1280/89.

Copies of the Apex Court judgment and the communication dated 7.11.89 are annexed herewith and marked as Annexure-4 & 5 respectively.

4.5. That the aforesaid Annexure-5 scheme was subsequently modified by the Respondents in number of times of which mentioned may be made of the order dated 1.9.99 by which the scheme was made applicable to the recruitees upto 1.8.98. Even if the respondents have not yet implemented any of those schemes to the present applicants nor they have been granted with any benefit of the said scheme its subsequent clarifications issued from time to time.

A copy of the said order dated 1.9.99 is annexed herewith and marked as Annexure-6.

4.6. That the applicants beg to state that as per the records available along with the respondents there is no dispute that each of them are entitled to be granted with temporary status as per the ~~scheme~~ The communications as mentioned above

2
X
V

indicates clearly the fact that the respondents at point of time initiated process for granting them the benefit of the scheme but for the reasons best known to them, the respondents have not yet granted the benefit to the present applicants. Presently the Respondents have decided to create 164 Posts, but as per the information gathered by the applicants, the respondents are not going to consider the cases of the present applicants in absence of any directive from this Hon'ble Tribunal. Situated thus, the applicants have come before this Hon'ble Tribunal seeking an appropriate relief for redressal of their grievances. They also pray for an interim order directing the Respondents not to fill up any post in group-D cadre and to allow all the applicants who are continuing in their respective services to continue as such till finalisation of this OA.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the applicants in not considering the cases of the applicants ~~and others~~ ^{has} is per-se illegal and arbitrary and same is also violative of Article 14 & 16 of the constitution of India and Laws framed thereunder.

5.2. For that it is the settled law that when some principles have been laid down by a competent Court of law same is required to be extended to all the similarly situated employee without requiring them to approach the door of the Court again and again. It is pertinent to mention here that this Hon'ble Tribunal earlier passed number judgments in this connection more particularly the judgment and order dated 31.8.98 passed in OA No. 107/98 and others.

5.3. For that the discrimination meted out to the applicants in not extending the benefits of the scheme and in not treating them at par with postal employees is violative of Articles 14 and 16 of the Constitution of India.

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

5.5. For that the respondents have acted illegally in not considering the case of the applicants without examining the relevant documents submitted by the applicants as well as the authorities of their respondents. And hence the impugned action of the respondents is liable to be set aside and quashed.

5.6. For that as per the order dated 1.9.99 the cases of the applicants are required to be considered under the scheme of 1989 and since the applicant have completed 240 days of continuous service in teach a year since their entry into the service, and hence the respondents are duty bound to grant temporary status as per the scheme, more so when the other similarly situated employees like that of the applicants have been granted with the said benefit.

5.7. For that the respondents have violative the judgment and order dated 31.8.99 passed by this Hon'ble Tribunal in not calling the applicants for interview. On that score alone the impugned action is liable to be set aside and quashed.

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

The applicants crave leave of the Hon'ble Tribunal to

32 8
advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

The applicants further declare that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them. In view of certain management restructuring occurred in the administration of the respondents the applicants have come under the protective hands of the Hon'ble Tribunal seeking urgent relief.

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:

8.1. To direct the respondents to extend the benefits of the said scheme to the applicants and to regularised their services with all consequential service benefits.

8.2. To direct the respondents not to fill up any vacant posts of Daily Rated Mazdoors without first considering the case of the applicants.

8.3. To convert the applicants who are presently treated to

be treated to be part time casual worker to full time casual worker and to extend the benefit of the scheme and subsequent regularisation as recommended by the verification committee.

8.4. Cost of the applicants.

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

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants pray for an interim order directing the respondents not to fill up any vacant posts of Daily Rated Mazdoors without first considering the case of the applicants. The applicants further prays for an interim order direction the respondents not to disturb their services and to allow them to continue in their respective posts during the pendency of the case.

10.

11. PARTICULARS OF I.P.O.:

1. I.P.O. No. : 86 490022
2. Date : 22/4/03
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.

20

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

I, Shri Umesh Mahato, s/o I. Mahato, aged about 30 years, at present working as Casual Worker (Driver), in the office of the Divisional Engineer, Microwave, Guwahati, do hereby verify and state that the statements made in paragraphs 16.3, 4.1, 4.2, 5 to 12 are true to my knowledge and those made in paragraphs 4.3 to 4.5 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other applicants to sign this verification on their behalf.

And I sign this verification on this the 7 ~~16~~th day of

April
2003.

