

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 94/2003

R.A/C.P No.

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SECTION OFFICER (Judl.)

*Sahil
12/10/07*

(SEE RULE -4)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 94 12003

Misc. Petition No. 1

Contempt Petition No. 1

Review Application No. 1

Applicant (s) Pré Heeralal Rawat & others

Respondent (s) 1/2/3 & o/s

Advocate for the Applicant (s) Mr A. Dasgupta Mr. S. Biswas

Advocate for the Respondent(s) Cisco

| Notes of the Registry | Date | Order of the Tribunal |
|---|----------|---|
| application is in form but not in time Petition is filed / not filed C.P or Rs. 50/- deposited Code LPO/20 No. 8G. 490292 Dated 5/5/2003 <i>As per</i> Ep. Register | 8.5.2003 | Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S. Biswas, Member (A). Heard Mr. A. Dasgupta, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. List on 12.6.2003 for admission. <i>S.C.</i> Member <i>Vice-Chairman</i> Vice-Chairman |

Notice prepared and sent
to all for filing the
Respondent No. 1 to 4
to Regd. A.D.

13/5

DINo 9906993 dd 14/5/03

No. reply has been
billed.

11-6-03

(2)

12.6.2003 Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr. R.K. Upadhyaya
Administrative Member.

Heard Mr. A. Dasgupta, learned counsel for the applicant. Mr. A. Deb Roy, learned Sr. C.G.S.C. entered appearance on behalf of the respondents. The respondents are allowed four weeks' time ~~is allowed to the~~ ^{to the} respondents to file written statement.

List the case on 10.7.2003 for order.

Mr. Deb Roy
Member

Vice-Chairman

9.7.03.

bb

10.7.2003 Four weeks time is granted to the respondents for filing of written statement on the prayer made by Mr. A. Deb Roy, learned Sr. C.G.S.C.

List the case on 11.8.2003 for order.

16.9.03
W/S Submitted
by the Respondents.

bb

Vice-Chairman

11.8.2003 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 on 16.9.2003 for orders.

Vice-Chairman

mb

16.9.2003 Present : The Hon'ble Sri K.V. Prahaladan, Member (A).

Written statement has been filed by the Respondents. List the matter on 29.10.2003 for orders.

K.V. Prahaladan
Member

mb

O.A.98/2003

| Office Note | Date | Tribunal's Order |
|---|------------|---|
| | 29.10.2003 | <p>Written statement has been filed by the respondents and a copy of the written statement is also served on the learned counsel for the applicant.</p> <p>List the case for hearing on 3.12.2003. Applicant may file rejoinder, if any, within two weeks from today.</p> |
| | | <p><i>I.C. Prashadan</i> Member</p> <p><i>Vice-Chairman</i></p> <p>bb</p> |
| <p><u>19.12.03</u></p> <p>WS. Rejoinder no rejoinder A.D.</p> <p>1a</p> | 3.12.03 | <p>no Bench today. Adj'd to 22.12.03.</p> <p><i>BB</i></p> |
| | 23.12.2003 | <p>Present : The Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.</p> <p>The Hon'ble Mr. K.V. Prashadan, Member (A).</p> <p>Let the matter appear in the next available Division Bench.</p> |
| | | <p><i>I.C. Prashadan</i> Member</p> <p><i>Vice-Chairman</i></p> <p>bb</p> |
| <p><u>17.3.04</u></p> <p>Copy of the order has been sent to the Dftee. for issuing the same to the applicant as well as to the Dr. C.G.S.C. for the Respond.</p> <p><i>WS. 25/3</i></p> | 25.2.2004 | <p>Present : The Hon'ble Sri Shanker Raju, Judicial Member.</p> <p>The Hon'ble Sri K.V. Prashadan, Administrative Member.</p> <p>Heard learned counsel for the parties.</p> <p>The O.A. is disposed of for the reasons passed in separate sheets.</p> |
| | | <p><i>K.V. Prashadan</i> Member (A)</p> <p><i>Member (J)</i></p> |

4

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

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 111 94 of 2003.

DATE OF DECISION 25.2.2004.

Sri Heeralal Rawat & Ors. APPLICANT(S).

Sri A. Dasgupta ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

Union of India & Ors. RESPONDENT(S)

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

THE HON'BLE MR. SHANKER RAJU, JUDICIAL MEMBER.

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

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 (J).

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 94 of 2003.

Date of Order : This the 25th Day of February, 2004.

The Hon'ble Sri Shanker Raju, Judicial Member.

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

1. Sri Heeralal Rawath,
2. Sri Bubul Mout,
3. Sri Umesh Kumar,
4. Sri Kiran Goswami,
5. Sri Upendra Rout,
6. Sri Mohan Tanti,
7. Sri Jaimangal Rawath,
8. Sri phonen Gogoi,
9. Sri Kanak Das,
10. Sri Kailash Yadav,
11. Sri Hiralal Kurmi,
12. Sri Nar Bahadur Thapa,
13. Sri Tanzeing Das,
14. Sri Jiten Sarkar,
15. Sri Chilan Duarah,
16. Sri Loknath Baruah,
17. Sri Rohin Das,
18. Sri Mridul Das,
19. Sri Kadam Phukan,
20. Sri Rupam Das,
21. Sri Bijay Gogoi,
22. Sri Ranjan Saikia,
23. Sri Binod Das,
24. Sri Rajib Rajkhowa,
25. Sri Amit Tanti,
26. Sri Binod Dihingia,
27. Sri Atul Chetia,
28. Sri Rulena Prashad,
29. Sri Kulendra Gogoi and
30. Sri Manik Chetia

. . . Applicants.

By Advocate Sri A. Dasgupta.

- Versus -

1. Union of India,
represented by Secretary to the
Govt. of India, Ministry of Defence,
New Delhi

2. General Officer Commanding,
4~~th~~ 2 Mountain Division,
C/o 99 A.P.O.

3. General Officer Commanding,
4 Corps, C/o 99 A.P.O.

4. Commanding Officer
2 Mountain Division,
Ordnance Unit,
C/o 99 A.P.O. . . . Respondents.

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

O R D E R (ORAL)

SHANKER RAJU, JUDICIAL MEMBER,

The applicant through this O.A. has sought quashing of order dated 24.5.2002 by which he request for conferment of temporary status was turned down.

2. Applicant a casual worker approached this Tribunal in O.A.353/2001 which was disposed of on 11.2.2002 directing the respondents to consider the case of the applicant as per DOPT scheme of 10.9.93 and to take a final decision by a speaking order.

3. Vide order dated 24.5.2002 the claim of the applicant was rejected as the scheme was one time and the applicant was not in engagement on 1.9.93.

4. Learned counsel for the applicant referred to para 11 of the decision of the apex Court in Union of India vs. Mohal Pal, 2002 (1) S~~CC~~ 216 contends that conferment of temporary status would not be disturbed mere the direction issued was prior to the decision of Mohal Pal case (supra). However, it is contended that DOPT guidelines enlarge the zone of consideration to all casual labourers for regularisation on fulfilling the eligibility criteria as per clause 10 of the DOPT Scheme of 10.9.93.

5. The respondents on the other hand vehemently opposed the contention and has stated that the applicant was not in engagement and as per the decision of the apex Court in Mohal Pal (supra) their claim for regularisation was rightly rejected.

6. We have carefully considered the rival contention of the parties and perused the materials on record. In Mohal Pal's case DOPT instructions dated 10.9.93 was observed to be one time, those who were not in engagement on 1.9.93 ~~were~~ not eligible for consideration. However, clause 10 of the DOPT scheme clearly provides that in ~~xxiv~~ future the engagement of casual workers shall be done as per guidelines of DOPT contained in O.M. dated 7.6.1988.

7. As per the aforesaid O.M. working period of two years in two consecutive 206/240 days and sponsorship through Employment Exchange was eligibility criteria. Accordingly the claim of the applicant for consideration under DOPT scheme of 10.9.93 being one time scheme and the fact that he was not in engagement on 1.9.93 cannot be ignored. However, in the light of DOPT circular dated 7.6.88 the respondents are directed to consider the case of the applicants subject to their eligibility criteria on fulfilling the eligibility condition for regularisation as per DOPT O.M. dated 7.6.88.

O.A. stands disposed of accordingly.

