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8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 107/2004.....

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SECTION OFFICER (Judl.)

7

FORM No. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Org. App. / Misc Petn / Cont. Petn / Rev. Appl. 10.7/04

In O.A.
Name of the Applicant(s) Jayanta Hazarika & Ors. (14)

Name of the Respondent(s) U.O.I. & Ors.

Advocate for the Applicant Deba. K. Saikia, Mrs. R.S. Chowdhury, Ms. D. Das.

Counsel for the Railway/CGSC.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

7.5.2004

Heard Mrs. R.S. Chowdhury, learned counsel for the applicants and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

The application is admitted, call for the records. Issue notice to the parties. Returnable within four weeks.

List on 8.6.2004 for orders.

Pendency of this application shall not be a bar to the respondents to consider the case of the applicants for grant of temporary status.

1 Cr. D. Das
Member (A)

Four weeks time is allowed to file written statement. List on 14.7.04 for filing of written statement and further orders.

1 Cr. D. Das
Member (A)

No. 119389135
Dated 26.4.04

Dr. R. S. Chowdhury
6/5/04

Slips later.

Notice & order
dt. 7/5/04 sent
to D/Section
for issuing to
respondent nos
2 to 5.

mb

8.6.04

19/5/04

A/D Card return
from respondent
nos - 3, 4.

lm

11/6/04

6-8-04

Notice clearly served
on R-No 3, 4.
No W/S has been filed

dh

9.8.2004

Four weeks time is granted to
to the respondents to file written
statement.

List on 10.9.2004 for written
statement.

K.V. Prasad
Member (A)

bb

29.09.2004

Present : The Hon'ble Mr. R.K.
Batta, Vice-Chairman.

28.9.04

No W/S has
been filed.

Am

Mr. D.K. Saikia, learned
Advocate for the applicant is
present.

It appears that service on
respondents No. 1, 2 and 5 has not
been affected as yet. Awaiting
service/ the applicant may in case
so desires take fresh steps for
service on the unserved respondents.
Stand over to 24.11.2004.

23-11-04

No W/S has been filed

dh

R
Vice-Chairman

mb

24.11.04.

Present: Hon'ble Mr.K.V.Prahla-
dan, Administrative Member.

Written statement has not
been filed. Case is adjourned
to 17.12.04, for filing of written
statement.

List on 17.12.04 for orders.

K.V. Prasad
Member

7x12x200

17.12.2004 present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

Mr.D.K.Saikia, learned counsel for the applicant is present. Mr.A.Deb Roy, learned Sr.C.G.S.C. seeks six weeks time for filing of written statement. The matter has already been adjourned on three earlier occasions and today is the forth adjournment sought. Hence, last and final adjournment is granted to the respondents to file written statement. In case, written statement is not filed on the next date and further adjournment is sought, the officer, who is responsible for filing written statement, may have to saddle with costs, recoverable from his personal pocket.

Stand over to 20.1.2005.

R
Vice-Chairman

bb

19.01.2005

Mr.D.K.Saikia, learned counsel for the applicant is present.

Mr.A.Deb Roy, learned counsel for the respondents states that respondents shall not be filing any written statement, but shall be placing the records before the Tribunal. The matter may therefore, be listed for final hearing on 4.3.2005.

R
Vice-Chairman

bb

04.03.2005 Present : The Hon'ble Mr. K.V. Prahladan, Member (A).

Mr. S. Nath, learned counsel states that Mr. M. Chanda, learned counsel will appear on behalf of the applicants and accordingly prays for time. List on 16.3.2005 for hearing.

K.V. Prahladan
Member (A)

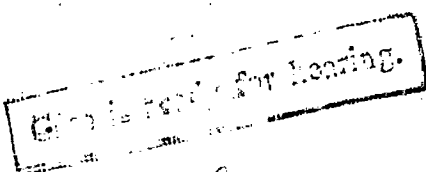
nb

order dt. 17/12/04
issuing to learned
advocate for both
the parties.

CMS
20/12/04.

19.1.05
NO 2) 3) filed before

103



Ex

16.3.05

At the request of Sri M.U.Ahmed,
learned counsel for the respondents the
case is adjourned to 6.4.05.

[Signature]
Vice-Chairman

pg

6.4.2005

At the request made by Mr.S.Nath,
learned counsel appearing on behalf of Mr.
M.Chanda, learned counsel for the appli-
cant the case is posted on 13.4.2005.

[Signature]
Vice-Chairman

bb

13.4.2005

At the request made by Mr.M.Chanda,
learned counsel for the applicant the
case is adjourned to 11.5.2005. post the
case alongwith O.A.206/2004.

[Signature]
Vice-Chairman

bb

11.5.2005

Mr.S.Nath, learned counsel seeks for
adjournment of the case on behalf of
Mr.M.Chanda, learned counsel for the
applicant. post for hearing on 18.5.2005

[Signature]
Vice-Chairman

bb

5-4-05

No W/S has been

Filed.

[Signature]

12-4-05

No W/S has been

Filed.

[Signature]

17-5-05

No W/S has been

Filed.

[Signature]

5

Office Notes	Date	Order of the Tribunal
<p>14-6-05</p> <p>No WB has been noted.</p> <p>g</p>	<p>18.5.05.</p>	<p>Mr.B.C.Pathak and Ms.U.Das learned counsel appearing on behalf of the BSNL submits that a preliminary main and impor- tant question as to the jurisdiction of the Tribunal is involved and they would like to address on the said question as preliminary issue. Mr.M.Chanda learned counsel for the applicant in O.A.No.92 of 2004 submits that the facts and circumstances of the applicant in that case is different. post these cases alongwith other cases in respect of which list is furnished by Mr.B.C.Pathak for hearing on 8.6.05.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>14-6-05</p> <p>No WB has been noted.</p> <p>g</p>	<p>8.6.05</p>	<p>Since the jurisdiction aspect regarding maintainability of the application against the BSNL, as respondent is raised in this application, I am of the view that the matter must be heard by the Division Bench.</p> <p>post on 16.6.05 before Division Bench.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>pg</p>		

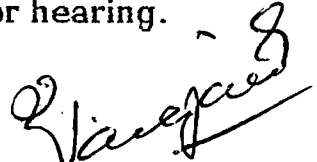
16.6.05

After hearing the counsel for the parties at some length on the question of preliminary jurisdiction we feel that the parties have not placed all the relevant records before us. In the circumstances we direct the parties to file all the relevant papers, memoranda ^{of understanding} of the Central Government and the BSNL for a proper consideration of the question of jurisdiction.

Post on 22.7.2005 for hearing.

5.8.05
W/s Submitted
by the Respondents.


Member


Vice-Chairman

pg

22.7.2005

Since Mr.B.C.Pathak, learned counsel for the BSNL is unwell post on 10.8.2005.


Member


Vice-Chairman

bb

10.8.2005

Post this case on 16.8.2005 at 2.30 P.M.


Member


Vice-Chairman

mb

16.8.05.

Mr.B.C.Pathak, learned counsel for the BSNL submits that he is not well and requires time to fully recover. Therefore, all these matters has to be adjourned to another date.

Post the matter on 22.11.05.


Member


Vice-Chairman

lm

22.11.2005

Post before the next Division Bench.


Vice-Chairman

mb

X

2.1.2006

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is dismissed as without jurisdiction with liberty to the applicants to approach the appropriate forum.

Member

Vice-Chairman

mb

19.1.06

Copy of the order has been sent to the office for issuing the same to the applicant as well as to the addressee for the Respondent.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. Nos. 107/2004

DATE OF DECISION: 02.01.2006

Sri J. Hazarika & Ors.

APPLICANT(S)

Mr. D.K. Saikia, Mr. Chanda,
Mrs. R.S. Chowdhury, Ms. S. Das

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Others

RESPONDENT(S)

Ms. U. Das, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR. N.D. DAYAL, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgments?
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 Vice-Chairman.

[Signature]
9

.....

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 107 of 2004

Date of Order: This the 2nd January 2006.

The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.
The Hon'ble Mr. N.D. Dayal, Administrative Member.

1. Sri Jayanta Hazarika
Son of Sri Deben Hazarika
Resident of Village Puranigudam Teliagaon
P.S. - Sadar, Dist - Nagaon, Assam.
2. Sri Nitish Ranjan Das
Son of Rama Kanta Das
P.O. - - Panigaon
Dist. - Nagaon, Assam.
3. Md. Abdul Salam
Son of Md. Abdul Rahman
P.O. - Rupahihat, Dist. - Nagaon, Assam.
4. Sri Ganesh Borah
Son of Late Thelai Borah
Vill. + P.O. - Barangatoli
Dist. - Nagaon, Assam.
5. Sri Mohan Ch. Kalita
Son of late Dimbeswar Kalita
Village - Bhutaigaon
P.O. - Uriagaon, P.S. - Sadar
Dist. - Nagaon, Assam.
6. Sri Chandramal Senapati
Son of Shri Nirmal Senapati
Village - Bhalukmari, P.O. - Jajari
P.S. - Jajari, Dist - Nagaon, Assam.
7. Sri Kishan Bordoloi
Son of Sri Sudhan Shing Bordoloi
Village - Borapujia, P.O. - Borapujia
P.S. - Raha, Dist. - Nagaon, Assam.
8. Sri Babul Ch. Nath
Son of Sri Milaram Nath
Village - Natumagaon (Nabari), P.O. - Natumagaon
P.S. - Morigaon, Dist. - Morigaon.

9. Sri Golap Bora
Son of late Bhugeswar Bora
Village - Sakmuthi, P.O. - Hatbor
P.S. - Jakhalabandha, Dist. - Nagaon, Assam.
10. Sri Thuleswar Nath
Son of Late Kanak Ch. Nath
Village - Palashguri, P.O. - Gandhibari
P.S. - Raha, Dist. - Nagaon, Assam.
11. Sri Raplal Gaonkhowa
Son of late Ram Sing Gaonkhowa
Village - Katahguri, P.O. - Charagaon
P.S. - Raha, Dist. - Nagaon, Assam.
12. Sri Putul Deuri
Son of Late Subhewar Deuri
Village - Khaplang Kushi, P.O. - Borapujia
P.S. - Raha, Dist. - Nagaon, Assam.
13. Sri Pramod Deka
Son of Sri Rama Deka
Village - Pub-Borkola, P.O. - Borkola
P.S. - Sadar, Dist. - Nagaon, Assam.
14. Sri Kantheswar Nath
Son of Sri Maliram Nath
Village - Natuwagaon, Nabari, P.O. - Natuwagaon
• P.S. - Morigaon, Dist - Morigaon, Assam.

... Applicants

By Advocates Mr. D.K. Saikia, Mr. M. Chanda, Mrs. R.S.
Chowdhury, Ms. S. Das.

- Versus -

1. The Union of India
Ministry of Communication
Deptt. of Telecom, New Delhi.
(Represented by the Secretary, Telecom Commission,
New Delhi).
2. The Chief General Manager,
Assam Telecom Circle, Ulubari, Guwahati.
3. The Telecom District Manager,
Nagaon Telecom District, Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.)
Nagaon Sub Division, Nagaon, Assam.
5. Sri S.C. Topadar,
Divisional Engineer (P & A)
Telecom District, Nagaon.

... Respondents.

By Ms. U.Das, Addl. C.G.S.C.

ORDER (ORAL)SIVARAJAN. J. (V.C.)

Heard Mr. M. Chanda, learned counsel on behalf of Mr. D.K. Saikia, learned counsel for the applicants and Ms. U. Das, learned Addl. C.G.S.C. for the BSNL.

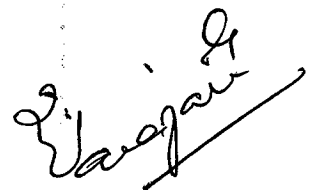
2. The matter relates to regularization of casual labours in the Bharat Sanchar Nigam Limited (BSNL for short). Ms. U. Das, Addl. C.G.S.C. for the BSNL has raised a preliminary objection regarding jurisdiction in the written statement. She has also placed before us a decision of the Hon'ble Gauhati High Court rendered in W.P. (C) No. 1603/2004 and connected cases decided on 28.09.2005 in support.