UMESH MAHATO

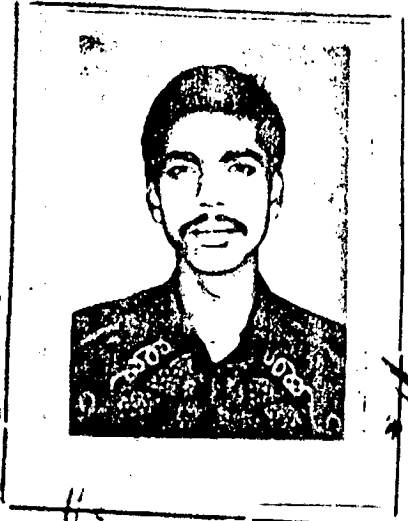
600

21

11-

Annexure-1 billy

No. 0856



Stamp of issuing
authority

(Place) Guntur (Date) 1/12/15

Indian Post & Telegraphs Department
IDENTITY CARD

No. 0856/75-76

1. Name of Holder UMESH -
MAHATO
2. Appoint held MOTOR DRIVER
(CASUAL)
3. Identification mark &
Height CUT MARK ON LEFT
MIDDLE FINGER, 5'6"
4. Signature or Thumb Impression
of Holder UMESH MAHATO

5. Signature & Designation of
Issuing Authority
REGIONAL ENGINEER
NEW MTC GUNTUR

Attested
Advocate

DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE D.ET MICROWAVE MTCE GAUhati

To: The Director Mtce
ETR, Gauhati
Dated at Gauhati the 15/10/96

No. DEMW/GH/E-10/96-97

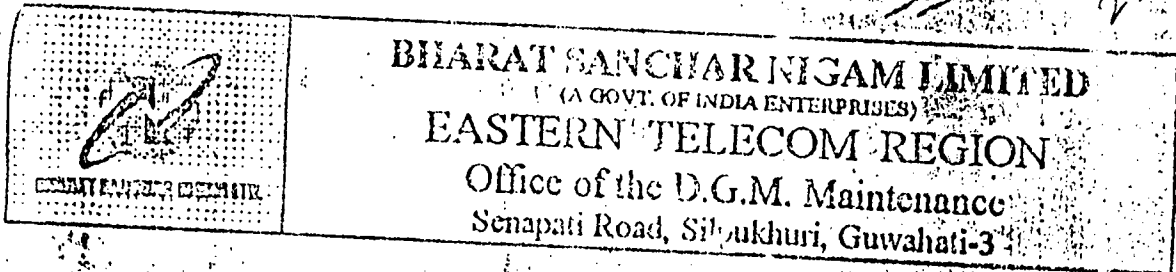
Sub:- Employment of casual labour

Except two casual motor Driver no casual labours are working continuously in this Division. Casual labours are engaged for short period during leave period of R.M and holidays etc. But no casual labour engaged continuous working. Particulars of casual M/D are given below.

S.L NO.	Name of casual labour	Date of engagement	Name of officer who engaged the casual labour
1.	Sri Dibakar Barua	1.12.92	L.N. Bhattacharjee.
2.	Umash Mahato	3.10.93	D.E M/W MTCE Gauhati.

[Signature]
OFFICIAL ENGINEER

[Signature]
Advocate



No. DGM/ETR/GH/E-48/2001-2002/16 Dated at Guwahati the 16.01.2002.

To,
The A.G.M. (Admin.)
O/O the C.G.M.M. ETR,
7, Ishetra Das Lane,
Kolkata - 12.

Sub :- Conversion of part - time casual labourers to full - time casual labourers and subsequent conferment of temporary status.

Ref. No. E - 34/T.S.M./2001 -02/50, dt. 01.10.2001.

With reference to your letter cited above, the particulars of the following part - time casual labourers working at different stations under ETR, Guwahati are forwarded herewith for necessary order for conversion of full - time casual labourers and subsequent conferment of temporary status. The particulars were not forwarded earlier due to non availability of DOT's letters as cited in your letter under reference by which only this office comes to know about the conversion of part - time casual labourers to full - time casual labourers and consequent conferment of T.S.M.

Sl. No.	Name of part - time labourer	Rate of hours working daily	Date of engagement	Remarks
1.	Sri Chadra Gogoi.	4 hrs.	9/92	JR
2.	Sri jasu Sonar	4 hrs.	22. 07.95.	
3.	Smt.. Lakhiya basfor	3 hrs.	7/92	
4.	Smt. Sukhi Begam	3 hrs.	5/91	/
5.	Sri Mahesh Basfor	4 hrs	01.02.2000.	Payment particulars are

Sub Divisional Engineer (Admin.)
O/O the D.G.M. (Mice.) ETR,
Guwahati - 781003.

14 - Annexure - 2 (colly)

EASTERN TELECOM REGION

24

BHARAT SANCHAR NIGAM LTD.

No.: DGM/ETR/GW/E-48/01-02/

Dated: 22nd April 2002.