KV Prahlad
(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

S. Raju
(SHANKER RAJU)
JUDICIAL MEMBER

6 MAY 2003

গুৱাহাটী প্রশাসনিক
Guwahati Bench

SYNOPSIS/ LIST OF PARTIES

OA NO. 94 /2003

Shri Heeralal Rawath and others

....Appellants.
Applicants

-Vessus -

Union Of India and Others ... Respondents.

| DATE | PARTICULARS | ANNEXURES/PARA |
|----------------------------------|--|---|
| 1997 | This ^{is an} application for absorbtion and grant of temporary status and regularisation of services . | |
| 1997 | Authorities of 2 MTM DIV. ordinance unit sent requisition for sponsoring names of candidates to employment exchange for recruitment of Casual Mazdoors. | <u>Annexure-1</u> (Copy of the letter dated 13.10.97 issued by the Asstt.Director of Employment Exchange, Dibrugarh to one of the B Applicant) |
| 14.10.97 15.10.97 16.10.97 | Applicants/ name were sponsored by employment exchange and they were asked to appear before the commanding officer 2MTN DIV, Ordinance Unit on 14.10.97 15.10.97 and 16.10.97. | Page - 22 |

On receipt of the aforesaid letter the applicants appeared before the interview Board. All of them succeeded after geting qualified in physical test Viva-voice etc.

1.12.97 Appointment orders to applicant Annexure-II
2.12.97 No. 1 to 28 were issued by the (Appointment letter
commanding Officer 2 MTM DIV, issued by the
ordinance Unit on 1.12.97, and Commanding Officer.)
were directed to joint on
2.12.97 and they joined their
duties on 2.12.97
Page - 23- 49

23.4.98 The applicant No. 99, 30, 31 were
28.4.98 in the waiting list for appoint-
ment, ^{However} ~~However~~ they were subsequently
appointed. The applicant No. 29 and
30 joined on 23.4.98 and applicant
No. 31 joined on 28.4.98 .

Since the date of joining
the applicants have been in
continuous service without any
interruption.

2nd Dec, 1997 From 2nd December, 1997 to
to March, March, 1999, the applicants were
1999 paid their full wages for all
working days excepts sunday and
holidays, .During this period
all these applicants had completed
more than 240 working days.

April - From April, 1999 to 28th April,
2001 though the applicant had
been continuously working for all
working days but unfortunately on
record they were shown to have worked

19 days in a month. This was done with an oblique motive to frustrate their claim for regularisation after having temporary status. It reveals from attendent register that applicant in each month had completed more than 240 working days in the year 1998.

From 28th April, 2001 the applicant have not been allowed to work. All of them were terminated from their services by verbal orders of the concern officer under whom they had been working .

Though the applicants were disengaged but the concerned authority sent requisition for sponsoring some persons for engagement of casual labourers. Then the applicants approached the employment exchange authority and on the Asstt. Director, of Employment, District Employment Exchange, Dibrugarh vide his letter dated 3.7.2001 sought for clarification from respondents whether the applicants would have preference in engagement .

Details/particulars of member of days worked by the applicants commencing them feb, 1998 to Dec.1998 are furnished in tabular form in sub para (VIII) in para 3 in page No. 9 to 10.

Annexure-III
(Letter dated 3.7.01 issued by the Asstt. Director of Employment District-Employment Exchange, Dibrugarh

Page - 50

On receipt of the letter dated 3.7.01 the commanding officer had not proceeded to engage casual labour .

The applicant submitted a representations before Hon'ble Minister ~~Preference~~ Defence

Annexure-IV
(Representation before Hon'ble Minister , Defence)

Then the applicants preferred an application before the Hon'ble Tribunal and it was registered as (XXX O.A.353/2001.)

Page - 51-52

The respondent filed the written statemnt and contested the proceeding. It was, inter-alia

stated that the applicants were not granted temporary status as there was no provisions in this regard. They relied upon an order issued from the office of the Adjutant General. Head quarters, New Delhi as contained in letter No. 15225/ORC 4(CIV) dated 29th

Annexure-V
(Letter dated 29.1.98 issued from the office of the Adjutant General Branch as contantated in Annexure-B of the Written Statement)

29.1.98 Jan, 1998 wherein it was stated that granting of temporary status to the casual labourers was an one time affair and it was applicable in respect of those casual

Page - 53

employees who were in service on the date of notification of the Scheme 1. ~~on~~ 20th Sept, 1992 and had rendered 240 or 206 days as the case may be on that date. They stated that conferring of temporary status to the applicants was not applicable as they were subsequently employed .

11.2.2002 The Hon'ble Tribunal passed its Judgement and order on 11.2.2002 in O.A. 353 of 2001. The point raised by the Respondent authority (Annexure-VI) whether grant of temporary status (Copy of the Judgement is one time arrangement for the and order passed by employees who joined prior to 1993 this Hon'ble was dealt with and held that it was Tribunal on 11.2.02). not an one time arrangement but it Page - 54-59 would be a continuous process .

The Hon'ble Tribunal remanded the matter to the concerned authority to examine the case on merits in the light of the scheme of 1993 and it was further ~~stated~~ that in doing so the authority should ~~ignore~~ take note of the service of all workers who served for 240 days without taking note of artificial break and asked to complete the exercise within 4 month, from the date of judgement and order .

24.5.2002

On 24.5.2002 one Major Anil Vishnoi
O/C Administration and service wing
passed a speaking order on behalf of
the commanding officer as per
direction of this Hon'ble Tribunal.

In the said order it was contended Annexure-VII
that as the applicant were not in (Order dated
employment with the Unit prior to 24.5.2002 served
1993 they are not entitled to on the Sri Rubal
conferment of temporary status. Not).

Page-60-61

The aforesaid order is in gross
violation of the judgement and
order passed by the Hon'ble
Tribunal on 11.2.2002. In this
context the applicants begs to
state that after passing of the
aforesaid Judgement and order,
the Hon'ble Supreme Court of India
held that the Scheme formulated
by the Ministry of Defence for
the purpose of grant of temporary
status was a one time scheme; it
will be applicable for those employees
who were engaged prior to 1993.
However, in this judgement it was
specifically stated that judgement
passed by the Hon'ble Supreme Court
will not be applicable in the cases
which were decided prior to pronounsement

of judgement of the Hon'ble Supreme Court. Thus the Judgement of the Hon'ble Supreme Court will not be applicable in this case .

6.1.03 The applicants also filed an application to initiate a contempt proceeding against the Respondent authority before this Hon'ble Tribunal and registered as Cont. Petn. No.60/02 on 6.1.2003 the contempt petition was dismissed due to no appearance on behalf of the ^{applicants} ~~appellants~~.

That on behalf of the applicants several application were referred to the Higher Authorities to the Ministry of Defence including its Secretary for grant of temporary status to the applicants.

Annexure-VIII

(Copy of order dated 6.1.2003)

Page - 62-63

Annexure-(IX) 8 X

(Two letters issued on behalf of the applicants by Sri Jiban Roy, a member of parliament

(Rajya Sabha) to the Secy. to the Ministry of Defence and Minister of State ~~as~~ in the Ministry of Defence

(Page) - 64-65 and 66

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::

GUWAHATI BENCH:: GUWAHATI.

O.A. No. 353/2001

Filed by \rightarrow
the applicant
Heeralal Rawath
through
Subrat Bhuyan
Advocate

Sri Heeralal Rawath and others. ... Applicants.

-Versus -

Union of India and ors. ... Respondent.

I N D E X

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Filed by
Subrat Bhuyan
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI
GUWAHATI BENCH.

O.A. 94 /2001.

PARTICULARS OF THE APPLICANTS.

1. Sri Heeralal Rawath
S/o. Sri Ramdeo Rawath
Sector -B Dinjan Cantt.
Station Head Quarter,
P.O. Panitola, Dist. Dibrugarh.
2. Sri Rubul Mout
S/o. Sri Pulin Mout
Vill- Dongerchuk
P.O. Bishmile
P.S. Chabua
District- Dibrugarh
Pin- 786184.
3. Sri Umesh Kumar
S/o. Late Ram Kumar
Kharjan T.E., 14 No. Line
Dist. Dibrugarh.
4. Sri Kiran Goswami
S/o. Late Ramdas Baisnab (Adoptive Father)
Vill- Kajani Bari
P.O. Dinjan, P.S. Chabua
Dist. Dibrugarh.
5. Sri Upendra Rout
S/o. Sri Shiv Charan Rout
C/O Jayram Store,
Vill-Kajani Bari, P.O. Dinjan,
P.S. Chabua, Dist. Dibrugarh.

Heeralal Rawath

- 2 -

6. Sri Mohan Tanti
S/o. Rajender Tanti
Vill-Dinjan (Gherkhibasti)
P.O. Dinjan, P.S. Chabua
District -Dibrugarh.
7. Sri Jaimangal Rawath
S/o. Sri Rambiraji Rawath
Sector -B, Dinjan Cantt,
P.O. Dinjan, P.S. Chabua
Dist. Dibrugarh.
8. Sri Phonon Gogoi
S/o. Late Monuram Gogoi
Vill- Pubdeodhaigaon
P.O. Chabua, P.S.Chabua,
Dist. Dibrugarh, Pin-786184.
9. Sri Kanak Das
S/o. Sri Bhola Ram Das
Sector B, Dinjan Cantt.
P.O. Dinjan,
District-Dibrugarh, Pin-786189.
10. Sri Kailash Yadav
S/o. Munnu Yadav
Vill-Dinjan (Gherkhi Basti)
P.O. Dinjan, District-Dibrugarh
Pin - 786189.
11. Sri Hiralal Kurmi
S/o. Late Kalipada Kurmi,
Vill-Chaklivoria, P.O. Panitola,
P.S. Chabua, District-Dibrugarh.

contd.....3/-

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12. Sri Nar Bahadur Thapa,
S/o Sri Mon Bahadur Thapa
Vill. Dhigalibari, Baghbari,
P.O. Panitola, Dist. Dibrugarh.