3. Mr. M. Chanda, counsel on behalf of Mr. D.K. Saikia, counsel for the applicants submits that he is aware of the said decision. We find that the Gauhati High Court in the above mentioned decision, in regard to the regularization of the casual labours in the BSNL, has held that in the absence of a notification under Section 14(2) of the Administrative Tribunals Act 1985 this Tribunal is not having jurisdiction over matters relating to BSNL. Admittedly, there is no such notification. In the light of the above, we hold that this application is not maintainable. Accordingly, the application is dismissed as without jurisdiction with liberty to the applicants to approach the appropriate forum for relief.

Issue copy to the counsel for the parties.



(N. D. DAYAL)
ADMINISTRATIVE MEMBER



(G. SIVARAJAN)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 107 of 2004

Sri Jayanta Hazarika & Ors.

-Versus-

The Union of India & Ors.

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Filed by

(Mrs. R.S. Chowdhury)

Advocate

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

Original Application No. 107/2004.

Sri Jayanta Hazarika & Ors.

... Applicants

- Versus -

Union of India & Ors.

... Respondents.

LIST OF DATES/SYNOPSIS

- | | | |
|----|------------|--|
| 1. | 1988 | The applicant Nos. 1 to 6 were appointed as Casual Workers under the Telecom Department. |
| 2. | 1998 | <p>The applicant Nos. 7 to 14 were appointed as Casual workers under the Telecom Department</p> <p>Copies of some such Certificates issued by JTO as well as ^{SB}wherein the Nos. of days of service rendered by each applicants since 1988/1998 has been categorically recorded are annexed as ANNEXURE – A Series. (Pages – 14 to 25)</p> |
| 3. | 1998-04 | The applicants continue to render the services under the Telecom Department registered Class – I contractors. Copies of the Certificate issued in respect of some of the applicants by the registered Class – I Contractor for the period 98-04 are marked as ANNEXURE – B Series. (Pages – 26 to 33) |
| 5. | 28.09.2001 | <p style="text-align: right;">28.7.2001</p> <p>Copy of the Order dated ^{28.7.2001} passed by this Hon'ble Tribunal in O.A. No. 316/2000 where this Tribunal was pleased to direct the authorities concerned to confer temporary status on all the eligible casual employees. (Annexure – C, Pages 34 to 36)</p> |
| 6. | 15.06.2001 | During the pendency of O.A. No. 316/2000 aforesaid, the SDE (Admn.), Nagaon vide letter dated 15.06.2001 directed the applicants to appear before the verification Committee on 22.06.2001. |

7. 22.06.2001 Applicants appeared before the verification Committee on 22.06.2001 with all relevant papers.
8. 13.08.2001 The authorities vide impugned Orders dated 13.08.2001 informed the applicants that they could not satisfy the eligibility criteria and hence could not be granted temporary status.
- (Annexure – D1, D2, Page – 37 to 42).
9. 2002 Despite such impugned Orders, the applicants continued to render their services under the Telecom Department and in 1991 ²⁰⁰² other similarly placed casual employees approached this Hon'ble Tribunal by way of O.A. No. 105/2002.
10. 03.06.2003 This Hon'ble Tribunal was pleased to disposed of O.A. No. 105/2002 directing grant of temporary status to applicants therein. Applicants herein praying for similar relief.
- Copies of the order dated 03.06.2003 of this Hon'ble Tribunal in O.A. NO. 105/2002 is annexed as Annexure – E (Pages – 43 to 49).

PRAYER:

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order under letter No. 6-182/CAT/2001-02 dated 13.08.2001 (Annexures – D1 & D2.).
- 8.2 That the Hon'ble Tribunal be pleased to direct the Respondents to grant temporary status to all the applicants in the light of the directions contained in the Judgment and Order dated 28.09.2001 passed in O.A. Nos. 316/2000 and Order dated 03.06.2003 in O.A. No. 105/2002 and also be pleased to direct the respondents to regularise the service of the applicants.
- 8.3 Costs of the application.
- 8.4 Any other relief to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

Filed by

(Mrs. R.S. Chowdhury)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

(An Application under Section 19 of the Administrative Tribunals
Act, 1985.)

Filed by
The Applicant's
Through
MRS. R. S. Chowdhury.
Advocate
06/05/04,

ORIGINAL APPLICATION NO. 107/2004

BETWEEN

1. Sri Jayanta Hazarika
Son of Sri Deben Hazarika
Resident of Village Puranigudam Teliagaon
P.S. Sadar, Dist. – Nagaon, Assam.
2. Sri Nitish Ranjan Das
Son of Rama Kanta Das
Resident of
P.O. – Panigaon
Dist. – Nagaon, Assam.
3. Md. Abdul Salam
Son of Md. Abdul Rahman
P.O. – Rupahihat, Dist. – Nagaon, Assam.
4. Sri Ganesh Borah
• Son of Late Thelai Borah
• Vill + P.O. – Barangatoli
Dist. – Nagaon, Assam.
5. Sri Mohan Ch. Kalita
Son of Late Dimbeswar Kalita
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P.O. – Uriagaon, P.S. – Sadar,
Dist. – Nagaon, Assam.
6. Sri Chandramal Senapati
Son of Shri Nirmal Senapati
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P.S. – Jajari, Dist. – Nagaon, Assam.
7. Sri Kishan Bordoloi
Son of Sri Sudhan Shing Bordoloi
Village – Borapujia, P.O. – Borapujia
P.S. – Raha, Dist. – Nagaon, Assam.
8. Sri Babul Ch. Nath
Son of Sri Milaram Nath
Village – Natumagaon (nabari), P.O. Natumagaon
P.S. – Morigaon, Dist. – Morigaon.

9. Sri Gopal Bora
Son of Late Bhugeswar Bora
Village – Sakmuthi, P.O. – Hatbor,
P.S. – Jakhalabandha, Dist. – Nagaon, Assam.
10. Sri Thuleswar Nath
Son of Late Kanak Ch. Nath
Village – Palashguri, P.O. – Gandhibari
P.S. – Raha, Dist. – Nagaon, Assam.
11. Sri Raplal Gaonkhowa
Son of Late Ram Sing Gaonkhowa
Village – Katahguri, P.O. – Charagaon,
P.S. – Raha, Dist. – Nagaon, Assam.
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Son of Late Subheswar Deuri
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P.S. – Raha, Dist. – Nagaon, Assam.
13. Sri Pramod Deka
Son of Sri Rama Deka
Village – Pub-Borkola, P.O. – Borkola
P.S. – Sadar, Dist. – Nagaon, Assam.
14. Sri Kantheswar Nath
Son of Sri Maliram Nath
Village – Natuwagaon, Nabari, P.O. – Natuwagaon
P.S. – Morigaon, Dist. – Morigaon, Assam.

... **APPLICANTS**

- AND -

1. The Union of India,
Ministry of Communication,
Deptt. of Telecom, New Delhi,
(represented by the Secretary, Telecom Commission, New Delhi.).
2. The Chief General Manager,
Assam Telecom circle,
Ulubari, Guwahati.
3. The Telecom District Manager,
Nagaon Telecom District,
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.),
Nagaon, Sub-Division,
Nagaon, Assam.
5. Sri S.C. Topadar,
Divisional Engineer (P & A)
Telecom District, Nagaon.

... **RESPONDENTS.**

DETAILS OF THE APPLICATION:

1. **PARTICULARS OF ORDERS AGAINST WHICH THIS APPLICATION IS MADE:**

This application is made against the impugned orders issued under letter dated 13.08.2001 (Annexures – D1 & D2) whereby the claim of the applicants for grant of temporary status have been rejected in total violation of the Hon'ble Tribunal's Judgment and Order dated 28.09.2001 passed in O.A. No. 316/2000. This application has further been filed praying for a direction upon the respondents to confer temporary status to the applicants in terms of the direction contained in several orders passed by this Hon'ble Tribunal in similar matters, with all consequential service benefits.

2. **JURISDICTION OF THE TRIBUNAL:**

The Applicants declare that the subject matter of the application is well within the jurisdiction of this Hon'ble Tribunal.

3. **LIMITATION:**

The Applicants further declare that this application is filed within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. **FACTS OF THE CASE:**

4.1 That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India and the laws framed thereunder.

4.2 That your applicants beg to state that the grievances and relief sought for in this application are common and as such, the applicants pray for grant of permission under Section 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 for applying jointly.

4.3 That the applicants state that they have been appointed/engaged as Casual Workers under the S.D.E (Phones), Nagaon, i.e. the Respondent No. 4 on daily wages basis. The date of joining of the applicants varies

from year to year and the same are tabulated herein below for the sake of convenience:

<u>Applicant No.</u>	<u>Name</u>	<u>Date/Year of engagement as Casual Labourer</u>
1.	Jayanta Hazarika	01.01.1988
2.	Nitesh Ranjan Das	Since 1991.
3.	Md. Abdul Salam	Since 1988.
4.	Ganesh Borah	01.01.1988
5.	Mohan Ch. Kalita	01.01.1988
6.	Chandramal Senapati	01.04.1988
7.	Kishan Bordoloi	Since 1998
8.	Babul Ch. Nath	Since 1998
9.	Gopal Bora	Since 1998
10.	Tuleshwar Nath	Since 1998.
11.	Ruplal Gaonkhowa	Since 1998
12.	Putul Deuri	Since 1998
13.	Promod Deka	Since 1998
14.	Kanteswar Nath	Since 1998

- 4.4 That the applicants state that although the applicants were engaged as Casual Workers under the Telecom Department with due approval of the JTO, Lumding, However, they have been entrusted with not just casual works but highly technical jobs of Air Conditioner Operators, particularly the Applicant Nos. 1 to 6 herein. It is further stated that the payment of daily wages in respect of the Applicant Nos. 1 to 6 were regulated in terms of the rates prescribed for the causal workers although the nature of job entrusted to them were superior to that entrusted to other causal employees. Several certificates have been duly issued in respect of the applicants by the concerned JTO as well as the SDE wherein the number of days of service rendered by each applicant since 1988 has been categorically recorded. It is also evident from the above certificates that the applicants have worked under the Telecom Department on daily wage basis and their payments were made under the ACG-17 System.

Copies of the some such certificates in respect of some of the applicants are annexed herewith and marked as ANNEXURE – A series.

The applicants crave leave of this Hon'ble Court to produce copies of such certificates in respect of the other applicants as and when deemed necessary by this Tribunal.

- 4.5 That the applicants state that all the applicants particularly the applicant Nos. 1 to 6 have been continuously working under the Sub-Divisional Engineer/JTO, Nagaon on daily wage basis without any break till 31.08.1998. In the meantime, the Department of Telecommunication had launched a scheme namely Casual Labourers (~~Grant~~ ^{Grant} of Temporary Status and Regularisation) Scheme of 1989. The applicants accordingly were entitled to conferment of temporary status as they fulfilled all criteria laid down in the said scheme. Further, as regards the applicant Nos. 7 to 14, they were engaged as casual employees in the Telecom Department prior to 1998 and in the month of February 1998, the applicants were forcefully sent to work on contract basis under certain registered Class I Contractors of Telecom Department. Even in the case of applicants Nos. 1 to 6 despite having worked in the Department for more than 16 (Sixteen) years, they were refused 'temporary status' and infact were also forced to work under registered Class-I Contractors from February, 1998. This policy of making the applicants work under Contractors since 1998 had been done with the sole intention of depriving the applicants the benefit of temporary status as per another scheme of 1998 which envisages that the applicants ought to have been in service under the Telecom Department as on 01.08.1998. It is categorically stated that the Respondent authorities with a malafide intention have ignored the services rendered by the applicants since their initial date of engagement and have deliberately resorted to such illegal actions of forcing the applicants to work under Contractors, since February, 1998.

Copies of certificates issued in respect of some of the applicants by the registered Class – I Contractors for the period 1998 – 2004 is annexed herewith and marked as ANNEXURE – B series.

The applicants further crave leave of this Hon'ble Tribunal to produce certificates so issued by the registered Class-I Contractors, in respect of the applicants for the period 1998 – 2004 as and when required by this Hon'ble Tribunal.

