

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/T.M.A No. 17/04

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16. Counter Reply.....

SECTION OFFICER (Judl.)

*Kalita*

( RULE - 4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. 91/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) Mr. U. Mahato Jems

- Vs. -

Respondent (s) U. S. J. JOM

Advocate for the applicant (s) Mr. S. Sarma, Mr. H. Das

Advocate for the respondent (s) Cafe

Notes of the Registry	Date	Order of the Tribunal
Application No. 91/03 Petition No. 1/03 Fees of Rs. 50/- deposited Date 27/4/03 <i>By Register.</i> <i>Am.</i> <i>28/4/03</i>	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.</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 on the return date.</p> <p><i>mb</i></p> <p><i>Vice-Chairman</i></p>

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 dated 1.5.2003 shall continue.

*Ch. B. Ganguly*

Member

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 file written statement.

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

*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.

*Vice-Chairman*

mb

12.9.2003

Present : The Hon'ble Sri K.V. Prahaldan, 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.

*K. Prahaldan*  
Member

Please Comply order  
dated 12.9.2003.

Above order sent to D/S, for issuing the same  
both parties. *259* 12.9.03

mb

24.10.03 No Bush Ticks. Ad: W 27-10-03  
b7D.

## Tribunal's Order

## Office Note

## Date

27.10.2003

The application is admitted.

List the matter for hearing on  
28.11.2003.No. W.P. has been  
filed.By  
17.12.03I.C.U. Pradeep  
MemberW.P. has been filed  
one copy on behalf  
of the respondents.N.B.  
19/12/03

28.12.2003

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.I.C.U. Pradeep  
Member (A)

mb

8.3.2004

On the request made by the applicant  
the case is adjourned and again  
listed on 17.3.2004 for hearing.

15.3.04

Rejoinder filed  
by the applicants.  
against W.P.

O.P.

Member (A)

17.3.2004

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.I.C.U. Pradeep  
Member (A)

23.3.04

Copy of the Judgment  
has been sent to the  
D.C.C.E. for sending the  
same to the applicant  
as well as to the S.C.C.P.C.  
in the Registry.

S.S.

W.P. 29/3

Office Note	Date	Tribunal's Order
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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / ~~RE~~ NO. 111 O.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 ).

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. Lakhya 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.

ORDER (ORAL)

K.V.PRAHLADAN, MEMBER (A) :

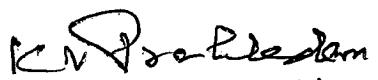
As the issue involved in this case in respect of all the applicants are of similar nature and the reliefs sought by them are also same, they were granted leave to espouse their cause by a single application invoking Rule 4(5) (a) of the Central Administrative Administrative Tribunal (Procedure) Rules,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

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.

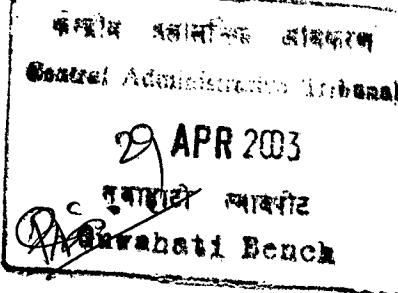
Considering the facts and circumstances of the case, I am of the view that since the applicant no.1 has completed more than 240 days in the year 1996, he is eligible for grant of temporary status/regularisation. Accordingly, respondents are directed to grant temporary status/regularisation to applicant 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.

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Filed by : Usha 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)

D.A.No. 2003

BETWEEN

1. Sri Umesh Mahato  
Casual Worker  
Office of the Divisional Engineer, Telecom  
Microwave Maintenance, Guwahati
2. Mrs. Lakhya 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  
Absha Das  
Advocate  
T/4103

UMAHATO

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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 <sup>and</sup> <sub>A</sub> they have completed 246 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~~ 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.

4.3.1 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.

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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 Lakhya 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.

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. 1288/89.

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 recruits 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

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 DA.

#### 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 ~~considering~~ <sup>considering</sup> ~~the~~ <sup>the</sup> DA 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 DA 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

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

PA

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 pray 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.