To,
GM (Mtce), ETR
Shillong

Subject: "Conversion of part time casual labour into full time and regularisation thereof"

Sir,

Five part time casual labour, as per names given below, were working as sweeper in various offices of ETR Sub region Assam:-

1. Sri Chandra Gogoi --- under JTO F/C Jorhat (DE F/C Guwahati)
2. Sri Jasu Sonar --- under JTO F/C Dibrugarh (DE F/C Guwahati)
3. Smt Lakhiya Basfor --- under O/o DGM ETR Guwahati
4. Smt Sukhi Begum --- under SDE Goalpara (DE Bongaigaon)
5. Mahesh Basfor --- under DE M/W Dibrugarh

DOT first, vide its letter No. 269-1089-STN dated 14-08-98, asked name of part time casual labours, working in various field units for conversion into full time casual labours. Again BSNL H/Q vide its letter No. 269-94/98-STN-II/Pers-IV Dated 19-04-2001 asked to furnish details of casual labour working in field units. But name of persons at SI No. 1 to 4, who were working much earlier to August 98 (as per detail given in attached annexure) could not be communicated to DOT H/Q in time, due to lapses at end of controlling officers. Hence these four persons (SI 1 to 4) could not be converted into full time and regularised further. Though name and service particulars of all above five persons were forwarded to CGM ETR by SDE(A) of this office on 16-01-2002 vide letter No. DGM/ETR/GH/E-48/01-02/16, however CGM office vide letter No. CGM/ETR/Part Time/CI-II/3 dated 18-02-02 communicated that their name can not be considered as same has not been sent earlier. In view of CGM office letter mentioned above and DO letter of CGM ETR dated 31-01-2002, all these part time sweepers were retrenched w.e.f. 28-02-2002.

BSNL H/Q vide letter No. 269-9498-STN-II/Pers-IV Dated 23-02-2002 has once again asked details of casual labour working in field units of BSNL as reminder to its letter dated 19-04-2001. In pursuance of it a committee consisting of controlling DEs, SDE(A) and AO of this office was formed to verify service records, payment details and to examine suitability and other terms and condition for eligibility to convert these part time labours into full time. The committee has submitted its report and has recommended that persons at SI No 1 to 4 above may be considered for conversion into full time and regularisation. Person at SI No. 5 Sri Mahesh Basfor, who was engaged after 1-8-98 has not been found recommended for conversion into full time casual labour.

Therefore the case of above four persons from SI no. 1 to 4 is re-submitted for consideration to convert them into full time casual labour and to regularise them against vacant post of group 'D'.

Sanjeev Kumar

DGM (Mtce) ETR, Guwahati

Copy to :- DGM (P&A) O/O CGM ETR Kolkata

DGM (Mtce) ETR, BSNL, Senapati Road, Silakhuri, Guwahati-781003. Phone-0361-660223-(O), 530555-(R), Fax-661306.

Waa
Advocate

A meeting comprises the following members were held on 11-4-2002 in the O/o D.G.M(H)ETR, GUWAHATI for regularisation of part time officials.

1. The D.E. M/W Dibrugarh. - Sri P. Sing
2. The D.E. M/W Bongaigaon. - Sri S.K. F
3. The D.F. F/C Guwahati-1. - Sri P.K. Bhattacharya
4. Senior A.O. O/o D.G.M(H)ETR, GH-3. - Sri T.S. Nagaryan
5. S.D.E. (ADMIN) - Sri S.K. Sarma

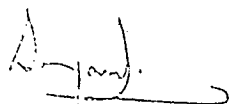
Recommendation of the Committee:-

AT the outset the members of this committee unanimously feels that the formation of this committee and further decision there of could have been avoided if administration could have taken prompt action at the time of forwarding the service particulars of Smt. Lila R. Das, Part time ^{casual labour} O/o MW Silchar (by DE MW Silchar) who has been converted to full time casual labour and simultaneously converted into T.S.M. vide CGM.E-34/TSM/2001-2002/50 dt. 01-10-2001. Due to Administrative lapses the services of part time officials as per details furnished in Annexure -A working under various DE's of DGM, ETR, GH has to be dispensed subsequently.

The Service particulars and other details have been verified and enclosed in Annexure -A as per DDT letter No. 269-13/99 STN STN dt. 16-9-99 & No. 269-13/99-STN-II dated 21-08-2000. All divisions are running with shortage of GR-D Staff due to promotion of R.M. to P.Mech.

Hence the committee recommends for regularisation of cases as detailed in the annexure except Shri. Mahesh Baskon who has been working from 01-02-2000.

His case has not been considered since the person is engaged after issue of DDT 269-13/99 II dt. 16-9-99.



(Sri P. Sing)
DE M/W Dibrugarh



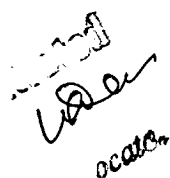
(Sri P.K. Bhattacharya)
DE FC GUWAHATI



(Sri T.S. Nagaryan)
DE FC GUWAHATI

(Sri S.K. Sarma)

(Sri S.K. Sarma)



REGARDING CASUAL LABOURS (part time)
of casual labour who have not been rep
temporary status. The following part t
and was not converted to full time, then