4.6 That despite several representations made by the applicants before the authorities concerned, no positive response was forthcoming and accordingly several other similarly situated casual employees approached this Hon'ble Tribunal by way of Original Application praying inter-alia for conferment of temporary status. Some such applications are O.A. Nos. 107/1998, 192/1998, 316/2000. It is pertinent to mention herein that vide order dated 31.08.1999 this Hon'ble Tribunal while disposing of O.A. No. 107/1998 and O.A. No. 192/1998 had directed the applicants therein to submit individual representations and further directed the respondents to examine and scrutinize the cases of the casual employees. Accordingly, a Committee was constituted by the Chief General Manager, Telecom and the cases of most of the casual employees were rejected. Being aggrieved, by such rejection orders several other casual employees filed O.A. Nos. 316/2000 and 140/2000 challenging the validity of such cancellation orders. This Hon'ble Tribunal once again vide order dated 28.09.2001 was pleased to direct the authorities concerned to confer temporary status on all the eligible casual employees.

A copy of the Order dated 28.09.2001 passed by this Hon'ble Court in O.A. No. 316/2000 is annexed herewith and marked as ANNEXURE – C.

4.7 That however, during the pendency of the said O.A. No. 316/2000, the SDE (Admn.), Nagaon vide letter under Memo No. E-182/CAT/01-02/57 dated 15.06.2001 directed the applicants herein to appear before the verification Committee so constituted in this regard with all relevant documents on 22.06.2001 allegedly on the basis of O.A. No. 316/2000. The applicants accordingly appeared before the said verification Committee on 22.06.2001 alongwith all the relevant papers. However, to the utter shock and surprise of the applicants, the Respondent authorities vide impugned Order under Memo No. E-182/CAT/2001-02/ dated

13.08.2001 informed the applicants that as the applicants could not satisfy the eligibility criteria as laid down in the scheme for conferment of temporary status mazdoor/regularisation their cases could not be considered favourably. It was further stated that the applicants had not been in engagement under the Department since June, 1998, and the Department was bound to consider only the cases of such eligible casual labourers for conferment of TSM against such vacancies/work. Accordingly, the cases of all the applicants were rejected.

A copy of the letter dated 15.06.2001 of the Respondent No. 4, the details of the findings by the verification Committee as well as the impugned order dated 13.08.2001 in respect of the Applicant No. 1 and the Applicant No. 4 are annexed herewith and marked as **ANNEXURES – D1 & D2.**

The applicants crave leave of this Hon'ble Tribunal to produce copies of such letters issued in respect of the other applicants, at the time of hearing of the case.

4.8 That the applicants further deem it pertinent to mention herein that the said impugned order dated 13.08.2001 had been passed prior to the order dated 28.09.2001 passed by this Hon'ble Tribunal in O.A. No. 316/2000. As such, the applicants had a genuine belief and hope that the authorities concerned would consider the case of the applicants afresh, in view of the order dated 28.09.2001, particularly in view of the fact that all the applicants continued to render their services under the Telecom Department and were continued to be paid under the ACG-17 system, although payments were made through the registered Class - I Contractors under whom the applicants were forcefully made to work. However, the authorities have been sleeping over the matter and infact the applicants have been wrongfully deprived of their legitimate due of grant of temporary status.

4.9 That the applicants further state that a few other causal employees who had been serving under the Telecom Department since 1991 and whose cases had been similarly rejected as that of the applicants, had approached this Hon'ble Tribunal by way of O.A. No. 105/2002

challenging the legality and validity of such impugned orders whereby the claims of the applicants therein for grant of temporary status had been rejected. This Hon'ble Tribunal after hearing the parties and perusing the records in respect of those applicants was pleased to set aside the impugned order therein and further direct the respondents to take necessary steps for conferment of temporary status to the applicants therein. Be it stated herein that the case of the applicants herein is similar to the case of those casual employees who had approached this Hon'ble Tribunal by way of O.A. No. 105/2002. As such, the applicants pray that after due perusal of records similar orders may be passed in their favour as well by this Hon'ble Tribunal.

Copy of the Order dated 03.06.2003 passed in O.A. No. 105/2002 by this Hon'ble Tribunal is annexed herewith and marked as ANNEXURE – E.

4.10 That the applicants state that it is also relevant to mention that although the schemes so launched by the Telecom Department do not envisage any such specific terms and conditions for such contract work as is being rendered by the applicants, however, the respondent authorities with a malafide intention have termed them as 'contract workers' in order to avoid future litigation as well as to deny them their valuable right for regularisation and grant of temporary status.

4.11 That the applicants humbly state that a bare glance at the statements showing details in respect of the applicants, which have been annexed herewith as Annexure – A series would make it evident that the applicants have been rendering their services since their initial date of appointment, in some cases since 1988. The said statements also reveal that the applicants were engaged as Casual Labourer under the Telecom Department and have completed more than 240 days in several years. As such, the impugned orders dated 13.08.2001 passed in respect of the applicants rejecting their claim for conferment of temporary status on the ground that the applicants have not completed 240 days, is per se illegal, arbitrary and malafide. Such impugned actions have been resorted to with the sole purpose of denying the applicants their legitimate due.

4.12 That the applicants further state that with the sole intention of depriving the applicants the grant of temporary status, the respondent authorities have forced the applicants to work under contractors. This action was taken with the sole intention of not keeping the applicants in service as on 01.08.1998, since as per the new scheme, the eligibility criteria so laid down was engagement in service as on 01.08.1998 and 240 days of service in any year prior to that. The claim of the applicants has been rejected in total violation of the Order dated 28.09.2001 passed in O.A. 316/2000 as well as several other Orders passed by this Hon'ble Tribunal in a series of litigations. Further, the impugned order has been passed without consultation of the records available with the respondent authorities. As such, it is a fit case where Your Lordships may be pleased to intervene into the matter and on admitting the application be further pleased to call for the records of the case particularly with regard to the applicants.

4.13 That the applicants further deem it pertinent to mention herein that the duty chart/duty roster so maintained by the Chief Technical Supervisor, Telephone Exchange or by the JTO in charge would reveal that the applicants were working as Casual Labourer and were required to serve more than 8 hours in a day and at times were also required to carry out cable line works etc. even during night hours. Further it is evident that the applicants have been working as Casual Mazdoors for more than 240 days in each year (as per Annexure – A Series) and as such the applicants have acquired a valuable and legal right for grant of temporary status as well as regularisation under the respondent authorities.

4.14 That your applicants finding no other alternative have been forced to approach the Hon'ble Tribunal due to malafide exercise of power by the respondent No. 5 rejecting the claim for grant of temporary status to the applicants, leveling deliberate false statement and allegations which are contrary to their own records. Therefore, this Hon'ble Tribunal be pleased to direct the respondents for grant of temporary status and regularisation of the applicants by setting aside the impugned orders dated 13.08.2001 (Annexures – D1 and D2). Be it stated that the applicants have fulfilled all the requirements for grant of temporary

status in terms of the Scheme of casual labourers (Grant of temporary status and regularisation) 1989 of Telecom department.

4.15 That this application is made bonafide and for the cause of justice.

5. **GROUND'S FOR RELIEF/S WITH LEGAL PROVISIONS:**

- 5.1 For that the impugned orders dated 13.08.2001 (Annexures – D1 & D2) have been passed with a deliberate attempt to avoid implementation of the Judgment and Orders dated 28.09.2001 passed in O.A. No. 316/2000 and several other Order passed by this Hon'ble Tribunal in series of litigations.
- 5.2 For that the applicants have rendered 240 days of service in each calendar year as required under the scheme since 1988 onwards, moreover, the applicants have been entrusted with regular nature of works and payments have been made to them under the ACG – 17 system.
- 5.3 For that the applicants have acquired a valuable and legal right for grant of temporary status and regularisation in terms of the relevant scheme issued by the Department of Telecommunication from time to time, in view of the long periods of service rendered by them.
- 5.4 For that it is evident from the records that the applicants have been paid wages all along at the departmental rate and they were very much in service under the respondents as on 01.08.1998 irrespective of the fact that they have been forced on work under Contractors and have rendered more that eight hours of service in a day round the clock in all days of a week/month.
- 5.5 For that the job which the applicants have been engaged since 1998-91 onwards is of perennial nature as such the respondents are duty bound to grant temporary status under the relevant scheme issued by the Telecom Department from time to time.
- 5.6 For that the documents issued by the respondents from time to time clearly establishes beyond all doubts that the present applicants have

been engaged on daily wages basis and the applicants are also serving under the respondents for more than 240 days in each year, as such they are entitled to grant of temporary status and regularisation.

5.7 For that the grant of temporary status cannot be denied to the applicants on the alleged ground that they have been engaged on contract basis with effect from 01.09.1998 or even prior to that, since the applicants have been rendering their services for several years altogether and as such, their claim for regularisation/grant of Temporary Status cannot be ignored, since they are eligible as per the 1989 Scheme as well as the subsequent schemes in this regard.

5.8 For that the present applicants are still working under the respondents and the wages are paid by the respondents through one Sri Anup Laskar who is a Class – I registered Contractor under the Telecom Department.

5.9 For that the respondents are utilizing the services of the applicants through Contractors with effect from 01.09.1998 or even prior to the said date with an ulterior motive just to deny the benefit of temporary status and regularisation to the present applicants.

6. • **DETAILS OF REMEDIES EXHAUSTED :**

That the applicants declare that they have availed of all remedies available within their reach, as would be revealed from paragraphs 4 above and they have no other alternative and other efficacious remedy left, than to file this application.

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

That the applicants declare that no such writ petition or suit has been filed regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. **RELIEFS SOUGHT FOR:**

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicants shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs:

8.1 That the impugned order issued under letter Nos. E-182/CAT/2001-02 dated 13.08.2001 and other similar letters issued to all the applicants be set aside and quashed. (Annexures – D1 & D2).

8.2 That the Hon'ble Tribunal be pleased to direct the Respondents to grant temporary status to all the applicants in the light of the directions contained in the Judgment and Order dated 28.09.2001 passed in O.A. Nos. 316/2000 and Order dated 03.06.2003 in O.A. No. 105/2002 and several other orders passed in similar litigation and also be pleased to direct the respondents to regularise the service of the applicants.

8.3 Costs of the application.

8.4 Any other relief or reliefs to which the applicants are entitled to, under the facts and circumstances of the case as may be deemed fit and proper by the Hon'ble Tribunal.

9. **INTERIM ORDER PRAYED FOR :**

That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicants to continue in service in the same capacity till disposal of this application.

10.

This application is filed through Advocate.

11. **PARTICULARS OF THE IPO.**

i. I.P.O. NO.	: 116389135
ii. Date of Issue	: 26/4/04.
iii. Issued from	: G. P.O.
iv. Payable at	: Guwahati

12. **DETAILS OF ENCLOSURES:**

As stated in the Index.

28

VERIFICATION

I, Shri Jayanta Hazarika, son of Shri Deben Hazarika, aged about years, resident of Village – Puranigudam Teliagaon, in the district of Nagaon, Assam, do hereby solemnly affirm and verify that I am the Applicant No. 1 in the instant application and as such, I am fully conversant with the facts and circumstances of the case. The statements made in paragraphs 1, 2, 3, 4.1, to 4.3, 4.4(pt), 4.5(pt), 4.6(pt), 4.7(pt), 4.8, 4.9(pt), 4.10 to 4.15, 5 to 12 are true to my knowledge and those made in paragraphs 4.4(pt), 4.5(pt), 4.6(pt), 4.7(pt), 4.9(pt). are matters of records derived therefrom, which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 30th day of April, 2004 at Guwahati.

Shri. Jayanta Hazarika.

SIGNATURE OF THE APPLICANT

STATEMENT SHOWING DETAILS IN RESPECT OF CASUAL
AFTER 30-3-85 (EXCLUDING THE CASUAL LABOURERS RECRUITED BETWEEN
31-3-85 TO 22-6-88 FOR PROJECT/RAILWAY ELECTRIFICATION WORKS.)