UMAHAFO

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VERIFICATION

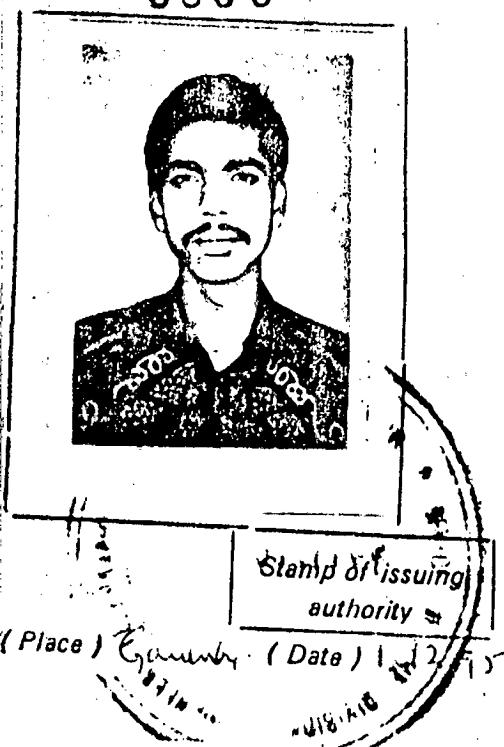
I, Shri Umesh Mahato, s/o I. Mahato, aged about 38 years, at present working as Casual Worker (Driver), in the office of the Divisional Engineer, Microwave, Guwahati, do hereby verify and state that the statements made in paragraphs 1b.3, 4.1, 4.2, 5 to 12 are true to my knowledge and those made in paragraphs 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<sup>th</sup> day of April 2003.

UMESH MAHATO

Annexure-1 bally

No. 0856



Indian Post & Telegraphs Department  
1

IDENTITY CARD

No. 0856/75-76

1. Name of Holder UMESH - MAHATO
2. Appoint held MOTOR DRIVER (CASUAL)
3. Identification mark & Height CUTMARRON LEFT MIDDLE FINGER, 5' 6"
4. Signature or Thumb Impression of Holder (UMESH MAHATO)
5. Signature & Designation of Issuing Authority ANANTH PRATAP  
GEN. MGR. G.M.C.B.

Attested  
V.D.  
Advocate.

- 12 -

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

To the Director, D.ET MTCE  
Gauhati, Assam, India. The Director MTCE  
Gauhati, Assam, India. ETR, Gauhati  
The Director, D.ET MTCE, Gauhati.

N.D. DEMW/GH/E-10/96-97

Dated at Gauhati the 15/10/96

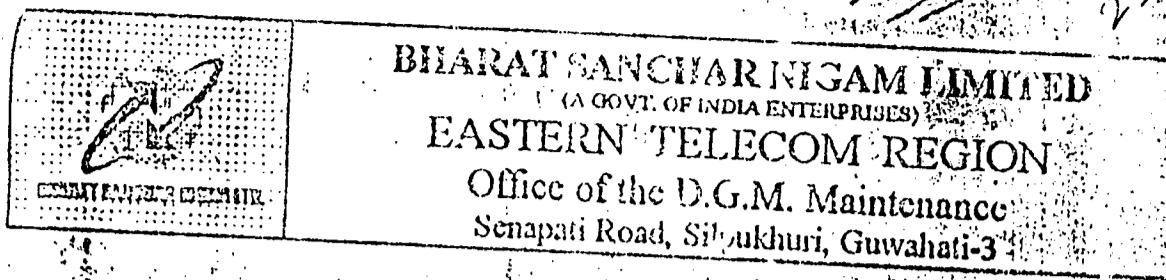
Sub:- Employment of casual labour

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 continuously working. Particulars of -  
casual M/D are given below. Name the post of labor  
engaged or not engaged which you have

S.L NO.	Name pf Casual labour	Date of engagement	Name of officer who enga
1.	Sri Dibakar Barua	1.12.92	L.N. Bhattachar- jee.
2.	" Umesh Mahato	3.10.93	D.E M/W MTCE Gauhati

D.ET MTCE  
Gauhati  
Assam, India

12/10/96  
12/10/96



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

To,  
The A.G.M. (Admn.)  
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 Chandra Gogoi.	4 hrs.	9/92	TR
2.	Sri Jasu Sonar	4 hrs.	22. 07.95.	
3.	Smt. Lakshmi Basfor	3 hrs.	7/92	
4.	Smt. Suklu Begam	3 hrs.	5/91	
5.	Sri Mahesh Basfor	4 hrs	01.02.2000.	Payment particulars are

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

W.D. 23

## ASSAM STATE ECONOMIC REGION

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

Dated: 22<sup>nd</sup> April 2002.

BHARAT SANCHAR KROK LTD.