13. Sri Tanzeing Das,
S/o Late Kushal Das,
Vill & P.O. Chubua,
Dist. Dibrugarh, Assam.

14. Sri Jiten Sarkar,
S/o Sri Dinesh Sarkar
Vill. Mirigaon, P.O. Mulukgaon,
P.S. Chabua, Dist. Dibrugarh.

15. Sri Chilan Duarah,
S/o Sri Aneswar Duarah
Vill. Chatiagaon,
P.O. Chatiagaon, Chabua,
Dist. Dibrugarh.

16. Sri Loknath Baruah,
S/o Sri Dondee Baruah,
Vill. Gorpera Gaon, P.O. Gorpera
(Dikhom), Dist. Dibrugarh.

17. Sri Rohin Das,
S/o Sri Bhubul Das,
Vill. Bhardhara, P.O. Bhardhara
(Kunjichowa),
Dist. Dibrugarh, Assam.

- 4 -

18. Sri ~~Mandal~~ ^{Mandal} Das,
S/o. Late Phukan Das
Vill-Morichagaon,
P.O. Chetia gaon,
Chabua, Dist. Dibrugarh.

19. Sri Kadam Phukan
S/o. Sri Malok Phukan
Vill- Chetia pathar
P.O. Rangchangi, P.S. Chabua,
Dist. Dibrugarh.

20. Sri Rupam Das
S/o. Late Sumeshwar Das
Vill -Morichagaon,
P.O. Chetia gaon (Chabua)
Dist. Dibrugarh.

21. Sri Bijay Gogoi
S/o. Naren Gogoi
Vill -Chetia gaon
P.O. Chetia gaon (Chabua)
Dist. Dibrugarh.

22. Sri Ranjan Saikia
S/o. Sri Kamleshwar Saikia
Vill- Pulunga, P.O. Chabua
P.S. Chabua, Dist. Dibrugarh.

23. Sri Binod Das
S/o. Sri Surjya Das
Vill -Morichagaon, P.O. Chetia gaon
P.S. Chabua, Dist. Dibrugarh.

24. Sri Rajib Rajkhowa
S/o. Sri Rajen Rajkhowa
Vill- Mudoigaon, P.O. Bogdung (Panitola)
Dist. Dibrugarh, Assam.
Pin- 786183.

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26. Sri Amit Tanti
S/o. Late Bharat Tanti
Vill- Nagaon (Basti)
P.O. Dinjan, P.S. Chabua
Dist. Dibrugarh.

27. Sri Binod Dihingia
S/o. Sri Susen Dihintia
Vill-Dihingiapor
P.O. Dinjay Satta (Chabua)
Dist. Dibrugarh.

28. Sri Atul Chetia
S/o. Sri Lubeshwar Chetia
Vill-Bogritoliagaon,
P.O. Mohmara (Dhikom)
Dist. Dibrugarh.

29. Sri Fulena Prashad
S/o. Sri Harilal Prashad
Vill -Kajani Bari,
P.O. Dinjan, P.S. Chabua,
Dist. Dibrugarh.

30. Sri Kulendra Gogoi
S/o. Sri Ghonen Gogoi
Vill- Naharani, P.O. Borchapuri (Panitola)
Dist. Tinsukia.

31. Sri Manik Chetia
S/o. Late Budeshwar Chetia
Vill-Chetiagaon, P.O. Chetiagaon,
P.S. Chabua, Dist. Dibrugarh.

contd.....6/-

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PARTICULARS OF THE RESPONDENTS:

1. Union of India
(Represented by Secretary to the
Govt. of India, Ministry of Defence).
2. General Officer Commanding
2 Mountain Division
C/o. 99 A.P.O.
3. General Officer commanding
4 Corps, C/o. 99 A.P.O.
4. Commanding Officer,
2 Mountain Division
ordinance Unit
C/o. 99 A.P.O.

1. PARTICULARS FOR WHICH THE APPLICATION IS MADE :-

This application is against an order passed by the of G Adm & serving ~~or~~ for commanding Officer,

2 Mtn. Diyord Unit, C/o. 99 A.P.O.

3. LIMITATION :-

This application is within the period of limitation.

2. FACTS OF THE CASE :-

i) That the applicants are citizens of India having their permanent place of residence as indicated

above. This application is with respect to a common cause of action for absorption and grant of temporary status and regularisation of services of the applicant. Accordingly the applicants crave leave of this Hon'ble Tribunal under Rule 4 (5)(a) of central Administrative Tribunal procedure Rules, 1987 to file this application.

ii) That the applicants are unemployed youth having their registration in Dibrugarh employment exchange.

iii) That in the year 1997 the authorities of 2 MTN DTV, ordinance Unit sent requisition to the local employment exchange for sponsoring names of candidates for recruitment of ~~casual~~ mazdoors. Pursuant to that the applicants were sponsored by their employment exchange directing them to appear before the commanding Officer 2 MTN DIV, ordinance Unit on 14.10.97, 15.10.97 & 16.10.97.

A copy of the letter dtd. 13.10.97

issued by the Asstt. Director of Employment Exchange, Dibrugarh to one of the applicant is annexed hereto and marked as Annexure -I.

iv) That on receipt of the aforesaid letter the applicants appeared before the interview Board.

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All of them succeeded after getting qualified in physical test viva-voice etc.

v) That the applicants were selected for employment to the post of casual Labur. Appointment orders with respect to applicant no. 1 to 28 were issued by the commanding officer 2 MTN DIV, ordinance Unit on 1.12.97. They were directed to join their duties on ~~as~~ from 2.12.97 and accordingly they joined their duties on 2.12.97.

Copies of the appointment letter issued by commanding officer is annexed as
Annexure -II series.

vi) That the applicants no. 29, 30,31 were in the waiting list for appointment. However they were subsequently appointed in the month of April, 1998. The applicant no. 29 & 30 join their duties on 23.4.98. The applicant no. 31 join his duties on 28.4.98.

vii) That since the date of joining the applicants had been rendering their continuous service without any interruption.

viii) That from 2nd Dec. 1997 to March, 1999, the applicants were paid their full wages for all working days excepts sunday and holidays. During this period all these applicant had completed more than 240 working days.

contd.....9/-

From April 1999 to 28th April 2001 though the applicant had been continuously working for all working days but unfortunately on record they ^{were} shown to have worked 19 days in a month. This was done with an oblique motive to frustrate their claim for regularisation after having temporary status. Be as it may the applicant completed more than 240 working days in a year. The applicants have been able to collect the number of working days as recorded in the ~~attendant~~ register maintained by the authorities from Feb 1998 Dec 1998. It appears from that ~~attendant~~ register that applicants had completed more than 240 working days in the year 1998. Details particulars number of days worked by the applicant in each month commencing from Feb 1998 to Dec 1998 are furnished below in the tabular form -

| Applicant Number | Feb. | Mar. | Apr. | May | Jun. | Jul. | Aug. | Sep. | Oct. | Nov. | Dec. | Total Days. |
|------------------|------|------|------|-----|------|------|------|------|------|------|------|-------------|
| 1. | 23 | 25 | 26 | 24 | 25 | 26 | 25 | 26 | 24 | 24 | 26 | 274 |
| 2. | 23 | 25 | 26 | 24 | 26 | 26 | 22 | 25 | 24 | 22 | 18 | 261 |
| 3. | 23 | 25 | 26 | 24 | 25 | 26 | 25 | 26 | 24 | 13 | 26 | 272 |
| 4. | 23 | 25 | 16 | 13 | 26 | 25 | 23 | 26 | 24 | 24 | 26 | 251 |
| 5. | xx | xx | xx | xx | xx | xx | 25 | 20 | 7 | 23 | 26 | 259 |
| 5. | 23 | 25 | 25 | 24 | 26 | 25 | 25 | 20 | 7 | 23 | 26 | 259 |
| 6. | 23 | 25 | 23 | 24 | 24 | 25 | 24 | 26 | 24 | 24 | 25 | 267 |
| 7. | 23 | 25 | 26 | 24 | 24 | 26 | 24 | 24 | 20 | 24 | 26 | 266 |
| 8. | 23 | 25 | 23 | 23 | 25 | 25 | NIL | | 23 | 25 | 25 | 192 |