1. Name of the casual labourer :- *Shri. Rajendra Singh*
2. Date of Birth :- 2/7/70
3. Date of Appointment as :- 1/1/88
4. Period of service each year
1985, 86, 87, 88, 89, 90, 91, 92, 93 :- 1988 = 240 days 1992 = 240 days
(Total no. working days) 1989 = 302 " 1993 = 240 "
1990 = 312 " 1991 = 240 "
5. Whether Employment Exchange procedure was followed in not reason thereof 2050/95 :-
6. Reason for employing casual labourers after 31-3-85 :- 20/10/70 Date 1. 2050/95
of 2050/95 Labourer etc. Casual
labourer who was employed on 20/10/70
2050
7. Officer who approved employment of casual labourers. :- JTO / Lundy
8. The reason for continuance of casual labourers service in spite of orders for termination. :- As there was no regular labourer in the section the casual labourer was engaged continuously for Christmas work and after that work in regular section. As the section was regular work the regular labourer was necessary for smooth running of the section.

Signature of SL/LI period from 1988 to 1993
B. S. Choudhary S.I.(C)

Signature of concerned JTO period from _____ to _____
Counter signature for the period from 20/10/70 to 20/10/70

SDOT, Seal

JTO, Seal
20/10/70
J. T. O.
Chowdhary
20/10/70

Certified to be true Copy
[Signature]
Rekha Sireetha Chowdhary
ADVOCATE

Certified that Shri. Jayanta Hazarika
Hailbar, Jorhat an Inhabitant of Village
P.O. Talier, Jorhat, Assam
 Dist. Nagaon (Assam). He is working under me as Casual Mazdoor on
 ACG-17 as follows:-

Jan/88	21	Jan/90	26	Jan/92	22
Feb/88	19	Feb/90	26	Feb/92	19
March/88	24	March/90	25	March/92	18
April/88	22	April/90	26	April/92	19
May/88	20	May/90	26	May/92	19
June/88	18	June/90	26	June/92	18
July/88	19	July/90	26	July/92	19
Aug/88	20	Aug/90	26	Aug/92	20
Sept/88	18	Sept/90	26	Sept/92	21
Oct/88	19	Oct/90	26	Oct/92	25
Nov/88	20	Nov/90	26	Nov/92	20
Dec/88	20	Dec/90	27	Dec/92	20
Total:	240	Total:	312	Total:	240

Jan/89	26	Jan/91	20	Jan/93	22
Feb/89	25	Feb/91	20	Feb/93	21
March/89	25	March/91	25	March/93	25
April/89	25	April/91	21	April/93	23
May/89	25	May/91	20	May/93	21
Jun/89	25	Jun/91	19	Jun/93	22
July/89	24	July/91	19	July/93	21
Aug/89	24	Aug/91	20	Aug/93	22
Sept/89	25	Sept/91	18	Sept/93	21
Oct/89	25	Oct/91	19	Oct/93	22
Nov/89	25	Nov/91	20	Nov/93	22
Dec/89	26	Dec/91	20	Dec/93	22
Total:	302	Total:	240	Total:	266

Rabindra Kumar
 S.O.

10/10/94
 J. T. O. Nagaon
 District Nagaon

Certified to be true Copy

Rakhee Pruthi Chowdhury
 ADVOCATE

PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

Sri. Nitish Ranjan Das.

30

Year	Month	No. of Days	Mode of payment i.e. Master Roll/ AGU 17 Particulars i.e. Voucher Nos.	Amount	Engaged by whom	Billing/ passing authority	Name of A.O. who has paid
1991	March	30 days	Acc-12				
1992	March	31 days	Acc-17	1250/-	J.T.O. M.W.	DIE M/W (P)	A.O. of Director M.W. R.T. Gwal
"	April	30 days	101 at 9.9.72	760/-			
"	May	31	View 295 at 12.7.92	1288/-			
"	June	30	View 377 at 29.7.92	1288/-			
"	July	31	View 298 at 29.7.92	1288/-			
"	August	31	View 378 at 29.7.92	1288/-			
1995	June	30 days					
"	July	31 days					
"	August	31 days					
"	September	30 days			J.T.O. M.W. (P) M.W. (P) M.W. (P)	DIE M.W. (P) Gwal	A.O. of Director M.W. Trans M.W. Gwal
"	October	31 days					
"	November	30 days					
"	December	31 days					
1996	January	31 days					
1996	February	28 days					
1996	March	31 days					
1996	April	30 days					
1996	May	31 days					
1996	June	30 days					
1996	July	31 days					
1996	August	31 days					
1996	September	30 days					
1996	October	31 days					
1996	November	30 days					
1996	December	31 days					

SIGNATURE OF THE COMMITTEE MEMBERS:

Testify that Sri Nitish Das son of Sri Ratan Kant Das of P.O. No. 1, Nagpur has been working in 1996 for 1998 for inspection of M.D.R.R. K.H.F. no employee no D. is a coolie. He is a simple - hard working and humble

J.T.O.

21/8/2004 S.D.O./S.D.E.

21/8/2004

2

5.2.04

Certified to be true Copy

Rakhee Chowdhury
ADVOCATE

Medical Officer (A.Y.U.)
Purandur St. Disp.
P.O. Purandur, Nagpur
M.S.

- 17 -
To whom it may concern

Engr. Divisional Engineer
ENTRUSTED ENGINEER
Murali Sankar Pigeon
Mangalore 754002

31

It is to certify that Sri Nitish Rajan
S/o Sri Rama Krishna Das inhabitant of para
gach District Nagpur (Assam) was employed
under the order for different types
of works since 1996 to 1998.

Slab of work

1. Maintenance work - Maintenance of R.H.F. HARR
L.S. and power plant.
2. Installation of work - Installation of R.H.F. HARR
and power plant.
3. Cable work (L.C.) - Laying of U.G. cable
etc.

With Success - Box in future.

(M.C. Kachari)

11/6/2001

Engr. Divisional Engineer
ENTRUSTED ENGINEER
Murali Sankar Pigeon
Mangalore 754002

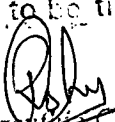
Witnessed

18/1

5.2.04

Medical Officer (A.Y.U.),
Puranigudam St. Dispy.
P. O. Puranigudam, Nagpur
Assam

Certified to be true Copy


Rakhee Sircar Chowdhury
ADVOCATE

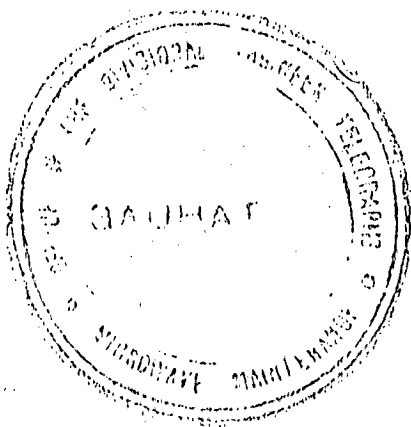
From Shri L.N.Bhattacharjee
D.E M/W (M) ,Gauhati

Dated at Gauhati the 31.10.96

This is to certify that Shri Nitesh Das son of Shri Rama-
Kanta Das of Panigaon, Nagaon has been working as a casual Mazoor
since 1992 in different M/W stations under Nagaon, Mohadevgaon, Kukra-
kata, Jamunamukh, Hojai, Lanka etc) during the absence of Regular staff
on ACO-17.

He is a sincere, honest, hardworking youngman of very
good temperament.

I wish him succeed in life.



[Signature]
DIVISIONAL ENGINEER
MTCB, GUWAHATI

[Signature]

18
5.2.04
Medical Officer (A YU)
Puranigudam St. Dispy.
Puranigudam, Nagaon
APR 11

Certified to be true Copy

[Signature]
Rakhee Srauthia Chowdhury
ADVOCATE

**SHOWING DETAILS IN RESPECT OF CASUAL LABOURERS RECRUITED
30-3-85 (EXCLUDING THE CASUAL LABOURERS RECRUITED BETWEEN
05-10-22-6-88 FOR PROJECT/RAILWAY ELECTRIFICATION WORKS.)**

37

1. Name of the casual Labourer :- MD. Abdul. Gani
2. Date of Birth :- 3.11.69
3. Date of Appointment as :- 1.1.88
4. Period of service each year
1988, 89, 90, 91, 92, 93
(Total no. working days) :- 1988 = 240 days, 1992 = 240 days
1989 = 301 " 1993 = 240 "
1990 = 312 " 1994 = 53
1991 = 240 "
5. Whether Employment Exchange
procedure was followed in not :- reason thereof 21/5/94
6. Reason for employing casual
Labourer after 31-3-85 :- Due to shortage of staff
for the work assigned as casual
7. Officer who approved employ-
ment of casual labourer. :- SDO, Sec
8. The reason for discontinuance
of casual labourers service
in spite of orders for termination. :- As he was found to be
other JTO in various
departments and hence
was not employed in 1994.

Signature of SDO/ML period from 1.1.88 to 31.3.85
MD. Abdul. Gani (1/10/94)

Signature of concerned JTO period from 1988 to 1993
Counter signature for the period from _____

SDO, Sec.

JTO, Sec

*Certified to be true
copy 17/12/94
by
12/12/94*

Certified to be true Copy

Rakhee Sircaria Chowdhury
ADVOCATE

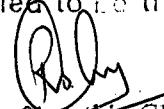
Certified that Md. Abdul Salam 8/0 31
Md. Abdur Rahman
Kuman goan an inhabitant of Village
P.O. Kumare goan
Rupali hat Dist. Nagarn P/S

Jan/ 88	21	Jan / 90	26	Jan/ 92	22
Feb/ 88	19	Feb/ 90	26	Feb / 92	19
March/88	24	March/90	25	March/92	18
April/88	22	April/90	26		
May / 88	26	May / 90	26	May / 92	19
June/ 88	18	June/ 90	26	June/ 92	18
July/88	19	July/ 90	26	July/ 92	19
Aug / 88	20	Aug / 90	26	Aug / 92	20
Sept/ 88	18	Sept/ 90	26	Sept/ 92	21
Oct / 88	19	Oct / 90	26	Oct / 92	25
Nov / 88	20	Nov/ 90	26	Nov / 92	20
Dec / 88	20	Dec/ 90	21	Dec / 92	20
Total :	240	Total :	312	Total :	240

Jan / 89	26	Jan/ 91	20	Jan / 93	22
Feb / 89	25	Feb / 91	20	Feb / 93	21
March/89	25	March/91	25	March/93	25
April/89	25	April/91	21	April/93	23
May /89	25	May / 91	20	May /93	21
Jun /89	25	Jun / 91	18	Jun /93	22
July /89	25	July/ 91	19	July /93	21
Aug / 89	25	Aug / 91	20	Aug / 93	22
Sept/ 89	25	Sept/ 91	18	Sept/ 93	21
Oct / 89	25	Oct / 91	14	Oct / 93	22
Nov / 89	25	Nov / 91	20	Nov / 93	22
Dec / 89	26	Dec / 91	20	Dec / 93	22
Total :	302	Total :	240	Total :	264

Certified that
Md. Abdul Salam
in 88 to 93 for Kumare goan
Rupali hat Dist. Nagarn

Certified to be true Copy


Rakhee Srinath Chowdhury
ADVOCATE

Statement showing details in respect of casual labourers recruited after 30/3/85 (excluding the casual labourers recruited between 31/3/85 to 22/6/88 for project/proj railway electrification works).

- (1) Name of the casual labourers :- *Sri Channash Bana*
- (2) Date of birth :- *1/12/65*
- (3) Date of appointment :- *1/1/88*
- (4) Period of service each year :- *1988 - 240 days 1991 - 260 days*
1985, 86, 87, 88, 89, 90, 91, 92, 93 1989 - 253 " 1992 - 14/R
(Total no. of working days). 1990 - 269 " 1993 - 115
- (5) Whether employment Exchange :- *1922/91*
 procedure was followed if not
 reason there of.
- (6) Reason for employing casual :- *Due to acute shortage*
 Labourers after 31/3/85.
- (7) *J.T.O.*
- (8) Officers who approved employment :- *1922/91 Nagong*
 of casual labourers .
and S.I.O B. Sahani
forwarding.
- (9) The reason for continuance :- *Continuously engaged*
 of casual labourers service *as there was no*
 inspite of orders for termi- *regular employee*
 nation. *in the int of service*

Handwritten notes:
 1. 1/12/65
 2. 1/1/88
 3. 1922/91
 4. 1988 - 240 days
 5. 1989 - 253 days
 6. 1990 - 269 days
 7. 1991 - 260 days
 8. 1992 - 14/R
 9. 1993 - 115 days
 10. 1922/91
 11. 1922/91
 12. 1922/91
 13. 1922/91
 14. 1922/91
 15. 1922/91
 16. 1922/91
 17. 1922/91
 18. 1922/91
 19. 1922/91
 20. 1922/91

Certified to be true copy

Rakhee Sircaria Chowdhury
 ADVOCATE

- 22 -

Statement showing details in respect of casual labourers recruited after 30.3.85 (excluding the casual labourers recruited between 31.3.85 to 22.6.88 for project/Railway Electrification works.