Name of Casual Labour	Date of engagement	No. of hours working daily	Whether actually engaged on eligible for temporary status as on 1-8-78		Remarks
Shri Chandra Gopal	Sept '91 from 1.9.91	4 hours comp 28 140 days in every year.	May be considered Admin. as eligible as per working days.	- Nil -	Part time Casual Labour worked as Swee per in the o/o DE F/C/JRT under DE F/C, GUWAHATI
Shri Jitu Sonar	11.2.95	4 hrs. -do-	-do-	-do-	Part time Casual Labour working as Sweeper in the FC/DBR under DE FC, GH
Sri Mahesh Baskar	July, 91 1-7-91	3 hrs -do-	-do-	-do-	Part time casual labour working as sweeper in the o/o DGH ETR, GH
Sri Sibhi Begam	May, 01 1.5.91	3 hrs -do-	-do-	-do-	Part time Casual labour worked as sweeper in the MW Gopalpara under DE MW, DGH
Sri Mahesh Baskar	01-8-2000	4 hrs not considered by the committee.	Date of joining is after 01.8.98	-do-	Part time casual labour worked as Sweeper in the o/o DE MW DR.

All the particulars have been verified.

and the above information is correct and figures given there is are
and there are not casual labours in this sub section except those mentioned above.

dated 16-9-99. All the four officials as mentioned in
the case of Shri Mahesh Baskar, P/T has not been
used since the person is engaged after issue of DOR 167-15/99-SHM, 11 dt. 16-9-99.

H-9

P. K. Datta

DE M/MTG Bngn

S.K. Paul

DE M/MTG Bngn

J. Sing

DE M/MTG Bngn

DE M/MTG Bngn

DE M/MTG Bngn

DE M/MTG Bngn

DE M/MTG Bngn

DE M/MTG Bngn



BHARAT SANCHAR NIGAM LIMITED
EASTERN TELECOM REGION

Office of S.D.E. Microwave Mtce.
Goalpara, Assam.

No. SDE/MW/GP/Staff

Dated at Guwahati 30.5.2001


From: -
SDE M/W Mtce
Goalpara, Assam

To: -
SDE Admn
O/o the Director Mtce
ETR, Guwahati

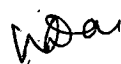
Sub: - Report about Sukhi Begam.

With reference to the report given from this office on 23rd January 2001 vid letter No SDE/MW/BSNL/Staff-16, It is informed you that as per payment record available in the office from 1991 so far my knowledge concern the payment is made like 3 hours per day.

This is for your information and necessary action please.
Thanking you.


for A.K. Chatterjee
SDE M/W Mtce
Goalpara, Assam

Attested


Advocate.

BBHARAT SANCAR NIGAM LTD
EASTERN TELECOM REGION
 Office of S.D.E. Microwave Mtee.
 Goalpara, Assam.

From :-

Sub-Divisional Engineer
 MW Mtee.
 Goalpara

To

The Divisional Engineer
 MW Mtee.
 Dibrugarh

To S.D.E. MW Mtee. Staff - 01/2002-02

Date: Goalpara the 06-04-2002

Subject: Particulars (i.e. of Mrs. Sukhi Begam
 Sir,

Kindly find herewith the required particulars in respect of Mrs. Sukhi Begam. This is in response to your telephonic instruction dated 14-04-02 afternoon please.

- 1) Name :- **Mrs. SUKHI BEGAM**
- 2) Father's Name :- Late Kashom Ali
- 3) Permanent Address :- Vill. - Bakhami P.S. - Baghbar.
 P.O. - Malheri Dist. - Barpeta (Assam)
- 4) Present Address :- Hukaranda, Ward No. 1,
 P.O. - Goalpara, Dist. - Goalpara (Assam)
- 5) Age as on 1st April/2002 :- 34 years 3 months.
- 6) Educational Qualification :- Class III Passed (Certificate enclosed)
- 7) Whether completed 240 days :- Yes worked for 365 days (three hrs in last year a day)
- 8) Period of duty hrs performed :- 0800 L. to 1100 hrs.
- 9) Suitability :- She was engaged for clearing & spreading of Gp MW Section fetching water from down the hill for the staff. In addition to this she can be utilised for clearing the O.P.C. Section & doing the job of messenger & peon etc.

This is for your necessary action please.

(B.B. Dey)

Sub-Divisional Engineer
 Microwave Maintenance
 Goalpara- 783101

Attested
[Signature]
 Advocate

From SDE/MW Adm
GOALPARA

To
The SDE(Adm)
DCM(ME) R.
BOWAHATI - 780003

Letter No. SDE/MW/GP/Staff Dated at GLP The 13th May 02
Subject: Part time casual labour working at Goalpara M/W station -
For letter no. DGM/ETR/OHE-48/2001-2002 Dated On The 18th Feb 2002

With reference to your letter cited above it is intimated you that Mrs Sukhi Begam has been working as a part time casual labour for 3 hrs. a day since May/1991 for cleaning Equipment Room, Battery Room, Power Plant Room, corridor and M/W campus including sweeping cleaning Lavatory and outside campus of 450 sq. ft. approx.