- 10 -

YEAR 1998.

| Applnt Number. | Feb. | Mar. | Apr. | May | Jun. | Jul. | Aug. | Sep. | Oct. | Nov. | Dec. | Total days. |
|-------------------|------|------|------|-----|------|------|------|------|------|------|------|-------------|
| 9. | 23 | 25 | 26 | 24 | 25 | 26 | 25 | 26 | 24 | 20 | 26 | 270 |
| 10. | 23 | 25 | 16 | 15 | 26 | 26 | 25 | 26 | 24 | 24 | 26 | 256 |
| 11. | 23 | 25 | 22 | 24 | 26 | 23 | 25 | 25 | 24 | 24 | 26 | 267 |
| 12. | 23 | 25 | 24 | 24 | 26 | 25 | 21 | 22 | 23 | 23 | 25 | 262 |
| 13. | 23 | 25 | 23 | 24 | 25 | 26 | 25 | 26 | 24 | 23 | 26 | 272 |
| 14. | 23 | 25 | 26 | 24 | 26 | 26 | 25 | 26 | 18 | 10 | 24 | 253 |
| 15. | 23 | 25 | 19 | 24 | 26 | 24 | 25 | 26 | 22 | 22 | 26 | 262 |
| 16. | 23 | 25 | 23 | 23 | 26 | 23 | 22 | 25 | 22 | 23 | 26 | 264 |
| 17. | 23 | 25 | 19 | 20 | 24 | 26 | 25 | 23 | 24 | 23 | 26 | 258 |
| 18. | 23 | 25 | 22 | 23 | 26 | 26 | 23 | 25 | 24 | 22 | 20 | 259 |
| 19. | 23 | 25 | 23 | 24 | 21 | 24 | 21 | 26 | 24 | 24 | 19 | 255 |
| 20. | 23 | 25 | 24 | 23 | 26 | 26 | 19 | 24 | 24 | 24 | 24 | 262 |
| 21. | 23 | 25 | 24 | 24 | 26 | 26 | 24 | 24 | 24 | 24 | 23 | 267 |
| 22. | 23 | 25 | 22 | 23 | 25 | 26 | 23 | 26 | 24 | 24 | 26 | 267 |
| 23. | 23 | 25 | 26 | 23 | 26 | 23 | 25 | 26 | 24 | 24 | 26 | 270 |
| 24. | 23 | 25 | 24 | 24 | 25 | 26 | 24 | 26 | 24 | 24 | 26 | 271 |
| 25. | 23 | 25 | 26 | 24 | 25 | 26 | 25 | 26 | 24 | 24 | 26 | 274 |
| 26. | 23 | 25 | 20 | 24 | 26 | 25 | 24 | 26 | 22 | 24 | 24 | 263 |

- 11 -

| Applnt. Number: | Feb. | Mar. | Apr. | May. | Jun. | Jul. | Aug. | Sep. | Oct. | Nov. | Dec. | Tot day |
|--------------------|------|------|------|------|------|------|------|------|------|------|------|------------|
| 28. | 23 | 25 | 24 | 21 | 26 | 26 | 25 | 26 | 24 | 24 | 24 | 270 |
| 29. | 7 | 24 | 26 | 26 | 24 | 26 | 24 | 24 | 24 | 26 | 26 | 207 |
| 30. | 7 | 24 | 26 | 26 | 11 | 23 | 24 | 24 | 24 | 26 | NIL | 179 |
| 31. | 3 | 24 | 26 | NIL | 22 | 24 | 24 | 22 | 25 | NIL | NIL | 170 |

IX) The applicants beg to state that according to rule in Force a casual employee after working 240 days is entitled to have temporary status. They are also entitled to be regularised in the service. In the instant case though all applicants had completed more than 240 working days in a year, but, they were not conferred with the temporary status. All these applicants are entitled to have ~~to~~ their monthly wages at per with the regular employee in their initial scale, on completion of 30 working days in a month. These benefit of temporary status were not extended to the applicants. They were paid with their daily wages as being paid to the other casual labourers, which is for less than their actual entitlement. They were also entitled to be regularised after having the temporary status.

x) That from 28th April 2001 the applicants have not been allowed to work. All of them were terminated from their services by verbal orders of the concern Officer under whom they had been working.

xi) That though the applicants were disengaged but the concern authority sent requisition for sponsoring some

persons for engagement of casual labour in the establishment of 2 MNT Division, Ordnance Unit, C/o. 99 A.P.O. where the applicant had been working as casual employee vide their notification No. CIV/EST Dt. 22nd June , 2001.

xii) The applicants represented their case before the Employment Exchange authority who espoused their cause so that they may have preference in engagement of casual employees in the 2 Mountain Division, ordinance Unit. Accordingly, Assistant Director Employment, District Employment Exchange, Dibrugarh vide his letter no. ACT/27/ 2001/1650 Dt. 3.7.2001 intimated the commanding officer 2 Mountain Division, ordinance Unit seeking classification whether the applicants would have preference in engagement of casual labour in that establishment.

A copy of the letter dated 3.7.2001 issued by The Assistant Director of Employment, District Employment Exchange, Dibrugarh is annexed hereto and marked as Annexure -III.

xiii) That on receipt of that letter dated 3.7.2001 the commanding officer had not proceeded to engage casual labour in his establishment.

xiv) The applicants represented their case before the Hon'ble Minister Defence and submitted a representation. They also requested the office bearers of

- 13 -

ordinance Mazdoor Union at Dinjan to espoused their cause before the higher authority for the purpose of their engagement with consequential benefits. The steps are also taken by the Union to approach the higher authority, but nothing has been done so far.

A copy of the representation submitted by the applicants before the Hon'ble Minister, Defence is annexed hereto and marked as Annexure -iv.

xv) That cited with the aforesaid situation the applicants preferred an application under sec _____ of Administrative Tribunal Act, 1985 before this Hon'ble Tribunal . This application was registered as O.A. No. 353/2001.

xvi) That the respondent filed the written statement and contested the proceeding . It was, inter alia, stated that the applicants were not granted Temporary status as there was no provision in this regard. They relied upon an order issued from the office of the Adjutant general, Head Quarters, New Delhi as contained in letter No. 15225/ORC 4(CIV) dated 29th January, 1998 wherein it was stated that granting of temporary status to the casual labourers was an one time affair and it was applicable in respect of those casual employees who were in service on the date

contd.....14/-

-14-

of notification of the scheme i.e. ^{and} 10th Sept, 1993, had rendered 240 or 206 days as the case may be on that date. They also stated that conferring of temporary status to the applicants was not applicable as they were subsequently employed.

A copy of the letter dated 29.1.98 issued from the office of the ~~Adjutant~~ General Branch as contained in annexure -B, of the written statement is annexed hereto and marked as Annexure -V.

XVII) That this Hon'ble Tribunal passed his judgement and order on 11.2.2002 in G.A. 353 of 2001. The point raised by the Respondent Authority whether grant of temporary status is one time arrangement for the employees who joined prior to 1993 was dealt with. It was held that it was not an one time arrangement but it would be a continuous process.

XViii) That in the aforesaid order dated 11.2.2002 this Hon'ble Tribunal remanded the matter to the concerned authority to examine the case on merits in the light of the scheme of 1993 and it was further stated that

in doing so the authority should take note of the service of all workers who served for 240 days without taking note of artificial break. It was further directed that authority should complete the exercise ~~written~~ 4 months from the date of Judgement and order.

A copy of the Judgement and order passed by this Tribunal on 11.2.2002 is annexed hereto and marked as (Annexure -vi).

xix) That on 24.5.2002 one Major Anil Vishnoi O/C Administration and service wing passed a speaking order on behalf of the commanding officer as per direction of this Hon'ble Tribunal. In the said order it was contended that as the applicants were not in employment with the Unit prior to 1993, they are not entitled to conferment of temporary status.

A copy of the order dated 24.5.2002 served on one Sri Rubul Maut is annexed herewith and marked as (Annexure -vii).

xx) That the aforesaid order is in gross violation of the Judgment and order passed by the Hon'ble Tribunal on 11.2.2002. In this context the applicants beg to state that after passing of the aforesaid Judgement and order, the Hon'ble supreme Court of India held

that the scheme formulated by the Ministry of Defence for the purpose of grant of temporary status was a one time scheme ; it will be applicable for these employees who were engaged prior to 1993. However, in this judgment it was specifically stated that judgment passed by the Hon'ble Supreme Court will not be applicable in the cases which were decided prior to pronouncement of judgment of the Hon'ble Supreme court. Thus the judgment of the Hon'ble Supreme court will not be applicable in this case in as much as this Hon'ble Tribunal is prior to the judgment of the Hon'ble Supreme court of India.

xxi) That the applicants also filed an application to initiate a contempt proceeding against the Respondent Authority before this Hon'ble Tribunal . This application was registered as contempt petition No. 60/2002. On 27.11.2002 this Tribunal had directed that notice of the contempt petition be issued to the respondents. Thereafter it was listed on 6.1.2003. On that day there was no appearance on behalf of the applicants and by order dated 6.1.2003, the contempt petition stands dismissed.