1. Name of the casual labourers:- **SRI MOHAN CH. KALITA**

2. Date of birth :- **01-03-63**

3. Date of appointment as :- **01.1.88**

4. Period of service each year :-

	1988	1989	1990	1991	1992
1985, 86, 87, 88, 89, 90, 91, 92	240	302	312	240	240
93 (Total No working days)				1993 244	1994 (to July) 180

5. Whether employment exchange :- **1244/84**
procedure was followed in not
reason thereof.

6. Reason for employing casual :- **Due to acob shawder**
labourers after 31.3.85.

7. Officer who approved employment :- **J.T.O. Nagon Under**
of casual labourers. **L/M Uma Gagan Pasrujudarn**

8. The reason for continuance :-
of casual labourers service
inspite of orders for termination.

Signature of S.I/L.I. period from

To..... As he was engaged by A.M. J to con
Previous year as he was engaged for various
Capital and m/c work in different group of projects.

Signature of concerned J.T.O. period from **1988** to **1994**

Counter Signature for the period from to

SDE(P)/S.D.O. T/Nagon/Diphu/
Ho Jal/SDE(G)/MGN.

Sri Mohan Ch. Kalita

S.D.O. T/Nagon.

was engaged on NARR tower
erection and VPT connection
to erect the tower works
a.e.s. 2-11-94 to 31-12-94
Mandaga EXORGO.

Sub- **57195**

Transmission T. N.

Office of the P.D. 1

Message 7/2/95

Certified to be true Copy

Rakhee Sraula Chowdhury
ADVOCATE

Certified that

Siri Mohan Ch. Kalita

-23-

Late Dimbeswar Kalita

B/O

Bhatai Joan

P.O.

Uria Joan

an inhabitant of Village

Sadate

Dist.

Nagoun

P/S

Jan/ 88 21
Feb/ 88 19
March/88 24
April/88 22
May / 88 26
June/ 88 18
July/88 19
Aug / 88 20
Sept/ 88 18
Oct / 88 19
Nov / 88 20
Dec / 88 20

Total : 240

Jan / 89 26
Feb / 89 25
March/89 25
April/89 25
May / 89 25
Jun / 89 25
July / 89 25
Aug / 89 25
Sept/ 89 25
Oct / 89 25
Nov / 89 25
Dec / 89 26

Total : 302

Jan / 90 26
Feb/ 90 26
March/90 25
April/90 26
May / 90 26
June/ 90 26
July/ 90 26
Aug / 90 26
Sept/ 90 26
Oct / 90 26
Nov/ 90 26
Dec/ 90 27

Total : 312

Jan/ 91 20
Feb / 91 20
March/91 25
April/91 21
May / 91 20
Jun / 91 18
July/ 91 19
Aug / 91 20
Sept/ 91 18
Oct / 91 14
Nov / 91 20
Dec / 91 20

Total : 240

Jan/ 92 22
Feb / 92 19
March/92 18
April/92 19
May / 92 19
June/ 92 18
July/ 92 19
Aug / 92 20
Sept/ 92 21
Oct / 92 25
Nov / 92 20
Dec / 92 20

Total : 240

Jan / 93 22
Feb / 93 21
March/93 25
April/93 23
May / 93 21
Jun / 93 22
July / 93 21
Aug / 93 22
Sept/ 93 21
Oct / 93 22
Nov / 93 22
Dec / 93 22

Total : 264

*Certified that
Siri Mohan Ch. Kalita
was residing in family section
in 22 to 93 for continuation work
of which more in family book*

John Patate
S.I.

(Certified to be true Copy)

Rakhee Sirendra Chowdhury
ADVOCATE

- 24 -

Certified that Sri Mohan Kalita is working
with me as casual mazdoor in ACH-17 in the
year 1994 as follows: -

Jan '94	-	19	days
Feb '94	-	23	"
March '94	-	30	"
April '94	-	25	"
May '94	-	30	"
June '94	-	30	"
July '94	-	23	"
		<hr/> 180 days	

5/1/95
MARP
Nagaon-782001


P. T. O.
GROUP I
Nagaon

Certified that Sri Mohan Kalita
casual mazdoor was engaged on MARR
tower erection and V.D. connection
MARP at Manjara exch anye
2-11-94 to 31-12-94
Nagaon-782001

Certified to be true Copy


Rakhee Sircalia Chowdhury
ADVOCATE

(cc) (28)

23/800/60
A-48/94-75/78
dt 20/3/94
B9

Stat. etc. showing details in respect of Casual Labourers recruited after 30.3.85 (Excluding the Casual Labourers recruited between 31.3.85 to 22.6.88 for Project/Railway Electrification work)

- (1) Name of the Casual Labourers :- Chandramal Senapati ✓
- (2) Date of Birth :- 1.3.72
- (3) Date of appointment as :- 1.4.88
- (4) Period of service each year
1985.86.87.88.89.90.91.92.93
(Total No of Working days)
1.4.88 to 31.12.88 = 297 days ✓
1.1.89 to 31.12.89 = 313 ✓
1.1.90 to 31.12.90 = 315 ✓
1.1.91 to 31.12.91 = 254 ✓
1.1.92 to 31.12.92 = 234 ✓
1.1.93 to 31.12.93 = 315 ✓
- (5) Whether Employment Exchange procedure was followed if not reason thereof. 1592/92
- (6) Reason for employing casual Labourers after 31.3.85. //
- (7) Officer who approved employment G.K. Das. SP. under S.T.O. Hojree of Casual Labourers.
- (8) The reason for continuance of Casual Labourers Service in spite of orders for termination. of the work in Rly. Shifting replacing section of Peo G.P. main Telephone work, Rly gate phone, fitting pre cut sleep section Marigaon Jn. Jaguri Jn. Mainabari. Shifting Rupahi Samajwari line. Shifting N.S. line. Samaguri Raha. Shivalmuri Anandi col. Highlighting of Railway crossing from Khetki to Nogaai changing Block singly with telegraph line from G.M. to Nogaai closing above period and other S.T.O. Section work also by several L.T. G.K. Das. SP. N. Roy SP. M. Sharma R. Roy SP.

Not eligible as 100
of working days in 1992
as less than 240 days.

20/3/94
Joint Director, C.I.C.
LONG DISTANCE
Machhindra-72001

20/3/94
Joint Director, C.I.C.
LONG DISTANCE
Machhindra-72001

Certified to be true Copy

Rakhee Sircar Chowdhury
ADVOCATE

Regd. Electrical Contractor, State P.W.D.
Tel. : 266666, 266667 and Approved Contractor T.C.R., H.P.C.C. Ltd.

Anup Laskar

SOUTH HAIBARGAON
R.R.B. ROAD
HAIBARGAON - 781001
TEL : 03672-30097

TO WHOM IT MAY CONCERN

This is to certified that Shri. Jayanta Hazarika
.....s/o. Sri. Debbar Hazarika....
is an inhabitant of village Purani gudem. r.p.o. Talangan.
P.S. Samaguri.....in the District of Nagarn...Assam.

He is working in the various Telecommunication works as
like new telephone connection, maintenance work etc. He is
working for the year...1999, 2000, 2001 & 2002...2003 as
details.

I wish him all success in his life.

1999	2000	2001	2002	2003
January, 25 Days	January 27 Days	January 28 Days	Jan. 27 Days	Jan. 28 Days
February, 24 "	Feb. 26 "	Feb. 27 "	Feb. 28 "	Feb. 26 "
March, 26 "	March, 25 "	March 25 "	March. 28 "	Mar. 25 "
April, 27 "	April 28 "	April 27 "	April 27 "	April. 24 "
May, 28 "	May, 25 "	May, 26 "	May, 28 "	May, 30 "
June, 25 "	June 26 "	June, 25 "	June, 26 "	June, 30 "
July, 27 "	July, 27 "	July, 27 "	July, 25 "	July, 27 "
August, 24 "	August 28 "	August. 26 "	August 26 "	August, 28 "
Sept: 20 "	Sept. 24 "	Sept. 29 "	Sept. 29 "	Sept. 29 "
Oct. 24 "	Oct. 26 "	Oct. 26 "	Oct. 28 "	Oct. 26 "
Nov. 26 "	Nov. 28 "	Nov. 25 "	Nov. 25 "	Nov. 28 "
Dec. 27 "	Dec. 27 "	Dec. 28 "	Dec. 29 "	Dec. 27 "

(Anup Laskar) Contractor
Regd. Class - RA
APPROVED (South Haibargaon)
R.R.B. Road, Nagarn-2

Certified to be true Copy

Debari Choudhary
ADVOCATE

- 27 -



Anup Laskar

South Haborigan,
R.R.D. Road,
Nagoun, Assam
PH - 03672-30057

TO WHOM IT MAY CONCERN

This is to certified that Sri Md. Abdul Salam
S/o. Md Abdur Rahman is an inhabitant
of village Kumargan P.O. Kumargan,
P.S. Rupahi in the District of Nagoun, Assam.

He is working in the various Telecommunication works as like New
Telephone Connection, Maintainance works, Maintainance of Marry
Construction works etc. engaged by me since Feb./98 to Feb./2002 and his
performance is commendable.

I Wish his all success in life.

SRI ANUP LASKAR
Regd. Class-II(A) Contractor
South Haborigan
R.R.D. Road, Nagoun-2

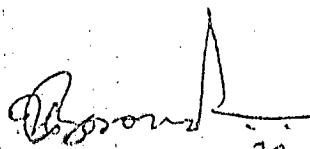
Certified to be true Copy

Rakhee Sirauthia Chowdhury
ADVOCATE

TO WHOME IT MAY CONCERN

This is to certify that
Mr/Ms. MD. Abdul Salam S/O MD. Abdul
Rahman is an inhabitant of Village / Road
Kumer. goan. P.O. Kumer. goan. P.S. Rupahi
in the District Nagaon, Assam, has been working in
various Telecommunication projects like installation and maintenance of
LWE, SEC. CO. SMARR etc engaged by me since
1-03-2002 to 20-03-2004. During the said period his performance
and conduct was very much satisfactory.

I wish his all success in life.


Sri Upen Baruah. 20-3-04
Regd Class - I (A) Contractor
Haiborgaon-Nagaon
Upen Baruah
1st Class. Contractor
Haiborgaon Nagaon

Certified to be true Copy


Rakhee Sircar Chowdhary
ADVOCATE




TO WHOM IT MAY CONCERN

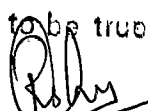
This is to certified that Shri. Ganesh Ch Bora
s/o..(H.)...Thulai Bora.....
 is an inhabitant of village.. Baramanga Taluk...Po. Baramanga Taluk
 P.S.. Khatuwal.....in the District of.. NAGAON...Assam.

He is working in the various telecommunication works as
 like new telephone connection, maintenance work etc. He is
 working for the year.. 1999, 2000, 2001 & 2002.....as
 details.

I wish him all success in his life.