A sweeping/cleaning is most essential to maintain the M/W station upkeep and no other person is able to climb up nearly 7 km. from road side where GP M/W station is situated, she had been engaged for the work for 3 hrs. a day since 1991, which was informed to you by previous SDE/MW/GP vide his letter no. SDE/MW/GP/Staff dated the 30th May 2001.

As regard approval for said engagement, no letter of reference is found in this office. But, as it is most essential, she has been allowed to perform her duty as earlier since

SDE/MW
GOALPARA.

For
Division

Attested
Advocate.

ANNEXURE-6

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

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

By the said Judgment this Court said :

Received
W/O
11.06.1989

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

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

Advocate
Advocate

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

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

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

Subsequent to the issue of instruction regarding regularisation of casual labourers vide this office letter No. 269-29/87-STC dated 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. Immediate action may kindly be taken to confer temporary status on all eligible casual labourers in accordance with the above scheme.

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

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

Advocate

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

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

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Adm
Adm
Adm

- 24 -

ANNEXURE. 6.

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

Dated 1.9.99.

To

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

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

Sir,

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

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

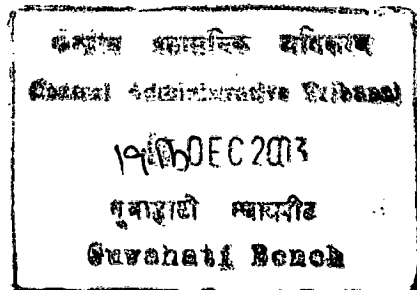
Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Federations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

Attended
W.Dan.
Advocate.



Filed by

35
18712403
(A. DEB ROY)
Sr. C. J.
C. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 91 OF 2003

Shri U. Mahato & 2 Ors.

- Vs -

..... Applicants.

Union of India & Ors.

..... Respondents.

- And -

In the matter of :

Written Statement submitted by
the respondents.

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

1. That with regard to the statement made in para- 4.1,
of the application the respondents beg to state that the appli-
cant No.1, Sri U. Mahato was engaged occasionally for driving the
vehicle under D.E. Microwave, Guwahati during leave period of
Regular Driver prior to 5th March 1997. He was disengaged on
5.3.1997.

Applicant No.2, Smt. Lakhiya Basfor and Applicant
No.3, Smt. Sukhi Begam were working as part-Time Casual Workers
only. Thus, all three applicants are not covered under the
scheme of regularization of Full-Time Casual Labourer.

2. That with regard to para 4.2, of the application the respondents beg to offer no comments.

3. That with regard to the statement made in para 4.3, of the application the respondents beg to state that the applicant No.1 is not working at present. He was initially engaged on 10.5.95 and not in 1993 which was shown by mistake by the then D.E. Microwave Guwahati. He was disengaged on 5.3.97. The report of D.E. Microwave, Guwahati is enclosed as Annexure-1.

Applicant No.2, Smt. Lakhiya Basfor was engaged as part-Time worker on 1.7.92 and disengaged on 28.2.2002. Her case was forwarded to competent authority for conversion to Full-Time Casual Worker.

Applicant No.3, Smt. Sukhi Begam was engaged on 1.5.91 and disengaged on 28.2.2002. Her case was also forwarded to the Competent Authority for conversion into Full-Time Casual Worker.

4. That with regard to the statement made in para 4.4, of the application the respondents beg to state that the applicant No.1 was engaged for short periods during the leave period of regular driver. Applicants No. 2 and 3 were part-time Casual Workers. Rule of "Regularisation of Full-Time Casual Workers" is not applicable to them.

5. That with regard to the statement made in para 4.5, of the application the respondents beg to state that same as in para 4.4 above.

-3-

6. That with regard to the statement made in para 4.6, of the application the respondents beg to state that no initiative was taken in respect of applicant no.1 as he is not eligible as per rules.

Initiative was taken by Respondent No.4 for conversion to Full-Time Casual Workers in respect of Applicant No. 2 and 3. The case was sent to Competent Authority for consideration and decision. Decision awaited.

No decision has been taken to create 164 posts.

None of the above applicants is working at present.

7. That with regard to the statement made in para 5.1, of the application the respondents beg to state that there is no intention of violation of Article 14 and 16 of the Constitution of India.

8. That with regard to the statement made in para 5.2 of the application the respondents beg to state that none of the applicants are Full-Time Casual Workers. Rule of "Regularisation of Full-Time Casual Labourers" is not applicable.

9. That with regard to the statement made in para 5.3, of the application the respondents beg to state that relevant cases as per rules were looked into and no discrimination is made to the applicants. There is no intention of violation of Articles 14 and 16 of Indian Constitution.

10. That with regard to the statement made in para 5.4, of the application the respondents beg to state that as none of the applicants are Full-Time Casual Worker, they are not covered under the "Regularisation of Full-Time Casual Worker Scheme". Thus the question of applicants being deprived of legitimate benefits does not arise.

11. That with regard to the statement made in para 5.5, of the application the respondents beg to state that all relevant records/documents have been examined by the respondents and accordingly action taken as per rules.