A copy of the order dated 6.1.2003 is annexed hereto and marked as (Annexure - 1(iii))

xxii) That on behalf of the applicants several applications were referred to the Higher Authorities to the Ministry of Defence including its secretary for grant of temporary status to the applicants.

Copies of two letters issued on behalf of the applicants by Sri Jibon Roy, a Member of Parliament (Rajya Sabha) to the Secretary to the Ministry of Defence and Minister of state in the Ministry of Defence are annexed hereto and marked as (Annexure - ix and xi).

b. Grounds with legal provisions :

Being highly aggrieved by the action of the respondents the applicants preferred this application on the following among other grounds :-

- A. That all applicants completed 240 days of work in a year and they are entitled for grant of temporary status in view of the judgment and order passed by this Hon'ble Tribunal .
- B. That the impugned order dated 24/5/2002 suffers from non-application of mind in as much as the Hon'ble Tribunal passed an order whereby the respondent authorities were directed to consider whether the applicants had completed

240 days

240 days of work in a particular year. Instead of complying the order passed by this Hon'ble Tribunal, the respondent authority passed an order by stating that the applicants are not entitled for grant of temporary status. Even assuming but not admitting that the respondent authority while passing this impugned order had considered the Judgment of the Hon'ble Supreme Court as stated above then also the applicants are entitled to have grant of temporary status in view of judgment and order passed by this Hon'ble Tribunal as they completed 240 days of work in a particular year.

C. That the impugned order is arbitrary, based on unreasonable ground and the same is violative of Art. 14 of the constitution of India.

D. That the applicants have been deprived of their means of livelihood against the procedure established by law and the same is violative of Art. 21 of the constitution of India.

5. Details of remedy exhausted.

The applicants beg to state that they preferred representation before the Hon'ble Minister Defence and the Secretary to the Ministry of

- 19 -

Defence but they have failed to secure justice.

6. Matter not pending, before any court of the Tribunal.

The applicants state that they preferred an application for grant of temporary status on the ground that they had completed 240 working days in a year. The Tribunal passed an order directing the respondent authority to examine whether the applicants had completed 240 days of work in a year. This order was passed in 11.2.2002 in O.A. 353/2002. Thereafter the respondent authority passed an order that the applicants are not entitled to the grant of temporary status in accordance with the scheme framed in this behalf as they were not engaged prior to 1993. Though the Hon'ble Supreme Court of India held that the scheme framed for the purpose of grant of temporary status is one time scheme. But as it was also held that the cases decided prior to the judgment of Hon'ble Supreme court should not have any bearing on the judgment of Hon'ble Supreme court. Accordingly, the applicants are entitled for grant of temporary status and hence this application before this Hon'ble Tribunal with fresh cause of action which was not decided by the earlier case.

Heeralal Rawat

7. Relief Sought.

The applicants, therefore, pray that this Hon'ble Tribunal may be pleased to set aside the order dated 24.5.2002 passed by the officiating Administrative and service wing for commanding officer, 32 Mountain Division ordinance Unit C/o. 99 APO vide his order No. 270/01/PC/HQ.

ii) to direct the respondent to confer temporary status of the applicants if they have completed 240 days of work in a particular year in view of the judgement and order passed by this Hon'ble Tribunal in O.A 353/2002 on 20.2.2002.

iii) to pass any further or other order or orders as this Hon'ble Tribunal may deem fit and proper.

g. The applicants do not pray for any interim order.

9. Particulars of IPO.

I.P.O. Number - 86490292

Date of issue - 5.5.2003

To whom payable - The Registrar, CAT.

Payable at - Guwahati.

10. Documents.

Detailed particulars of the documents are indicated in the index of the application.

VERIFICATION

I, Sri Heeralal Rawat^{son} of Sri Ramdeo Rawat^h
aged about 30 years, resident of village Sector-B Dibrugarh
P.O. Panibla P.S. Chabua Dist. Dibrugarh
Assam, do hereby declare and verify that the statements
made in paragraph 3(i), 3(ii), 3(iv), 3(v), 3(xii)
to my knowledge and that made in paragraphs 3(iii), 3(v), 3(vi)
3(vii), 3(xi), 3(xii), 3(xiv), 3(xv), 3(xviii), 3(xix), 3(xxi), 3(xii)
are true to my information derived from the records
and rest are my humble submission before this Hon'ble
Tribunal.

I sign this verification on this the 28th day of
February, 2003 at Guwahati.

Heeralal Rawat^h

Sl. No. 10

GOVERNMENT OF ASSAM
DEPARTMENT OF LABOUR & EMPLOYMENT
DISTRICT EMPLOYMENT EXCHANGE : DIBRUGARH

WO.ACT/60/97/3620-770/97 dated Dibrugarh the 13.10.97

To

Shri Hiralal Rowat (3113/96/90)

Sub : Recruitment of Casual Labour

Your name has been forwarded to the Commanding Officer, 2 MTN Div. Ord. Unit C/O 99 APO for a post of Casual Labour.

You are advised to report to him on 14th Oct/97 15th Oct/97 and 16th Oct/97 at 10 A.M. for interview/test.

Sd/- Illegible

13.10.97

(Mrs. S. Khatun)

Asstt. Director of Employment
District Employment Exchange, Dibrugarh.

Attested
S. Khatun

Contd.

ANNEXURE-II series

Regd. by post

2 Mtn. Div. Ord. Unit

C/O 99 APO

270503/CIV/EST

01/Dec' 97

Rabul Mout

Dinjin Tinali

P.O. Dinjan

Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day _____ present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
83 May 1997

...Contd.

24-

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

270503/CIV/EST

01/Dec' 97

Umesh Kumar
 Vill- Kharjan
 P.O. Bagdung
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
B. Bhupura

...Contd.

25-

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
C/O 99 APO

270503/CIV/EST

01/Dec' 97

Hiralal Rawat
Vill.- Dinjin Tinali
P.O. Dinjan.
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible
Col
Commanding Officer

Attested
gshgpm

...Contd.

26-

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
C/O 99 APO

270503/CIV/EST

01/Dec' 97

Kiran Goswami
Vill.- Dinjin Tinali Sec 'B'
P.O. Dinjan
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
88/97/97

...Contd.

27

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
C/O 99 APO

270503/CIV/EST

01/Dec' 97

Upendra Raut
Vill.- Sain Bhrihar Tola
P.O. Sain Via Kanti
Dist-Muzzafarpur (Bihar)

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
gsharma

...Contd.

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
C/O 99 APO

270503/CIV/EST

01/Dec' 97

Mohan Tanti
Vill.- Dinjin Tinali
P.O. Dinjan
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible
(VK Sharma)
Col
Commanding Officer

Attested
80

...Contd.

29-

ANNEXURE-IIREGD. BY POST2 Mtn. Div. Ord. Unit
C/O 99 APO

270503/CIV/EST

01/Dec'97

Jai Mangal Raut
 Vill.- Dinjin
 P.O. Dinjan
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible
 (VK Sharma)
 Col
 Commanding Officer

Attested
S. Bhuyan

...Contd.

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Phnon Gogoi
 Vill.- Deendhai Par.
 P.O. Chabua
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month..
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
 Biju

Contd.

31-

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST.

Kanak Das

Vill.- Dinjan Tinali

P.O. Dinjan

Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

Col

Commanding Officer

Attested
g. m. yam

...Contd.

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
 C/O 99 APO
 01/Dec' 97

270503/CIV/EST

Kailash Yadav
 Vill.- Dinjan
 P.O. Dinjan
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
 gsharma

...Contd.

33-

48
ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97.

270503/CIV/ESTT

Hiralal Kumari
 Vill.- Chakali Bharia Gaon
 P.O. Panitola
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
 Biju
 Biju

...Contd.

34-

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
 C/O 99 APO
 01/Dec' 97

270503/CIV/EST

Nar Bahadur
 Vill.- Dinjan
 P.O. Dinjan
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

*Attested
Sharma*

...Contd.

35-

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Tezing Das
 Vill.- Dinjan Tinali
 P.O. Dinjan
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
 [Signature]

...Contd.

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
 C/O 99 APO
 01/Dec' 97

270503/CIV/EST

Jitten Ch. Sarkar
 Vill.- Mirigaon
 P.O. Muluk Gaon
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

*Attested
82 May*

...Contd.