<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
January, 25 days	January 20 days	January 20, Jan. 25 days	Jan. 20, Feb. 25 days
February, 20 "	Feb. 25 "	Feb. 23, Feb. 20, Feb. 25 "	Feb. 20, Feb. 25 "
March, 22 "	March, 26 "	March 20, March 21, March 22 "	March 21, March 22 "
April, 24 "	April 22 "	April 23, April 23, April 24 "	April 23, April 24 "
May, 26 "	May 24 "	May 22, May 22, May 23 "	May 22, May 23 "
June, 24 "	June 25 "	June 24, June 24, June 25 "	June 24, June 25 "
July, 23 "	July 23 "	July 24, July 24, July 25 "	July 24, July 25 "
August, 25 "	August 23 "	August 22, August 22, August 23 "	August 22, August 23 "
Sept. 27 "	Sept. 26 "	Sept. 20, Sept. 20, Sept. 21 "	Sept. 20, Sept. 21 "
Oct. 26 "	Oct. 25 "	Oct. 24, Oct. 24, Oct. 25 "	Oct. 24, Oct. 25 "
Nov. 23 "	Nov. 24 "	Nov. 23, Nov. 23, Nov. 24 "	Nov. 23, Nov. 24 "
Dec. 25 "	Dec. 25 days	Dec. 20 days	Dec. 26, Dec. 26 "


 (Anup Laskar)
SRI ANUP LASKAR
 APPROVED CONTRACTOR (A) Contractor
 South Harbargaon
 R.R.B. Road, Nagaon-2

Certified to be true Copy

Rakhee Siraitia Chowdhary
 ADVOCATE



Regd. 1st class Contractor, State P.W.D.,
Telecommunication, Tourism & Railway and Approved Contractor T.C.U., N.P.C. Ltd.

Anup Laskar

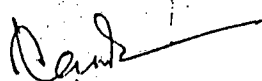
SOUTH HAIBARGAON
R.R.B. ROAD
NAGAON : ASSAM
PH : 03672-30057

TO WHOM IT MAY CONCERN

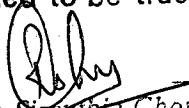
This is to certified that Shri Mohan Chandra Kalita
S/o. Late Simbeswar Kalita is an inhabitant
of village / Road Pshutaignen P.O. Urainingen .
P.S. Sadare in the District of Nagaon Assam.

He is working in the various Telecommunication work's as like New
Telephone Connection, Maintainance works, Maintainance of Marry
Construction works etc. engaged by me since Feb./98 to Feb./2002 and his
performance is commendable.

I Wish his all success in life.


SRI ANUP LASKAR
Regd. Class-I(A) Contractor
South Haibargaon
R.R.B. Road, Nagaon-2

Certified to be true Copy


Rakhee Sharma Chowdhary
ADVOCATE

TO WHOME IT MAY CONCERN

This is to certify that
Mr./Ms. Maham Chandra Kachar S/O Late - Dimbeswar
Kachar is an inhabitant of Village / Road
Bho-lei-gom P.O. Uti-gom P.S. Sadar
in the District Nagaon Assam, has been working in
various Telecommunication projects like installation and maintenance of
UHF, OFC and MARR etc engaged by me since
1-03-2002 to 20-3-2004. During the said period his performance
and conduct was very much satisfactory.

I wish his all success in life.



Sri Upen Baruah. 20-3-04

Regd Class -1(A) Contractor

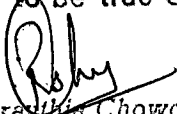
Haiborgaon-Nagaon

Upen Baruah

Regd Class -1(A) Contractor

Haiborgaon-Nagaon

Certified to be true Copy



Rakhee Sirculia Chowdhury
ADVOCATE


TO WHOM IT MAY CONCERN :

This is to certified that Sri Chandramol Sanapati
son of Sri Nimol Sanapati is an inhabitant of Vill./
Road Bhalukmari P.O. Jayari
P.S. Jayari, Dist Nagaon. in the dist. of Nagaon (Assam).

He is working in the various Telecommunication works
like Telephone connection, Maintenance works, Maintai-
nance of L.T. Construction works etc. engaged by me since
1999-2002 and his performance is commendable.

I wish him all success in life.

Date : NAGAON The 27th
Aug '2003
Place :


(ANUP LASKAR)
Sri Anup Laskar
Regd. Class-II(A) Contractor
South Hoibargaon
R.R.B. Road, Nagaon-2
Approved Contractor
Nagaon (Assam).

5000

Certified to be true Copy

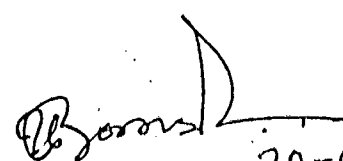

Rekhee Sirauthia Chowdhury
ADVOCATE

28

TO WHOME IT MAY CONCERN

This is to certify that
Mr/Ms. Chandramed Sengapati S/O Nirmal
Sengapati is an inhabitant of Village / Road
Bhatukmati P.O. Grandhibori P.S. Dajewi
..... in the District Nagaon Assam, has been working in
various Telecommunication projects like installation and maintenance of
LHE, OFC and MARR etc engaged by me since
1-01-2003 to 20-03-2004. During the said period his performance
and conduct was very much satisfactory.

I wish his all success in life.


Sri Upen Baruah.
Regd Class-1(A) Contractor
Upharagan Nagaon
1st Class CONTRACTOR
Ratharman Nagaon

20-03-04

Certified to be true Copy


Rakhee Srimanta Chowdhury
ADVOCATE

Original Application No. 316 of 2000

Date of Order: This the 28th Day of September 2001

HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

1. Shri Sukleswar Kumar & 20 others.
Department of Telecommunication,
Nagaon Telecom Division

By Advocate Mr. B.K. Sharma, Mr. S. Sarma, Mr. U.K. Nair

-Vs-

1. The Union of India, Represented by the
Secretary to the Ministry of Communication,
New Delhi.
2. The Chief General Manager,
Assam Telecom Circle,
Guwahati-1
3. The Telecom District Manager,
Nagaon, Telecom Division.

By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.

O R D E R.

D.N. CHOWDHURY, J(VC):

The issue pertains to conferment of temporary status involving 21 Casual Labourers. The applicant No. 1 Shri Sukleswar Kumar had expired, the other twenty numbers applicants alongwith Shri Sukleswar Kumar moved this Tribunal on earlier occasion for conferment of temporary status. The Tribunal passed an order in O.A.No. 107 of 98 and series including the O.A.No. 192 of 98, dated 31.8.99 and disposed of all the O.As. including that O.A.No. 192 of 98. Vide order dated 31.8.99 the Tribunal directed the Respondents to submit representations individually within a specific period. It was further ordered that if such representations were presented the respondents would be examined and scrutinised and pass orders thereafter in consultation with the records. In pursuance

contd/--2

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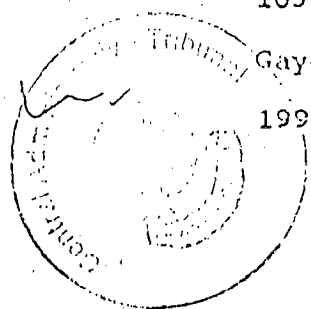

Rakhee Srauthia Chowdhury
ADVOCATE

the order of the Tribunal the respondents was caused scrutiny of the case of the applicant by a Committee constituted by the Chief General Manager Telecommunication, Assam Circle. Vide order dated 14.7.2000 the applicant was informed that the committee had scrutinised and examined the representation as well as the payment particulars and wages paid to the applicant. It was interalia ordered that on the scrutiny and verification of the relevant documents that none of the applicants had completed 240 days. Hence this application.

2. Mr.S.Sarma learned counsel appearing on behalf of the applicant contended that the respondents had failed to consider the materials made available by the applicant and thus fell into error in its decision making process which was scrutinised by the committee. Counter in the argument Mr.B.C.Pathak, Addl.C.G.S.C. contended that the authority considered all the relevant records and thereafter came to the lawful conclusion.

3. From the written statement it transpires that out of 20 applicants some of them nearly worked for 240 days. The applicant No.4 Shri Gakul Bora worked for in 1993 - 188 days, in 1994-234 days, in 1995-219 days, in 1996-227 days in 1997 - 205 days, in 1998 - 111 days. Likewise applicant No.5 Shri Dilip Kumar Bora rendered service in 1991 18 days, in 1992 29 days, in 1993- 99 days, in 1994-111 days, in 1995-188 days, in 1996-68 days, in 1997-205 days, in 1998-105 days up to May. The applicant No.12 Shri Luit Kumar Gayaon worked in 1994-18 days, 1995-231 days, in 1996-45 days, 1997-58 days, in 1998- 10 days up to January. Similarly,

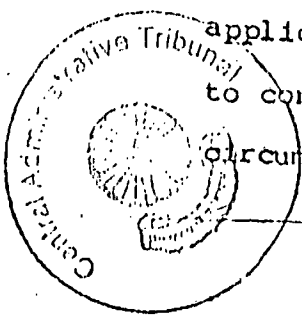
contd/-



Shri Tarun Kalita rendered service in 1991-232 days, in 1992-238 days, in 1993-193 days, in 1994-192 days, 1995-159 days, in 1996-50 days, in 1997-158 days, in 1998-126 days. The applicant No.19 Shri Gajen Dew Raja rendered services for 234 days in 1994, in 1995-158 days, in 1996-225 days, in 1997-222 days, in 1998-108 days up to May with artificial break. He also prorata completed the prescribed period, in the year 1998.

4. From the facts mentioned above it is clearly stated that the applicant No.4 Shri Gokul Bora, applicant No.5 Shri Dilip Kumar Bora, applicant No.12 Shri Luit Kumar Gayaon, applicant No.15 Shri Tarun Chandra Kalita and applicant No.19 Gajen Dew Raja rendered nearly 240 days. They are thus entitled for conferment of temporary status. Therefore, the respondents are ordered to take necessary steps for conferment of temporary status to the aforementioned five persons viz Sri Gokul Bora, Dilip Kr. Bora, Luit Kumar Gayaon, Sri Tarun Kalita and Gajen Dew Raja. Smti Devi Rani Paul was converted to a full time casual labourer on 18.5.2001 who had completed her service 240 days as per Departmental Rules. The Respondents are ordered to take all the remedial measure for providing her the necessary benefits under the scheme.

5. Subject to the observations and directions the application of the applicants No.4,5,12,15,19 are allowed. Subject to the directions made above the application of the applicant No.14 Devi Rani Paul stands disposed. The application of Applicant No.1 stood abated. The application of the remaining applicants stood disposed of with direction to the respondents to consider their cases taking into consideration the changed circumstances as per law. No costs.



Certified to be true copy

30/3/06

Section Officer (C)

C.A.T. GUWAHATI BENCH

Guwahati-781005

SD/VICE CHAIRMAN

Bharat Sanchar Nigam Limited
(A Govt. of India Enterprise)
Office of the Telecom District Manager, Nagaon
Nagaon - 782 001 (Assam)

No. E - 182/CAT/O - 02/57. Dated at Nagaon the 15th June' 2001

To

Sri Jayanta Hazarika

..... S/o Deben Hazarika.

..... Vill = Hailboragorh P.O. Buranigudom Teliaagorh
Dist. Nagaon (Assam).

Sub :- Verification of engagement particulars in pursuance of
Court Case No. OA... 316/2000.....

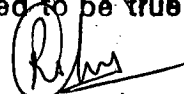
You are hereby directed to appear before the Verification Committee
with all relevant documents (if any) on the above mentioned subject on
..... 22.06.2001... During office hours at T.D.M. office Nagaon.

15/6/01

S.D.E. (Admin)

C/O the T.D.M. Nagaon

Certified to be true Copy



Rakhee Sirauthia Chowdhary
ADVOCATE

ANNEXURE


Details of findings by the verification committee of NAGAON SSA in case of
Sri. Dnyanata Hazarika In the unit/office.....

Date of engagement.	Authority of engagement.	No. of days engaged. (A) Upto 1.8.98 for normal case (B) year/ days for the cases because stay/ status quo/not to dis-engage-ment order by Honble Tribunal	Proof of payment document ary.	Name & members of committee	design of verification	Reasons in brief of ineligibility.	Remark	
1	2	3	4	5	6	7		

10-5-97 M.K. Das 1997 = 36 days Acct. D/s K.K. Das. Not completed
SOOT/Ngg. 1998 = 11 days " DECP&A/Ngg. 240 days in emp
2) " D.N. Barishya. working years,
ADT(MIS)/GH.
3) " M.R. Chondhury.
SA AO(2)/Ngg.