12. That with regard to the statement made in para 5.6, of the application the respondents beg to state that the applicants are not eligible for "Regularisation of Full-Time Casual Workers" as they were Part-Time Casual Workers.

13. That with regard to the statement made in para 5.7, of the application the respondents beg to state that no applicant ful fil the criteria of the judgement and order dated 31.08.99 given by the Hon'ble CAT, Guwahati Bench.

14. That with regard to the statement made in para 5.8, of the application the respondents beg to state that action taken is in order in respect of Applicants No. 2 and 3.

15. That with regard to para 6 and 7, of the application the respondents beg to offer no comments.

16. That with regard to the statement made in para 8.1, of the application the respondents beg to state that benefits of the scheme can not be extended to the applicants as they are not eligible as per rules.

17. ~~That~~ with regard to the statement made in para 8.2, of the application the respondents beg to state that engagement of Daily Rated Mazdoors is completely stopped as there is no vacant post as on date.

18. That with regard to the statement made in para 8.3, of the application the respondents beg to state that applicant No.1 is not eligible for conversion to Full-Time Casual Worker. Cases for Applicant No. 2 & 3 had been recommended and forwarded to Competent Authority for decision.

19. That with regard to para 8.4 and 8.5, of the application the respondents beg to offer no comments.

20. That with regard to the statement made in para 9, of the application the respondents beg to state that there is no vacancy of Daily Rated Mazdoors . Hence question of filling up of vacancy does not arise.

All the applicants had already been disengaged at different dates. Hence question of continuance of their services does not arise at present.

Verification.....

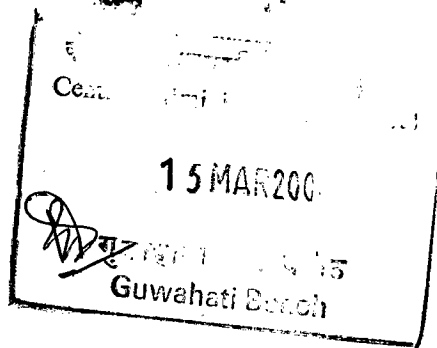
V E R I F I C A T I O N

I, Shri Edwinson Swer, presently working as Dy. General Manager (Maintenance) / BSNL / Guwahati, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1 through Para 20 are true to my knowledge and belief and those made in para 1 through Para 20 being matter of records, are true to my information derived therefrom and the rest are humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 7th day of Aug. 2003 at Guwahati.

Deponent.


Dy. General Manager (Mice.)
Eastern Telecom Region
Senapati Road, Shilpukhuri
BSNL, Guwahati-781003



Filed by 9/
the applicants through
Alsha Das.
Advocate
15/3/04

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 91/2003

Umesh Mahato & Ors.

-VS-

Union of India & Ors.

REJOINDER FILED BY THE APPLICANTS AGAINST WRITTEN STATEMENT

1. That the applicants have received a copy of the Written Statement and have gone through the same. Save and except the statements which are specifically admitted herein below rests may be treated as total denial. The statements which are not borne on records are also denied and the respondents are put to strictest proof thereof.

2. That with regard to the statement made in paragraph 1 of the Written Statement the applicants which denying the contentions made therein beg to state that the applicant no.1, Umesh Mahato was engaged on 3.10.93 and has been working under the Respondents as Casual Motor Driver. It is very clear from the order dated 15.10.96 (Annexure-1 to the OA that except two Casual Motor Driver no Casual Labour are working continuously in the said Division and the name of the continuously working Motor Drivers are (1) Sri Dibakar Barua and (2) Sri Umesh Mahato (Applicant No.1).

Applicant No.2 Smt. Lakhiya Basfore has been working since 1.7.91 as casual worker under Deputy General Manager Maintenance, ETR, Guwahati and she has been working upto the satisfaction of all concern.

Applicant No.3 Smti Sukhi Begum has been working since 1.5.91 as Casual Worker under Divisional Engineer, Microwave, Bongaigaon. In case of Applicant No. 2 & 3 the process for conversion from part time to full time Casual Worker and subsequent for grant of TSM has already been started by the respondent as per the communication dated 22.4.2002 (Annexure 2 to the OA).

3. That with regard to the statement made in paragraph 2 of the Written Statement the applicants offer no comment on it.

4. That with regard to the statement made in para 3 of the Written Statement the applicants while denying the contentions made therein beg to state that the statements in this paragraph have been made without supporting any record and if that was a mistake by the then D.E. Microwave, Guwahati could have been corrected subsequently Applicant No.1 is still continuously in the same capacity of Casual Motor Driver.

So far as applicant No.2 and 3 are concerned the Respondents themselves have admitted the fact that they were engaged on 1.7.92 and 1.5.92 respectively and they are eligible from grant of temporary status because they fulfill all required qualifications for the same.