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Shilan Dowara
 Vill.- Chetia Gaon
 P.O. Chetia Gaon
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
Sharma

...Contd.

38-

ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Lok Nath Baruah

Vill. & P.O. - Garpara

Dikan

Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

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ANNEXURE - IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/December, 97

270503/CIV/EST

Rabin Das
 Bharahara village,
 P.O. Chabua
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

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Commanding Officer

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ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

01/Dec' 97 C/O 99 APO

270503/CIV/EST

Mridul Das
 Maricha village
 P.O. Chetia (Chabua)
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
 S. K. Sharma

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ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
 C/O 99 APO
 01/Dec' 97

270503/CIV/EST

Kadam Phukan
 Chetia Pathar
 P.O. Rangchangi
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)
 Commanding Officer

Attested
 [Signature]

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ANNEXURE- IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Rupam Das
 Moricha Gaon
 P.O. Chetia Gaon
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

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ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
 C/O 99 APO
 01/Dec' 97

270503/CIV/EST

Bijoi Gogoi
 Chetia Gaon
 P.O. Chabua
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day,
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

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ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
 C/O 99 APO
 01/Dec' 1997

270503/CIV/EST

Ranjan Saikia
 Amguri Pulunga Gaon
 P.O. Pulunga
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
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ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Binod Das
 Vill - Marira Town
 P.O. Chetia Gaon
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

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(VK Sharma)

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Commanding Officer

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ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Rajiv Rajkhowa
 Vill - Mudee Gaon
 P.O. Bagdong (Panitola)
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

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ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
 C/O 99 APO
 01/Dec' 97

270503/CIV/EST

Amrit Tanti
 Vill - Nagi Gaon
 P.O. Dinjan
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
 by
 [Signature]

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ANNEXURE-IIREGD. BY POST

2 Mtn. Div. Ord. Unit
 C/O 99 APO
 01/Dec' 97

270503/CIV/EST

Binod Dhingia
 Vill - Bharalua Gaon
 P.O. Kharjan
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

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 (VK Sharma)
 Col
 Commanding Officer

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ANNEXURE - IIREGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Atul Chetia
 Vill - Bagoritolia
 P.O. Mohmora Dikom
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

Attested
 Bishnujan

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ANNEXURE-IIISl. No. 10

GOVERNMENT OF ASSAM
 DEPARTMENT OF LABOUR & EMPLOYMENT
 DISTRICT EMPLOYMENT EXCHANGE : DIBRUGARH

WO.ACT/27/2001/1656 Dated Dibrugarh the 3.7.2001

To
 Commanding Officer,
 2 Mtn. Div. ORD Unit,
 C/O 99 APO

Sub : Recruitment of Labour on daily wages.

Ref : Your Notification No. CIV/Est dated 22 June/2001

Sir,

We acknowledge with thanks receipt of your above notification. We are taking immediate action to comply with your requirements.

In this connection I would like to request you kindly to let this office know whether you will be giving any preference including age factor etc to the ex casual labours who have worked in your department for a considerable period.

Please confirm immediately.

Yours faithfully,

Sd/- Illegible

(S. Khatun)

Asstt. Director of Employment
 District Employment Exchange, Dibrugarh.

*Attested
S. Khatun*

Contd.

To
 The Hon'ble Minister of Defence,
 (Ministry of Defence),
 New Delhi (India)

Date :

Sub: Prayer for permanent our jobs from Casural Labour.

Respected Sir,

With due respect, we beg to inform you that we have been working as Casual Labour at 2 Mountain Division Ordnance Unit C/O 99 APO (At Dinjan Contl) since 1997. After appearing proper interview, physical test, police verification etc. and after obtaining all necessary formalities by an advertisement through the employment exchange, Dibrugarh (Assam), the authority was selected and appointed us for the jobs, in the year of 1997 (2nd Dec/1997). But we are sorry to say that we are working as Casual Labours since 1997 without any Medical facilities, Monthly Ration etc. from the concern authority.

Moreover, from the date of joining at our jobs, there is no time limit for our jobs and as such we work any time (without any proper schedule of time of work) by the authority. Some times we work at Holidays and Sundays also, but no payment was made for the said Holidays and Sundays by the authority.

Thus, we have been facing a lots of troubles at our jobs. So, we request you kindly to take appropriate action to permanent our jobs.

We, therefore, prayed before your goodself kindly look into the matter seriously and to take

Attested
Signature

...Contd.

appropriate action to permanent our jobs from casual labour for which we shall ever pray.

Yours faithfully,

1. Shri Tenzeng Das
2. Rubul Maut
3. Rajib Rajkhowa
4. Binod Dihingia
5. Bijoy Gogoi
6. Binod Das
7. Pispam Das
8. Mridul Das
9. Hitesh Gogoi
10. Atul Chutia
11. Kadam Phukan
12. Monik Chetia
13. Rabin Das
14. Phunen Gogoi
15. Bishnu Gogoi
16. Dhumar Kumar
17. Kulendra Gogoi
18. Amrit Tanti
19. Mohan Tanti
20. Kailash Yadav
21. Jai Mangal Rowt
22. Loknath Boruah
23. Illegible
24. Apendu Das
25. P. Prasad
26. Sri Jiten Sarkar
27. Sri Kanak Das
28. Sri Kiran Goswami
29. Sri Ranjan Saikia
30. Nar Bahadur
31.
32.
33.
34. Sri Hira Lal Kurmi.

Attested
Bamun

...Contd.

ANNEXURE-V/Copy/

Tele : 3375033

IMMEDIATE

15226/org 4 (Civ) (a)

29 Jan 98

ADJUTANT GENERAL'S BRANCH
ORG 4 (CIV) (A)

CLARIFICATION - GRANT OF TEMPORARY STATUS AND
 REGULARIZATION SCHEME FOR CASUAL LABOUR

1. Grant of Temporary Status and Regularisation Scheme circulated by the Deptt. Of Personnel and Training under their OM No. 51016/2/90-Estt(C) dated 10 Sep 93 was disseminated to all the Branches/Dates of Army HQ vide our note No. 71881/CL/Org.4(Civ) (a) dated 29 Oct 93. Recently, while examining a case on grant of temporary status to casual employees, the DP&T have clarified that the said scheme was a one time affair and is applicable in respect of only those casual employees who were in service on the date of the notification of the scheme, i.e. 10-9-93 and had rendered one year of continuous service with 240 or 206 days, as the case may be, on that date. Thus conferring temporary status is not applicable to those who had not completed 240 or 206 days, as the case may be, on 10 Sept. 93 and also those employed as casual labours subsequently.
2. In view of the above, it is requested that all the Units/Estts. Under your administrative control may be apprised of the above clarification immediately fro compliance.
3. Please acknowledge.

Sd/- Illegible

Attested
Bohrajan

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ANNEXURE-VI

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
 Original Application No. 353 of 2001

Date of decision : This the 11th day of February 2002,
 The Hon'ble Mr. Justice D.N. Choudhury, Vice Chairman
 The Hon'ble Mr. K.K. Sharma, Administrative Member

Shri Heeralal Rawath,
 Sector - B Dinjan C Antt.,
 Station Headquarter,
 P.O. Panitola, District-Dibrugarh,
 and 30 others

By Advocates Mr. A. Dasgupta and Mr. S. Bhuyan

Applicants

-Versus-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence.
2. The General Officer Commanding, 2 Mountain Division, C/o 99 APO.
3. The General Officer Commanding, 4 Corps, C/o 99 APO
4. The Commanding Officer, 2 Mountain Division, Ordnance Unit, C/o 99 APO.

Respondents

By Advocate Mr. A.K. Choudhury, Addl. C.G.S.C.

CHOWDHURY J. (V.C.)

Conferment of temporary status has again surfaced in this proceeding in the following circumstances :

Attested
S. Bhuyan

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The applicants are thirty one in number. They claim that they worked under the respondents as casual labourers continuously and intermittently for more than 240 days. But, instead of conferring them temporary status as per the Scheme they were thrown out of the department.

2. From the materials cited in the application it appears that these applicants were selected as casual labourers on daily wages through the Employment Exchange and to that effect appointment orders were issued on 1.12.1997. In para 4(viii) of the application the applicants indicated the period of service rendered by them in 1998. Though they averred that they worked or more than 240 days in a year, save and except the statement they have not shown the specific period they worked in a year. From 8.4.2001 the applicants were not allowed to work and verbally they were told that they were terminated from service. It was also averred that after the termination, steps were taken by the respondent authority for recruiting casual labourers on daily wages through the Employment Exchange. The employment exchange put queries to the respondents as to whether the respondents would provide any preference including age factor to the ex casual labourers who worked in the department for a considerable period. Failing to get appropriate remedy the applicants submitted representations before a number of authorities including the Ministry seeking relief. As nothing happened they moved this Tribunal praying for a direction on the respondents to consider their case for regularization in service.