BH
Divisional Engineer (P&A)
O/O the T.D.M, Nagaon
Nagaon-782001

Certified to be true Copy


Rakhee Sircar Chowdhury
ADVOCATE

BIHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM

No.E-182/CAT/2001-02/

Dated at Nagaon the 13-08-2001.

To,

Sri Jayanta Hazarika.,
VIII- Halborgaon P.O.Puranigudam Teliagaon.
Dist-Nagaon(Asam.)

Dear Sir,

As you are aware that as per direction given by Hon'ble CAT. Guwahati Bench, Guwahati in OA No.316/2001, the department constituted verification committees for different SSAs/Units under the circle for conducting detailed verification/Scrutiny about the No.of days of engagement yearwise in different units/offices and also to collect proof/evidence for such casual labourer including yourself. The committee verified all the documentary as well other proof from the various units/offices and also personally/interviewed such casual labourer including you on 21-06-2001 in our office, the committee comprised of three members namely. 1.Sri K.K.Das, DE(P&A) O/O the TDM Nagaon, 2.Sri D.N.Baishya, ADT(MIS) O/O the CGMT/Guwahati, 3.Sri M.R.Choudhury, Sr. A.O.(Cash) O/O the TDM Nagaon.

The aforesaid committee submitted its report to the Department detailing all about their finding/proof against each casual labourer including you. The detail report is enclosed and furnished herewith on in annexure for your information.

Under the above circumstances as you could not satisfy the eligibility criteria as laid down in the scheme for conferment of TSM/regularisation, your case could not be considered favourably. Please take notice that, you have not been in engagement under the department since June.1998 and the department is bound to consider only the cases of such eligible casual labourers for conferment of TSM against such vacancies/works. This is done in accordance with the Hon'ble Tribunals order/and also to stay/statusquo that was directed to be maintained.

End- As above.

Divisional Engineer (P&A)
O/O the TDM Nagaon.

Certified to be true Copy

Rohy
Rakhee Sircar Choudhury
ADVOCATE

Bharat Sanchar Nigam Limited
(A Govt. of India Enterprise)
Office of the Telecom District Manager, Nagaon
Nagaon - 782 001 (Assam)

No. E - 182/CAT/O 02/57 Dated at Nagaon the 15th June' 2001

To

Sri Ganesha Ch. Bora

..... S/o Late Thelai Bora

..... Vill/Po Barangali Dist Nagaon (Assam)

Sub :- Verification of engagement particulars in pursuance of
Court Case No. OA... 316/2000

You are hereby directed to appear before the Verification Committee
with all relevant documents (if any) on the above mentioned subject on
..... 22-6-2001. During office hours at T.D.M. office Nagaon.

S.D.E. (Admn)

/O the T.D.M. Nagaon

Certified to be true Copy

Rakhee Siraithia Chowdhury
ADVOCATE

ANNEXURE.

Details of findings by the verification committee of NAGAON SSA in case of
 Sri. Gimesh Ch. Borra.....In the unit/office.....

Date of engagement.	Authority of engagement.	No. of days (A) (B) Upto year/ 1.8.98 days for for normal the case cases because stay/ status q /not to dis- engage- ment order by Honble Tribunal	Proof of payment document ary.	Name & design of members of committee verification	Reasons in brief of Ineligibility.	Remark
1	2	3	4	5	6	7

04/06/98 J.N. Saikia.
 SDE/Ngg. 1995= 19 days ACS-17 1) S/s K.K. Das, Not completed
 1996= NIL DE(P&A)/Ngg. 240 days in
 1997= 35 days " 2) " D.N. Borishya my working
 1998= 54 days " ADT(MIS) /SH. years.
 3) " M.R. Choudhury.
 Sr AO(c) Ngg.

[Signature]
 District Engineer (P&A)
 O the T.D.M. N
 V 1998 78

Certified to be true Copy

[Signature]
 Rakhee Sirauthia Chowdhury
 ADVOCATE

BHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM

No.E-182/CAT/2001-02/

Dated at Nagaon the 13-08-2001.

To,

Sri Ganesh Ch.Bora.
Vill- Barangatali P.O.Barangatali.
Dist-Nagaon(Asam.)

Dear Sir,

As you are aware that as per direction given by Hon'ble CAT Guwahati Bench, Guwahati in OA Nos.192/98 & 316/2000 , the department constituted verification committees for different SSAs/Units under the circle for conducting detailed verification/Scrutiny about the No.of days of engagement yearwise in different units/offices and also to collect proof/evidence for such casual labourer including yourself. The committee verified all the documentary as well other proof from the various units/offices and also personally/interviewed such casual labourer including you on 21-06-2001 in our office, the committee comprised of three members namely. 1.Sri K.K.Das, DE(P&A) O/O the TDM Nagaon, 2.Sri D.N.Baishya, ADT(MIS) O/O the CGMT/Guwahati, 3.Sri M.R.Choudhury, Sr. A.O.(Cash) O/O the TDM Nagaon.

The aforesaid committee submitted its report to the Department detailing all about their finding/proof against each casual labourer including you. The detail report is enclosed and furnished herewith on in annexure for your information.

Under the above circumstances as you could not satisfy the eligibility criteria as laid down in the scheme for conferment of TSM/regularisation, your case could not be considered favourably. Please take notice that, you have not been in engagement under the department since June.1998 and the department is bound to consider only the cases of such eligible casual labourers for conferment of TSM against such vacancies/works. This is done in accordance with the Hon'ble Tribunals order/and also to stay/statusquo that was directed to be maintained.

End- As above.

[Signature]
Divisional Engineer (P&A)
O/O the TDM Nagaon.

Certified to be true Copy

[Signature]
Rakhee Siradhia Chowdhury
ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.105 of 2002

Date of decision: This the 3rd day of June 2003

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

1. Shri Prabir Kumar Banerjee
A/C Operator (Casual Labourer)
New Telephone Exchange,
Nagaon, Assam.
2. Shri Sibu Sankar Kundu
A/C Operator (Casual Labourer)
New Telephone Exchange,
Nagaon, Assam.
3. Shri Sambhu Chakraborty
A/C Operator (Casual Labourer)
New Telephone Exchange,
Nagaon, Assam.

.....Applicants

By Advocates Mr M. Chanda and Mr G.N. Chakraborty.

- versus -

1. The Union of India,
Ministry of Communication,
Department of Telecom, New Delhi.
(represented by the Secretary,
Telecom Commission, New Delhi).
2. The Chief General Manager
Assam Telecom Circle,
Ulubari, Guwahati.
3. The Telecom District Manager
Nagaon Telecom District,
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.),
Nagaon Sub-Division,
Nagaon, Assam.
5. Shrr S.C. Topadar
Divisional Engineer (P & A),
Telecom District,
Nagaon, Assam.
6. Shri Pankaj Das
Telecom District Manager,
Nagaon Telecom District,
Nagaon, Assam.

.....Respondents

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

.....

Certified to be true Copy

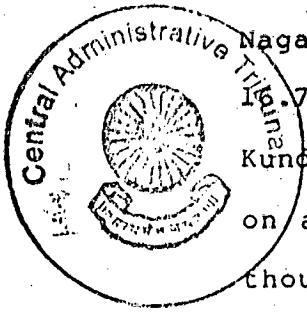
Rajeev Sirauthia Chowdhury
ADVOCATE

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The issue relates to conferment of temporary status.

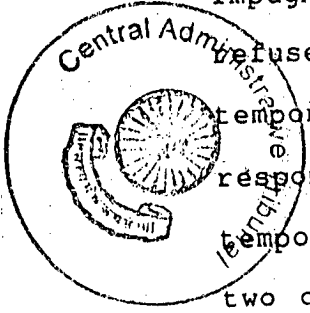
2. The three applicants earlier moved this Bench praying for a direction for conferment of temporary status by way of O.A.No.140 of 2000 disposed of on 27.7.2001. In the earlier application also the applicants claimed that the applicant Nos.1 and 3, namely Shri Prabir Kumar Banerjee and Shri Sambhu Chakraborty were engaged as casual labourers under the SDE (Phones), Nagaon Telephone Exchange on daily wage basis from 16.7.1993. The applicant No.2, namely Shri Sibbu Sankar Kundu was engaged as casual labourer on daily wage basis on and from 1.9.1993. The applicants also mentioned that though they were engaged as casual workers, they were entrusted with the job of Air Conditioner Operator and they were paid daily wages in terms of the prescribed rate for the casual workers. On consideration of the materis on record, it was held that the applicants were working as casual labourers and not as contract labourers and therefore, they were also entitled for consideration for conferment of temporary status in the light of the prevailing scheme. Accordingly the respondents were directed to consider their claim for conferment of temporary status. By the impugned order dated 15.2.2002, the authority rejected the claim of the applicants for conferment of temporary status. Hence this application assailing the legality and validity of the order dated 15.2.2002. The applicants in this application, therefore,



prayed for setting aside of the above impugned order and also for conferment of temporary status in the light of the prevailing scheme.

3. I have heard Mr M. Chanda, learned counsel for the applicants and also Mr A.K. Chaudhuri, learned Addl. C.G.S.C. appearing on behalf of the respondents. By the impugned order dated 15.2.2002 the respondent authority refused the claim of the applicants for conferment of temporary status on two grounds. In the order itself the respondent authority indicated that for conferment of temporary status of the casual worker, one must fulfil two conditions: (a) the casual worker must be in service on 1.8.1998 and (b) the casual worker must have completed 240 days in a year during the engagement period. According to the respondents the service of the applicants were terminated on 10.7.1998 and the applicants were engaged on fresh contract with effect from 1.8.1998. The applicants, since could not fulfil the requirements mentioned above were not conferred with temporary status. The authority also mentioned that the applicants were not allotted any fixed duty, i.e. eight hours per day, as per verbal contract and the payment made to them was a lumpsum amount of Rs.1500 per month, which was enhanced to Rs.1650 per month and not the prevailing departmental rate. Therefore, the claim of the applicants could not be considered. Three separate orders were passed in case of the three applicants of similar nature. There is littled variation in the order of the applicant Nos.2 and 3, wherein it was shown that the engagement of these two applicants came to an end on 20.7.1998 due to the fresh contract that the department

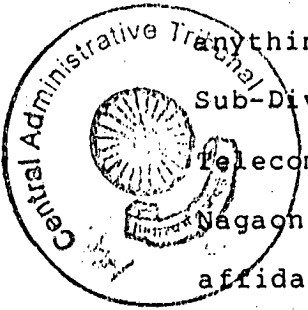
entered.....



entered into with M/S Sudarshana Cooling Firm, Nagaon with effect from 1.8.1998. In the written statement the respondents reiterated the stand mentioned in the impugned order. In the written statement the respondents annexed the certificate issued by the J.T.O. upto February 1996. Even the certificate relied upon by the respondents indicated that the these applicants were indeed working under the respondents in ILT-2040 Exchange as Air Conditioner Operator on daily wage basis and payment was made in ACG-17 since 1993. On the own showing of the respondents, the applicants worked for three hundred and sixtyfive days in a year in the years 1994 and 1995 without giving any rest day. They have not shown anything as regards 1997 onwards. An affidavit of the Sub-Divisional Engineer (Internal/Construction) under the Telecom District Manager, Bharat Sanchar Nigam Limited, Nagaon is also annexed to the written statement. In the affidavit the deponent indicated that these three persons were working as Package Type A/C Operator in the Nagaon Exchange. The deponent further indicated in the affidavit that the certificates were countersigned by him and that he recorded the number of days worked in each year by the three persons. The respondents chose not to produce any records.

4. I have perused the sanction order whereby the Telecom District Engineer, Nagaon accorded for payment of wages to the S.D.E. (Construction), Nagaon who swore the affidavit, as Temporary advance under Rule 123 of FHB Vol.III Part-I vide Memo dated 1.1.1998, 14.8.1998, 5.6.1998 and 8.9.1998 (Annexure 2 series to the application), which included the wages of the A/C Operators for the period December 1997. In the year 1998

it.....



it was shown as Operational charges of A/C Plant. The connected documents also indicated that those were paid to these persons as wages. The following communication bearing No.ML-3000/OP/98-99/83 dated 22.9.2998 is revealing:

"To

Sri Sibu Kundu
M/S Sudarshna Cooling Centre & Electricals
R.K. Road, Nagaon (Assam),
Pin-782001.