To,  
 GM (Mtce), ETR  
 Shillong

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

Sir,

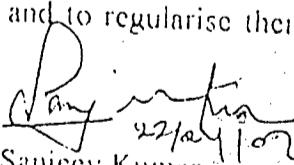
Five part time casual labour, as per names given below, were working as sweepers in various offices of ETR Sub region Assam:-

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 Lakhya 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/GW/E-48/01-02/6, 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

22/04/02

DGM(Mtce) ETR, Guwahati

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

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

✓  
 Uda  
 Approved

BIHAR SANCHAR NIGAM LIMITED.

OFFICE OF THE D.G.M(H)ETR, SENPATHI ROAD, GUWAHATI-3.

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. H/W Dibrugarh. — Sri P. Sing
2. The D.E. H/W Bongaigaon. — Sri S.K. F
3. The D.E. F/C Guwahati-1. — Sri P.K. Bhattacharjee
4. Senior A.O. O/o D.G.M(H)ETR, GH-3. — Sri T.S. Nagarnyan
5. S.D.E. (ADNN) — Sri S.K. Sarker.

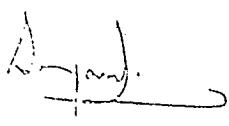
Recommendation of the Committee:-

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 Ridas, Part time O/o H/W Silchar (by DE H/W Silchar) who has been converted to full time casual labour and simultaneously converted into T.S.H. vide CGM.E-34/TSN/ 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 D.O.T Letter No. 269-13/99 STN STH 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 Dasbar who has been working from 01-02-2000.

This case has not been considered since the person is engaged after issue of DOT 269-13/99 IT dt. 16-9-99.

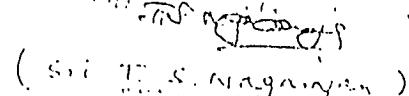


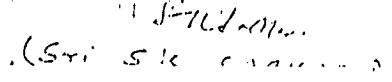
SRI P. SING  
SIGNATURE

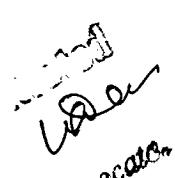
  
(Sri P. Sing)  
DE H/W Dibrugarh



(Sri P.K. Bhattacharjee)  
DE F/C GUWAHATI

  
(Sri T.S. Nagarnyan)

  
(Sri S.K. Sarker)

  
S.K. Sarker  
Locate

1. REGARDING CASUAL LABOURS (part time).  
of casual labour who have not been regularised.  
Temporary status:- The following part time labour who  
and was not converted to full time, then

Name of Casual Labour	Date of Engagement	No. of hours working daily	Whether actually engaged on or eligible for temporary status as on on 1-8-98	Reason
Shri Chandra Gora	Sept' 98 from 1.9.98	100 hrs 220 days in every year.	May be considered Admin. as eligible as per working days.	Part time Casual Labour worked as Sweeper in the o/o DE F/C/JRT under DE F/C, GUWAHATI
Shri Jiju Sonar	11.2.95	4 hrs. -do-	-do-	Part time Casual Labour working as Sweeper in the FC/UBR under, DE FC, GH
Sri Hashim Baskar	July, 98 1-7-98	3 hrs -do-	-do-	Part time casual labour working as sweeper in the o/o DGH (H) ETR, GH
Wmt Sibhi Begam	May, 01 1.5.91	3 hrs -do-	-do-	Part time Casual labour worked as sweeper in the MW Onatpara under DE MW, UGN
Sri Hashim Baskar	01-7-2000	4 hrs not considered as regular.	Date of joining is after 01.8.98	Part time casual labour worked as sweeper in the o/o DR DE MW DR

All the particulars have been verified.

All the above information is correct and labour given there is are  
and there are not casual labour in this sub region except those mentioned above.  
Verification done by No. 5 All the four officials as mentioned in  
and authorized the fact of Shri Hashim Baskar, P/T has not been  
and since the person is engaged after issue of D.O.T 182-13/99-STH, II dt. 16-9-99.

13/9  
P.K. Bhattacharjee

S.K. Paul

7. Sing P.S.B

Asst. Secy. Guwahati

DE MINUTE Bongon

DEMINUTE Bongon

Asst. Secy. Guwahati  
Asst. Secy. Guwahati

P.K. Bhattacharjee  
S.K. Paul  
S.P.B. Bongon

Under  
Locality

**BHARAT SANCHAR NIGAM LTD.**

**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: -

To: -

SDE M/W Mtce  
Goalpara, Assam

SDE Admin  
O/o the Director Mtce  
ETR, Guwahati

Sub: - Report about Sukhi Begam.

With reference to the report given from this office on 23<sup>rd</sup> 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.