3. The respondents submitted their written statement denying and disputing the claim of the

Attested
S. B. Jayaram

Contd.

applicants. In the written statement the respondents stated that the 2 Mountain Division Ordnance Unit was responsible for providing logistic support to all the Units dependent on it. The work load of the Unit had increased manifolds as a result of additional role assigned to the Units in counter insurgency operations. The dependent Units were spread over vast areas and located in remote areas of Upper Assam and Arunachal Pradesh. As a result, to overcome the shortage of manpower sanction was sought from the higher authority to employ porters/labourers on daily wages on a required basis to tide over the additional work load of non-routine nature. The formation headquarters had accorded sanctions to the Unit for opening of supply and services Imprest Account Budget Head 105 (F) with effect from 15.9.1997 for employment of civilian labourers and porters on daily wages. The names of the candidates were obtained from the District Employment Exchange, Dibrugarh. A Board of Officers was convened to assess the suitability of the candidates and to recommend names for employment as labourers on daily wages. These labourers were employed only to perform the tasks on non-routine nature like clearance of grass to avoid fire risk during summer and also for monsoon stocking of detachments located across the rivers. They were paid for the actual number of days they were employed in a month out of supply and Services Imprest Account allotted by the formation Headquarters. It was specifically averred that the daily wages were paid as per the attendance register. As regards grant of temporary status it was averred that the temporary status was not granted as there was no provision. It mentioned the communicate on vide letter No. 15225/Org 4(Civ) (a) dated 29.1.1998 issued from the Adjutant spnra

Attested
Biju

General's Branch, Army Headquarters, New Delhi, wherein it was stated that granting of temporary status to the casual labourers was a one time affair and it was applicable in respect of those casual employees who were in service on the date of notification of the Scheme i.e. 10.9.1993 and had rendered one year of continuous service with 240 or 206 days as the case may be on that date. In reference to seeking for additional persons, the respondents did not dispute the requisition for sponsoring additional persons by the establishment of 2 Mountain Division Ordnance Unit and that it was forwarded to the District Employment Exchange, Dibrugarh on 22.6.2001. However, in the meantime the necessity of employing additional persons was reviewed and since the necessity was not felt the process was discontinued. It was also stated that during that period the regular troops were made available for the extra work. Since the combatant manpower was readily available and it proved to be more economical to the State the Unit management decided to stop employment of the porters in future.

4. We have heard Mr. A. Dasgupta, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. C.G.S.C. at length. There is no dispute at the Bar that the Scheme for granting temporary status was introduced to regulate the employment of casual labourers in a fair manner and to avoid victimization or unfair labour practice in conformity with the consistent legal policy laid down by the Supreme Court on this matter. The Grant of Temporary Status and Regularisation Scheme of the Government of India, 1988 was introduced for engagement of casual labourers in Central Government offices keeping in mind the decision

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Attested
S. D. Rayamajhi

of the Supreme Court, more particularly the decision in Surinder Singh Vs. Engineer-in-Chief, CPWD, reported in (1986) 1 SCC 639. The whole Scheme was intended to provide work to these casual labourers on a continuous basis and to make these casual labourers regular subject to availability of vacancies. The aforesaid scheme was again followed by the 1993 scheme for conferment of temporary status on all casual labourers who were in employment on the date of issue of the O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week). Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts. The notification itself indicated that the guidelines contained in the O.M. should be followed strictly in the matter of engagement of casual employees. The entire scheme was introduced with the avowed object mentioned above. Such a scheme cannot be termed as a one time measure as was submitted by Mr. A.K. Choudhury, learned Addl. C.G.S.C. A decision on this issue has already been rendered by the Full Bench of the Central Administrative Tribunal in O.A.No. 1146-HP-96 decided on 3.10.2001. The Schemes were introduced as per the constitutional mandate and in response to the decisions of the Supreme Court. As included earlier the Scheme was introduced to protect the working force. When there is a perennial nature of work, in those instances the labourers who are engaged are to be conferred with temporary status. It is for the authority to take a decision in the matter in the light of the Scheme. In the instant case, the

Attested
B. Rayamajhi

respondent authority was smarting under the misconception that the Scheme of 1993 in itself was a one time Scheme. The Scheme is still existing and the casual labourers working under the department are to be conferred with temporary status, that is the pure and simple meaning of the Scheme. We, therefore, remand the matter to the concerned authority to examine the case on merits in the light of the Scheme of 1993 and in so doing the authority should take note of the services of the all the workers who worked for 240 days without taking note of the artificial breaks. The department will be free to take a decision on the subject on merit, keeping in mind its need, the available work force and the object of the Scheme. The respondents are directed to complete the exercise within four months from today and pass necessary speaking order as per law.

5. The application is allowed to the extent indicated. No order as to costs.

Sd/- Vice Chairman
Sd/- Member (Admn)

Attested
Bhagwan

...contd.

ANNEXURE-VII

2 Mtn. Div. Ord. Unit
C/O 99 APO
24 May 2002

270101/PC/HQ

Sri Rubul Mout, S/o Sri Pulin Mout
Vill - Dongirchuk, P.O. Bishmille
P.S. Chabua
Dist.- Dibrugarh, PIN-786184
(All concern)

Speaking Order

1. Ref. to Central Administrative Tribunal Guwahati Bench Judgment and Order dated 11 Feb, 2002 passed in OA No. 353 of 2001 (Heeralal Rawat & 30 VS UOI). The department has perused the judgment and understood the same.
2. This unit/department has perused the case and the judgment regarding thirty one individuals inclusive of Shri Heeralal Rawat (Names are att as appx 'A') employed as casual labours on daily wages (Nerric rates) and who were paid from Budget Head 105 (F). On perusal of all related documents and the judgment the following inferences are made -
 - (a) Adjutant General's Branch, Army Headquarter, New Delhi vide its letter No. 15225/Org/4 (Civ) (a) dt. 29 Jan 98 has stated that granting of temporary status to the casual labourers was a one time affair and it was applicable in respect of those casual labourers/employees who were in service on the date of the Govt. of India notification of the scheme of 10 Sep 93 and who had rendered one year continuous service i.e. 240 or 206 days as the case may be on that date. But as

Attested
Subjeyam

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regards to the thirty one casual labourers employed on daily wages by this unit/department, they were not working prior to the Govt. of India notification of 1993 with this unit/department and therefore, cannot be conferred the status they are demanding for according to the regulations.

3. In view of the aforesaid, the above applicants Shri Heeralal Rawat and others cannot be given temporary status as they were employed much later and not prior to the Govt. of India notification of 1993 and there is no provision given by Ministry of Defence Govt. of India to this unit/department to facilitate the same.

4. In view of the above, it is not possible on the part of the department to confer temporary status to the applicants, 31 in numbers in OA 353/01.

Sd/-

Adm & Ser Wing
for Commanding Offr

*Afterted
gshyan*

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ANNEXURE-VIII

(SEE Rule - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,
GUWAHATIORDER SHEET

Original Application No. : _____

Misc. Petition No. : _____

Contempt Petition No. : 60/02 in O.A. 353/01

Review Application No. : _____

Applicant (s) : Heeralal Rawath

-vs-

Respondent (s) : Mj. Anil Vishnoi

Advocate for the Applicant(s) : Mr. A. Das Gupta,
Mr. S. BhuyanAdvocate for the Respondent(s) : Mr. A.K. Choudhury,
Addl. CGSCNotes of the Registry Date Order of the Tribunal

6.1.2003 **Present** : Hon'ble Mr.
Justice V.S. Aggarwal,
Chairman
Hon'ble Mr. K.K. Sharma,
Administrative Member

On 27.11.2002 this Tribunal had directed that notice of the contempt petition be issued to the respondents.

There is no appearance on behalf of the applicant. The record reveals that no steps had been taken even by the applicant. It is patent that the applicant is not pressing the matter.

C.P. No. 60/2002 (In O.A. No. 353/2001)

Attested
S. Bhuyan

...contra.

6.1.2003

The contempt Petition stands dismissed

Sd/- Chairman

Sd/- Member (A)

Memo No. 109

dtd. 23.01.03

Copy for information and necessary action to -

- 1) Sri Heeralal Rawath, S/o Sri Ramdeo Rawath,
Sector-B, Dinjan Cantt. Station Head Quarter, P.O.
Panitola, Dist. Dibrugarh.
- 2) Mr. A.K. Chaudhury, Addl. CGSC.