5. That with regard to the statement made in paragraph 4 of the Written Statement the applicants deny the contentions made therein and while reiterating and reaffirming the statements made above as well as in the OA beg to state that applicant No.1 was engaged as Casual Motor Driver and he has been working in the said capacity driving various vehicle as directed by the Respondents authority to substantiate the claim of the applicant No.1 despite his best effort he could not collect all the records but the photocopy of log book only for the year 1996 and in that particular years only he completed more than 290 days. That is why the applicant have already filed M.P. before this Hon'ble Court for a direction towards the respondents to produced all relevant records at the time of hearing of this case.

As admitted by the respondents that the case of the applicant no.2 and 3 have already been placed before the competent authority for conversion into full time Casual Worker. As per the letter dated 16.1.2002 Respondents had taken necessary steps for conversion of full time casual labourers and subsequent conferrant of Temporary Status. The particulars were not forwarded earlier due to non availability of DOT's letter as cited bearing No.E-34/TSM/2001-02/50 dated 1.10.2001 by which only the Office of the D.G.M., Maintenance came to know about the conversion of part-time casual labour to full time casual labourers and consequent conferment of T.S.M.

44

- 4 -

The applicants pray before this Hon'ble Tribunal to direct the respondents to produce the letter dated 1.10.2001 at the time of hearing of this case.

6. That with regard to the statement made in paragraph 5 of the Written Statement the applicants offer no comment on it.

7. That with regard to the statement made in paragraph 6 of the Written Statement the applicants while reiterating and reaffirming the statement made above as well as in the OA beg to state all the applicants are eligible for grant of Temporary Status as per the Apex Court's judgment and the scheme meant for regularisation of the Casual Worker and subsequent clarification issued by the Respondent time to time.

8. That with regard to the statement made in paragraph 7, 8, 9 & 10 of the Written Statement the applicants while denying the contentions made therein beg to state that while similarly situated persons are given some benefit denying others than it is a clean violation of Article 14 and 16 of the Constitution of India. Since all the applicants fulfill the criteria laid down in the Apex Court judgment as well as the scheme prepared by the Respondents and pursuant to the orders passed by the Respondents subsequently, they are eligible for grant of Temporary Status.

2
V

45

- 5 -

9. That with regard to the statement made in paragraph 11, 12 & 13 of the Written Statement the applicants while denying the contention made therein beg to state that the applicants fulfill the requisite qualification for grant of temporary status since they have been completed more than 240 days in a year since their appointment. Observing various irregularities in examining the records of casual labours this Hon'ble Tribunal Court was pleased to direct the respondents to constitute a responsible verification committee and to scrutinise the records of all the casual labourers again and to pass a speaking order in case of each casual labourers.

A copy of the judgment and order dated 3.9.02 is annexed herewith and marked as Annexure-1.

10. That with regard to the statement made in paragraph 14 of the Written Statement since the Respondents have admitted the fact applicants beg to offer no comment on it.

11. That with regard to the statement made in paragraph 15 of the Written Statement the applicants beg to offer no comment on it.

12. That with regard to the statement made in paragraph 16, 17, 18, 19 & 20 of the Written Statement the applicants while denying the contentions made therein beg to reiterate and reaffirm the statements made above as well as in the OA.

46

- 6 -

VERIFICATION

I, Shri Umesh Mahato, s/o I. Mahato, aged about 30 years, at present working as Casual Worker (Driver), in the office of the Divisional Engineer, Microwave, Guwahati, do hereby verify and state that the statements made in paragraphs 1, 3, 6, 10, 11 are true to my knowledge and those made in paragraphs 2, 4, 5, 7, 8, 9,
12 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other applicants to sign this verification on their behalf.

And I sign this verification on this the 15th day of March ~~Feb~~, 2004.

UMESH MAHATO
(Umesh Mahato)

ANNEXURE - 1

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI Bench.

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

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

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

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

O.A. 239 of 2001

1. Sri Dondi Ram Gayan,

2. Sri Gobin Nath,

3. Sri Joy Gopal Das,

4. Sri Kandeswar Konwar.

5. Md Abdul Gafar Choudhury,

6. Sri Thanu Ram Jha,

7. Md. Abul Kalam and

8. Sri Anup Bora

By Advocate Sri S.Sarma.

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

- Versus -

Union of India & Ors.

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

Attested
Advocate.

Advocate.

48
O.A. 403 of 2001

1. Md. Nurmahammad Ali,
2. Md. Sahabuddin Alamol,
3. Md. Alamid Chowdhury,
4. Md. Harimurman Ali,
5. Md. Hossain Ali and
6. Md. Paik Ali
By Advocate Sri D. Malakar
- Versus -

Union of India & Ors.

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

O.A. 109 of 2002

Sri Dilip Kumar Tance
By Advocate Sri H. Braha.
- Versus -

Union of India & Ors.

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

O.A. 160 of 2002

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

By Advocate Sri S. Sarma.

- Versus -

Union of India & Ors.

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

O R D E R

CHOWDHURY J. (V.C.)