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

*Attested*

*W.D. Chatterjee  
Advocate.*

**BEARATI SANCHAR NICAM LTD**  
**EASTERN TELECOM REGION**  
**Office of S.T.E. Microwave Mts.**  
**Goalpara, Assam.**

From :-

Sub-divisional Engineer  
 M.W. Mts.  
 Goalpara

To

The Divisional Engineer  
 M.W. Mts.  
 Dibrugarh

To SDE NEWCOM Staff - 01/04/2002-03

Date :- Gauhati the 06-04-2002

Smt. 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 15.04.02 afternoon please.

- 1) Name - M/s. SUKHI BEGAM
- 2) Father's Name - Lala Keshom Ali
- 3) Permanent Address - Vill. - Balliauli P.O. - Baghbar,  
 P.O. - Matbari (Mst. - Barpeta ( Assam )
- 4) Present Address - Hulokhanda Ward No. 1,  
 P.O. - Goalpara, Dist. - Goalpara ( Assam )
- 5) Age as on 1<sup>st</sup>. April/2002 - 34 years 3 months.
- 6) Educational Qualification - Class VI 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 hrs - 1100 hrs.

1) Suitability - She was engaged for cleaning & carrying of Gp  
 B/W/ Room fetching water from down the hill for  
 the staff. In addition to this she can be utilised for  
 cleaning the O.P.C. premises & doing the job  
 of messenger & peon etc.

This is for your necessary action please.

*BBD*  
 ( B.B. Dey )  
 Sub-Divisional Engineer  
 Microwave Maintenance  
 Goalpara- 783101

*Attested  
 M.D.  
 Advocate*

19-

To

The S.O.E.(Adm.)  
140, The DCM(M)E, B.R.  
37, WAHATI - 780033

Letter no. SDEMW/OP/SHF Dated at GH The 13<sup>th</sup> M. 2002  
In the early of past time of 1st of labour was being at Chittagong M/W station -  
Letter no. DGR/ETR/ONE-48/2001-2002 Dated GH The 18<sup>th</sup> Feb 2002

With reference to your letter cited above it is estimate you that Mrs Sulhi Begam has been working as 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. feet area.

A sweeping/cleaning is most essential to maintain the SDE/MW station upkeep and no other person is able to climb up nearly 1 km. from road side where GP MW station is situated, she had been engaged in the work for 7 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 30<sup>th</sup> May, 1991.

As regards approval for said arrangement, we have no objection.

FIGURE  
SIXTY-NINE  
COAL PARA

110-11-100-100

Attested  
W. S. B.  
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 then 10 minutes for appearance of counsel for the Union of India.

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

By the said Judgment this Court said :

*petested*  
*WSD*  
*1/1/2010*

" 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.

*Vishal  
Advocate*

✓  
ANNEXURE-53

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(pors.)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.

W.D.  
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).

Adv  
Wd  
Adv

ANNEXURE *B*.

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)

*Accepted*  
*W.D.S.*  
*Advocate.*

Filed by

A. DEB ROY  
S. C. T.C. A. T. Guwahati Bench  
18712103

केन्द्रीय अधिकारी अधिकारी  
Central Administrative Tribunal

19/10/DEC/2003

गुवाहाटी अधिकारी  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 91 OF 2003

Shri U. Mahato &amp; 2 Ors.

..... Applicants.

- Vs -

Union of India &amp; Ors.

..... Respondents.

- And -

In the matter of :

Written Statement submitted by

the respondents.

The humble ~~ex~~ 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 applicant 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. Lakhya 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. Lakhya 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.

-5-

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.....

-6-

VERIFICATION

I, Shri Edwinson Suer, 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.

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

15 MAR 2000

Guwahati Bench

## BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. No. 91/2003

Umesh Mahato &amp; Ors.

-VS-

Union of India &amp; 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).

Filed by *S. D.*  
the applicants through  
the  
Advocate  
15/3/04

Applicant No.2 Smt. Lakhya 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.

The applicants pray before this Hon'ble Tribunal to direct the respondents to produced 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 clear 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.

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.

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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 15<sup>th</sup> day of March, 2004.

UMESH MAHATO  
(Umesh Mahato)

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ANNEXURE - 18

CENTRAL ADMINISTRATIVE TRIBUNAL, GOURAVATI, DELHI.

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

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

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

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

O.A. 289 of 2001

1. Sri Bimal Ran Goyal,

2. Sri Gobin Nath,

3. Sri Joy Gopal Das,

4. Sri Kandeswar Konwar,

5. Md. Abdul Gafar Choudhury,

6. Sri Tharu Ram Jha,

7. Md. Abul Kalam and

8. Sri Anup Bora . . . . . Applicants

BY Advocate Sri S. Sarma.