Sd/- Illegible

20.1.03

Section Officer (J)

17.1.2003

Attested
Chaudhury

ANNEXURE (X)**JIBON ROY**Member of parliament
(Rajya Sabha)New Delhi
October 11, 2002

Dear Shri Pathakji,

Please recall my earlier communication regarding re-instatement and conferring Temporary status on Shri Heeralal Rawat and 30 other casual workers, worked under 2 Mountain Division, ordinance unit 99 A.P.O. These casual labourers were recruited w.e.f. 1.12.97 on daily wages basis after being selected through Employment Exchange. On 28.4.2001 their services were terminated on verbal order. The aggrieved workers prayed before the Central Administrative Tribunal, Guwahati Bench for redressal and conferring Temporary Status on them according to government of India's notification dated 10.9.1993. On 11.02.2002, CAT rejected the contentions of letter no 15225/org/4 (civ) (a) dated 29.01.1998 (Ref. Decisions of CAT sidelined 'X' and 'A') through which Army Head Quarter claimed that granting of temporary status was a one time affairs. CAT ordered to review the entire case according to notifications dated 10.9.1993.

I am constrained to come to know that authorities of 2 Mountain Division vide their letter the order of CAT on the basis of letter dated 29.01.98 in tune with the order of CAT dated 11.02.2002 I had drawn your attention over order/Scheme of Government of India dated 10.9.1993 which was introduced originally in 1988. The order was concerned to regulate the employment of casual labours in a fair manner and to avoid victimization or unfair labour practice in

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Attested
S. Roy

conformity with the consistent legal policy laid down by the Supreme Court on this matter and the scheme is till existing (Ref. CAT order sidelined 'Y' and 'A')

At this backdrop, it transpires that the authorities of 2 Mountain Division, 99 APO is determined to isolate orders of Government of India, Supreme Court of India and Central Administrative Tribunal.

I do not believe that you will agree with the actions of authorities of 2 Mountain Division, 99 APO which poses a challenge to Government of India and Constitution authorities.

I am therefore forwarding you the related documents for intervening into the matter to reach into settlement without any further delay.

Yours sincerely

(JIBON ROY)

Shri Harin Pathak
Minister of State in the
Ministry of Defence,
NEW DELHI.

C.C. to Sri Heeralal Rawath

Attested
S. Roy

...S. Roy

ANNEXURE-(X)**JIBON ROY**MEMBER OF PARLIAMENT
(RAJYA SABHA)5th April, 2002

The Secretary,
Ministry of Defence,
Govt. of India,
New Delhi.

Dear Sir,

Before couple of months ago, I wrote to Shri Jaswant Singhji (when he was holding the charges of Ministry of Defence) about the plights of Shri Heeralal Rawath and 30 other casual labours, who were denied to conferred "Temporary Status" under 2, Mountain Division, C/o 99, APO. In my letter, I argued that these casual labours should get the scope to be 'Temporary Employee' as they were recruited through employment exchange, working against perennial nature of jobs for more than 240 days and 2 Mountain Division is still in need for similar casual employees.

However, the Central Administrative Tribunal, Guwahati Bench in its judgment dated 11.02.2002 has kindly ordered for conferring temporary status according to 1993 scheme.

While enclosing a xerox copy of the order, I urge upon the Govt. to confer temporary status on Shri Heeralal Rawath and 30 others without any further delay.

Thanking you.

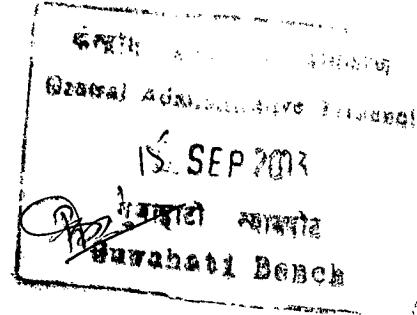
Yours sincerely

(JIBON ROY)

ENCL : As above

...spina

Attested
Subhash



Filed by

6/9/03
(A. DEB RAY)
Sr. C. C. C.
C. A. T., Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::: GUWAHATI

O.A. NO. 94 OF 2003

Shri Heeralal Rawath & Ors.

..... Applicants.
- Vs -

Union of India & Ors.

..... Respondents.

- And -

In the matter of :

Written Statements submitted by
the respondents.

The respondents beg to submit a
brief history of the case which
may be treated as a part of the
written statement.

(BRIEF HISTORY OF THE CASE)

1. That save and accept what ever is specifically
admitted in this written statement, the other contentions and
statement may be deemed to have been denied.

2. That at the outset the respondents beg to give a
brief description of the case as under :-

(i) That the 2 Mountain Division Ordnance Unit is
responsible to provide logistic support to all the
Units depended on it. The work load of the unit
had increased manifolds as a result of additional
role assigned to the Unit in Counter Insurgency

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Operations. The dependents unit are spread vast areas (700 km x 700 km) and are located in remote areas of Upper Assam and Arunachal Pradesh. As a result, lots of difficulties were being faced by the unit in providing effective services due to shortage of manpower.

(ii) That accordingly, a case projected by unit to Headquarters 2 Mountain Division, the immediate superior formation, to accord sanction to employ porters/labourers on daily wages on as required basis to tide over the additional work load of non routine nature. The formation headquarters had accorded sanction to this unit for opening of supply and services Imprest Account Budget Head 105(F) wef 15 Sep 97 for employment civilian labourers and porters for the maintenance of troops and performing tasks of non routine nature on daily wages.

(iii) That the employment of labour depended on the availability/allotment of funds under Budget Head 105(F) to the unit from local formation Headquarters and additional work load of non routine nature. The payment to the labourers was made by the CDA at the end of the month. The funds under supply & Services Imprest Account (Budget Head 105F) is meant for employment of porter (labourers/CHT/Ponnies).

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iv. That the process of selection of laboures on daily wages started on receipt of the sanction. The names of the candidates were obtained from District Employment Exchange, Dibrugarh. A board of officers was convened to the assess the suitability of the candidates and recommended names for employment as labourers on daily wages (Nerric rates). The board of Officers selected the candidates after conducting the following tests and recommended their employment on daily wages (nerric rates):-

(a) 100 Mtr run.

(b) Push Ups.

(c) Weight lifting 40 Kgs.

v. That as per the nature of work content, these labourers were employed only to perform the task of non routine nature which are of casual or seasonal or of intermittent nature like clearnce of grass to avoid fire risk during summer and also for monsoon stocking of detachments located across river Brahmaputra and river Lohit. Accordingly, they were paid for the actual No of days they were employed for at the end of the month, out of Supply and Services Imprest Account (Budget Head 105 F), allotted by the formation Headquarters.

3. That with regard to the statement made in para 4(a), of the application, the respondents beg to state that position regarding entitlement for grant of temporary status has already

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been explained/intimated to the applicants.

4. That with regard to the statement made in para 3(a), of the application the respondents beg to state that provision for grant of temporary status to the applicant does not exist as per Adjutant General's Branch, Army Headquarters letter No. 15225/0rg 4(Civ) dated 29 Jan, 1998. Granting of temporary status to the casual labours was a one time affair and it was applicable in respect of those casual labourers who were in service on that date of notification of the scheme i.e. 10 Sep 1993 and had rendered one year of continuous service with 240 or 206 days at the case may be on that day. Hence, it is very clear that conferring of temporary status to the applicants is not applicable even if they were employed subsequently.

A copy of the letter dated 27 Jan 98 is Annexed herewith and marked as Annexure - 'A'.

5. That with regard to the statement made in para 4(b), of the application the respondents beg to state that this department has already clarified that there is no rule position as per Army Headquarters letter No. 15225/0rg/4(Civ) (a) dated 29 Jan 98 for considering the temporary status to the applicants. However, it was applicable in respect of those casual labourers/employees who were in service on the date of the Govt. of India Notification of the scheme of 10 Sep 93 and who had rendered one year continuous service i.e. 240 or 206 days as the case may be on the date.

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6. That with regard to the statement made in para 4(c), of the application the respondents beg to state that the speaking order was issued on the facts of the lights and solid and sufficient reasons had been given in the order. Hence there is no violation of article 14 of the Constitution of India.

7. That with regard to the statement made in para 4(d), of the application the respondents beg to state that the respondent authority has taken steps within the existing Rule position/policy of the Govt. and has not violated of article 21 of the Constitution of India.

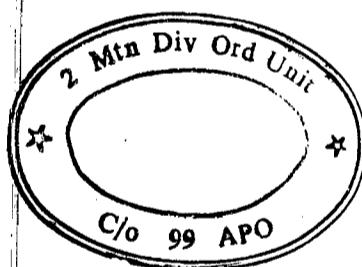
Verification.....

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VERIFICATION

I, Lt. Col Vishu Sikka, Offg Commanding Officer, 2 Mountain Division Ordnance Unit, C/O 99 APO being duly authorised do hereby solemnly affirm and state that the statements made in paragraphs 1, 2, 3, 5 to 7 of the written statements are true to my knowledge, those made in paragraphs 4 being matters of record are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 30th day of June, 2003.



Vishu
Deponent.
Offg Commanding Officer
2 Mtn Div Ord Unit