The issue involved in these cases pertains to
permanent or temporary status in the light of the scheme
prepared by the Telecom Department pursuant to the decision
of the Supreme Court in Ram Gopal and others vs. Union
of India and others dated 17.4.90 in Writ Petition (C) No.
1200 of 1989. Keeping in mind the spirit of the

Advocate
Advocate

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

contd..4

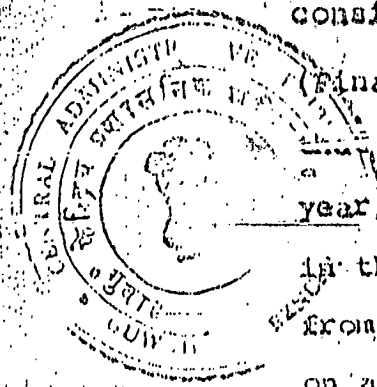
Wan
Advocate.

Wan
Advocate.

- 10 - 50

statements were filed and copy documents also annexed. On assessment of documents it appears that there was no conformity with the findings reached by the authority alongwith the records produced regarding their engagements.

In some cases records indicated that they were engaged for more than 240 days, whereas in the finding they were shown that they did not served for 240 days. In our opinion the ~~matters~~ requires a fresh re-consideration by a responsible authority so that cases of eligible casual labourers are fairly considered. To cite example with the case of O.A. 372/2001 the Verification Committee report dated 12.3.02 was shown to us. The Committee consisting of S.C. Tapadar, D.E. (Admin), N.K. Das, C.A.O (Finance) and G.C. Sharma, ADT (Legal) verified and mentioned that the applicant did not complete 240 days in a calendar year, whereas again column No. of days yearwise/monthwise in the Annexure the authority referred to his engagement from August 97 to August 98 which comes around 240 days on arithmetical calculation. By another verification committee meeting dated 12.3.2002 consisting of M.C. Patil, D.E. (Admin), N.K. Das, C.A.O (Finance) and S.C. Das, ADT (Legal) Circle Office, Gayahati. The committee stated that the applicant completed 45 days in 1994, 20 days in 1995, 24 days in 1996, 15 days in 1997 and one day in April, 1998. The documents contradict itself. We are of the opinion that such type of enquiry or verification committee does not inspire confidence, it was seemingly done in a haphazard manner. It should be entrusted to a responsible authority who would act rationally and responsively. After all it involves to the livelihood of persons concerned and the commitments of the Government.



Advocate

Advocate

37-11-

51

We have perused

/background story of the scheme which itself reflects

the approval of the authority for absorption of these

people for giving the benefit of Government of India

at the instance of the Supreme Court. The demand for

the respondents however pointed out that there is a big
change in the administrative ^{set up} of the Telecom department.

Referring to the new telecom policy of the Government

of India 1999, whereby it decided to corporatise the

Telecom department ^{through} Bharat Sanchar Nigam Limited and

stated that the matters are now within the domain of the

BSNL. We are basically concerned in these applications--

as to the absorption of these casual labourers who were

worked under the telecom department as on 1.8.98 and who

held temporary status as on that

day. The office memorandum No.269 94/98 SRN.II dated

28.9.2000 itself indicated the commitment of the authority

for regularisation of the casual labourers. It also

appears from the communication issued by the department

of Telecommunications dated 1.8.1992 which expressed the

concern for regularising the situation of casual labourers. Learned

Addl.C.G.S.C sought to raise a question of maintainability

in some of the cases where BSNL is a party. BSNL, since

not notified under Section 14(2), the Tribunal has no

jurisdiction to entertain the matter. In these applications

the real issue is absorption of the casual labourers those

who worked under the telecom department from 1.8.98. The

respondents, more particularly, Telecom department committed

to its policy for regularisation of casual employees. In

the circumstances we are of the opinion it will be a fit

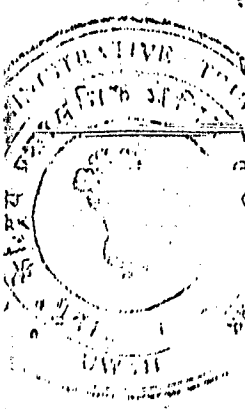
case to issue a appropriate direction to the department

of Telecom and the Chief General Manager, Andhra Pradesh

Chief, Chhattisgarh. The respondents are directed to

the case of these applications. The respondents are

responsible for the regularisation of casual labourers.



Wan
Advocate

Wan
Advocate

people really fulfilled the requirement to will...
appropriate time to the concerned authority...
conferment of temporary status and their absorption
as per the scheme. It is expected that the authority
shall take appropriate steps after verifying the records
and pass appropriate order by notifying these persons
concerned. This exercise shall not be confined only to
the applications and the authority shall also deal with
the cases referred from the past and examine them
case independently. The matters are old and the
we expect that the authority shall act with utmost
expedition and complete the exercise as early as possible
preferably within four months from the date of receipt
of this order.

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

SD/ VICE CHAIRMAN
SD/ MEMBER (ADP)



RECEIVED
16/8/1963
18/8/1963

Wan
Adm

Wan