- Versus -

Union of India & Ors. . . . . Respondents

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

O.A. 364 of 2001

1. Sri D.C. Kumar Rai . . . . . Applicant

BY Advocate Sri S. Sarma.

- Versus -

Union of India & Ors. . . . . Respondents

BY Sri B.C. Patnaik, Addl. Advocate

O.A. 366 of 2001

Sri Gun Das . . . . . Applicant

By Advocate Sri S. Sarma.

- Versus -

Union of India & Ors. . . . . Respondents

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

O.A. 372 of 2001.

Sri Khitish Deb Nath . . . . . Applicant

By Advocate Sri S. Sarma

- Versus -

Union of India & Ors. . . . . Respondents

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

*Attested  
V.D.S.  
Advocate  
V.D.S.  
Adv.*



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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 the approval on grant of temporary status to the casual labourers who were eligible as on 31.3.97. By the said communication it was clarified that the grant of temporary status to the casual labourers order dated 12.2.99 would be effective with effect from 1.4.97. By the said communication it was also clarified that the persons would be eligible for conferment of temporary status who were eligible as on 1.3.98. It may be mentioned that the said communication was limited to the authorities for judging the eligibility on 1.3.98 and did not naturally mean that one was to be in service on the date prescribed on 1.3.98, 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 none of the applications written

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W.D.  
Advocate.

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statements were filed and some documents also annexed.

On assessment of documents it appears that there was no conformity with the findings revealed 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 findings it was shown that they did not served for 240 days. In our opinion the ~~maxima~~ requirements 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. #72/2001 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 91 to August 98 which comes around 240 days on arithmetical calculation. By another verification committee meeting dated 12.3.2002 consisting of M.C.Pator, D.E(Admin), N.K.Das, C.A.O(Finance) and S.C.Das, ADT(Legal) Circle Office, Guwahati. The committee stated that the applicant completed 45 days in 1994, 20 days in 1995, 24 days in 1996, 15 days in 1997 and one day in April, 1998. The documents contradicted 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 rational and responsible. After all it involves to the livelihood of persons concerned and the reputation of the Government.

V.P.D

S. S.

Abrocal

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We have perused the background story of the scheme which I understand received the approval of the authority for absorption of these people for giving the benefit of the Government of India at the instance of the Supreme Court. The scheme for the respondents however pointed out that the scheme is set up by change in the administration of the Telecom department.

Referring to the new telecom policy of the Government of India 1999, whereby it decided to corporatise the

Telecom department / 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 causal labourers who worked under the telecom department as on 1.8.98 and who

are in the temporary status as on that day. The office memorandum No.269/94/98 SNT.11 dated

29.9.2000 itself indicated the commitment of the authority for regularisation of the causal labourers. It also

appears from the communication received by the Department of Telecom dated 20.10.2000 from the concerned authority for regularisation of the causal labourers. The additional

addl. C.O. B.C sought to raise a question of maintainability in some of the cases where there is a party, BSNL. Since not notified under section 14(2), the Tribunal has no jurisdiction to entertain the matter. To these applications

the real issue is absorption of the causal 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 causal employees. In the circumstances we are of the opinion it will be a fit

case to issue an appropriate direction to the department of telecom and the concerned authority. Again the fact of regularisation of causal employees is a matter of public interest. The cause of the causal labourers should be fully protected and a reasonable compensation should be given for the irreparable damage caused to them.

Very truly yours  
A.C. B.C.

W.D.M.

AC.B.C.

W.D.M.  
AC.B.C.

properly fulfilled the requirement for  
conferment of honorary status and the absorption  
as per the scheme. It is expected that the authority  
shall take appropriate steps after verifying the record  
and pass appropriate order by normally three weeks  
and maximum of one month. The order shall be issued in  
concerned. The order shall not be issued in case  
also application for the honorary title is also made  
in the concerned concerned authority. The order shall be issued  
in case independently the matters are not in the  
expedition of the concerned authority. The order shall be issued  
in case independently the concerned authority is not in the  
concerned authority. The order shall be issued in case  
of this application is not in the concerned authority.  
With this the applications stand disposed of.  
There shall be no order as to costs.

—S/VICE CHIEF  
S/ MEMBER (Adm)

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RECORDED IN THE OFFICE OF THE CHIEF  
COMMISSIONER OF POLICE  
AT 12.30 P.M. ON APRIL 12, 1978  
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