Subject : Round the clock operational Contract for all days in a week of 2X7.5 TR Package Type A/C Plant at Telephone Exchange, Nagaon.

Reference : Your offer No.Nil dated 24-8-98

Dear Sir,

Your above refered offer for the round the clock operation on all days in a week of 2X7.5 TR Package Type A/C Plant at Telephone Exchange, Nagaon at Rs.8000/- (Rupees Eight thousand) only P.M. is hereby accepted for a period of one year w.e.f. 1.9.98 as per terms and conditions given below:

TERMS AND CONDITIONS

- 1) You will be responsible for manning and operation of the package type A/C Plant for Telephone Exchange Building at Nagaon round the clock on all days in a week.
- 2) The Plant should be ooperated as per maintenance mannual. The relevant log sheet/log book for the A/C Plant will be maintained by you andsame should be submitted every week to the SDE (Construction)/Nagaon or any other to whom the SDE (Cons) enmarked for the purpose for checking the record.
- 3) The operation of A/C Plant cover all recommended routine daily/weekly/monthly/half yearly/annually operation if any as per operation mannual.
- 4) All labour charges for operation are included in the contract.
- 5) You are also responsible to maintain a room temperature of 20 - 2C and relative humidity 40 to 60% in all conditions in the Exchange room and shall be confirmed by the SDE(Construction) on the bills claimed by you. For this purpose necessary copies of log entries attested by the SDE (Cons), Nagaon should be forwarded to the TDM, Nagaon.
- 6) No rate enhancement of any type will be permissible during the currency of the contract i.e. one year (W.e.f. 1.9.98 to 31.8.99).

7) Period of contract for 12 (twelve) months. This contract is valid for the period one year from the date 01.09.98 to 31.08.99.

INSPECTION

The CGMT of Assam Telecom Circle, Guwahati or any of his representative may inspect the operation of the Plant at any time without giving any prior intimation.

PENALTY

As the said equipment is under operation with you, you will be liable to a suitable penalty if there is any damage and theft of the said equipment during the terms of the contract. Undue shut down of the Plant due to your faulty workmanship or mismanagement etc. are may be decided by the SDE(Cons), Nagaon mutual basis will cause deduction from your progressive bill.

The decision of the SDE(Cons), Nagaon for such deduction will be final and conclusive.

TERMS OF PAYMENT

The payment for the ongoing month will be made within one month of succeeding month positively by Accounts Payee cheque payable to M/S Sudarshna Cooling Centre & Electricals against the prereceipted invoice on satisfactory completion of work in the month. The proforma invoice bills in duplicate are to be routed through SDE(Cons), Nagaon within 5 days of completion of succeeding month.

You may indicate the name and address of the technicians and other representatives for issue of gate pass for security purpose.

The receipt of the order may please be acknowledged and acceptance letter may be sent.

....."

5. In the list of poayment of daily wages of TCM A/C Operators the names of these applicants regularly appeared. I have also perused the communication No.ESTT.9/12/ dated 27.8.1998 issued by the Deputy General Manager (Admn.), Guwahati to the concerned TDMs. By the said communication the authority asked for the information regarding number of casual labourers working not yet conferred temporary status for a period of more than 240 days in the respective SSAs as per authenticated record in the enclosed proforma. In the said communication.....

communication the authority amongst others also asked from the TDM, Nagaon the detailed particulars of the casual labourers. The said communication included the names of these three applicants showing them to have been working as regular casual labourers. The aforementioned communication dated 27.8.1998. annexed to the O.A. is not in dispute.

6. The materials on record clearly indicated that these applicants were discharging duties as casual labourers under the respondents even in August 1998 and the label 'contract labourers' that was all along sought to be put by the authority cannot change the character of these applicants/casual labourers. The issue was already adjudicated upon in the earlier O.A. No.140 of 2000 disposed of on 27.7.2001, which attained its finality. There is no justification for the respondents in the set of facts and circumstances in not conferring temporary status to the applicants on the norms cited above. The order dated 15.2.2002 passed by the respondents is accordingly set aside and the respondents are directed to take necessary steps for conferment of temporary status to the applicants in the light of the decision rendered in O.A.No.140/2000, keeping in mind the findings and observations made in this O.A. The respondents are directed to complete the exercise with utmost expediency, preferably within three months from the date of receipt of the order.

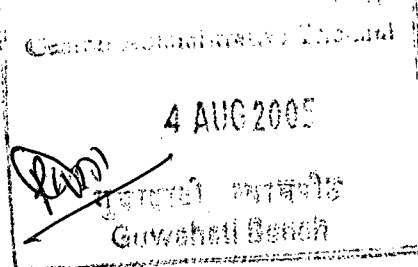
7. The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Verified to be true Copy,

Sd/VICE CHAIRMAN

Section Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

11/4/04



Filed by
the Respondents through
Alsha Das - by
Addl C.H.S.C.
CAT/GHY/4/8/05

1
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 107/2004

JAYANTA HAZARIKA & ORS

.....APPLICANTS

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received copy of the OA and have gone through the same and the respondents have understood the contentions made thereof. 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 applicants are put to the strictest proof thereof.
- 2) That with regard to the statement made in paragraph 1 of the OA, the respondents while denying the contentions made therein beg to state that as per direction given by the Hon'ble Tribunal in OA No. 192/98 by the order dated 31/08/99 three members verification committee was constituted in June 2001. The committee scrutinized all the available records in respect of the applicants such as their engagement particulars i.e. number of days work year-wise, payment particulars etc. After a through check of the records, the committee found that the applicants could not satisfy the eligibility criteria for conferment to the post of TSM, and therefore, not recommended the case.

The order dated 13/08/2001 was issued rejecting the claim of the applicants based on the facts and records available supported by the findings of verification committee. Hence the order dated 13/08/2001 issued to the applicants was not an impugned order.

The Hon'ble Tribunal appreciated the methodology adopted by the Verification Committee in different OAs and dismissed the applications. As for reference OA No. 291/2003 filed by Tapas Kr. Paul & others and the order dated 20.06.2005 passed by the Hon'ble Tribunal is annexed herewith and marked as Annexure-1.

3) That with regard to the statement made in paragraph 2 & 3 of the OA, the respondents beg to state that BSNL is a company duly registered under the Companies Act 1956 having separated and distinct legal entity which can sue and could be sued by its name. The BSNL and its authorities under it has not been brought under the Jurisdiction of the Hon'ble CAT so far by issuing necessary notification by the Central Govt. as registered under section 14 (2) of the Administrative Tribunal Act 1985. The Hon'ble Tribunal may not exercise jurisdiction as provided under 14 (3) of the said Act without complying with the condition precedent under section 14 (2) of the Act. The law has already been settled in this regard as per decision of the co-ordinate Bench of the Tribunal. Hence the application is liable to be dismissed.

4) That with regard to the statement made in paragraph 4.1 & 4.2 of the OA, the respondents beg to offer no comments.

5) That with regard to the statement made in paragraph 4.3 of the OA, the respondents while denying the contentions made therein beg to state that the certification committee checked the available records, payment particulars regarding their engagement and date of joining of the applicants as stated in the Paragraph 2.

The verification committee did not find the name of the applicants and their date of joining in service in any available records nor their names appeared in payment records as departmental casual labourers.

Hence, the dates of joining in service as shown against each applicant in the Para are not correct.

6) That with regard to the statement made in paragraph 4.4 of the OA, the respondents while denying the contentions made therein beg to state that the certificate illustrated in the paragraph cannot be accepted as authentic. Because there is no any records in support of it and there is also no payment records appears in support of their joining dates.

7) That with regard to the statement made in paragraph 4.5 of the OA, the respondents while denying the contentions made therein beg to state that the process of recruitment of casual labourers in the department was abolished since June 1998. Alternatively, such works where the question of extra manpower involves have been

handed over to contractors through tenders observing the formalities. No casual labourers already engaged and forcefully sent to work on contract basis as alleged in the Para. This is totally false.

- 8) That with regard to the statement made in paragraph 4.6 of the OA, the respondents while denying the contentions made therein beg to state that the casual labourers who will eligible and fulfilled the requisite criteria for conferment of TSM as per the scheme 1989, had already been conferred to TSM.
- 9) That with regard tot the statement made in paragraph 4.7 of the OA, the respondents while denying the contentions made therein beg to state that 3 (three) members verification committee was constituted well before the order dated 28/09/2001 passed by the Hon'ble Tribunal in OA No. 316/2000. Because at that time the department constituted verification committee for different SSA's/Units to conduct verification cases following the order of Hon'ble Tribunal in different OA's and for early settlement of the cases. It is agreed that due to oversight instead of writing OA No. 192/1998, the instant OA 316/2000 was stated.

However, it can be seen what is outcome of the verification report. The verification committee scrutinized all the available records and after verification the committee found that the applicants could not satisfy the eligibly criteria for conferment to TSM. And there should not be any doubt in it.

- 10) That with regard to the statement made in paragraph 4.8 of the OA, the respondents while reiterating the statement made in Para 9 beg to state that the verification committee conducted the verification on 21/06/2001, and the Hon'ble Tribunal delivered the order on 28.9.2001 in OA No. 316/2000 i.e. the order of the Tribunal was just after and around 3 months time.

It is mentionable here that out of 14 applicants in the instant OA No. 107/04, five applicants – 1) Shri Jayanta Hazarika , 2) Md. Abdul Salam 3) Shri Ganesh Ch Bora, 4) Shri Mohan Chandra Kalita and 5) Shri Chandramal Sengupta were included in OA No. 316/2000. Excluding Shri Nitish Ranjan Das (Sl No. 2) and the Others eight applicants are purely new faces and they worked under contractors only.

Moreover the respondents authority challenged the order of the Hon'ble Tribunal before the Hon'ble High Court and in compliance of the order dated 03.02.2004 in WP© No. 678/2003 the respondent authority are re-verifying the cases once again. As the

verification processes involves checking and examining heaps of old records & files, necessarily it requires time to complete and report is yet to be finalized.

A copy of the order passed by the Hon'ble High Court in WP (C) No.678/2003 is annexed herewith and marked as Annexure-2.

- 11) That with regard to the statement made in paragraph 4.9 of the OA, the respondents beg to offer no comment.
- 12) That with regard to the statement made in paragraph 4.10 of the OA, the respondents while denying the contentions made therein beg to state that the term 'Contract workers' applied to those who worked under the Contractors and it is fully justified in meaning. There is no question of any doubt of malafide intentions in applying the title to avoid any further litigation as alleged.
- 13) That with regard to the statement made in paragraph 4.11 of the OA, the respondents while denying the contentions made therein beg to state that the order dated 13.09.2001 was issued with due care on the basis of findings by the verification committee after proper scrutinizing the available records/documents. The applicants could not satisfy the eligibility criteria as per the scheme 1989. Therefore, the verification committee could not recommend the cases of the applicants for conferment of TSM.
- 14) That with regard to the statement made in paragraph 4.12 of the OA, the respondents while denying the contentions made therein beg to reiterate and reaffirm the statement made in paragraph 7 of this WS.
- 15) That with regard to the statement made in paragraph 4.13 of the OA, the respondents while denying the contentions made herein beg to reiterate and reaffirm the statement made in para 6 of this WS. It is to be state that without authentic documentary proof nothing can be explained further.
- 16) That with regard to the statement 4.14 of the OA, the respondents beg to deny the contentions made therein. It is stated that the applicants could not satisfy the eligibility criteria for conferment of TSM as per scheme 1989.

- 17) That with regard to the statement made in paragraph 4.15 of the OA, the respondents beg to offer no comments.
- 18) That with regard to the statement made in paragraph 5.1 of the OA, the respondents beg to deny the contentions made therein.
- 19) That with regard to the statement made in paragraph 5.2 of the OA, the respondents beg to state that it is not true as per records.
- 20) That with regard to the statement made in paragraph 5.3 of the OA, the respondents beg to offer no comments.
- 21) That with regard to the statement made in paragraph 5.4 of the OA, the respondents beg to state that this is not true as per records of the case.
- 22) That with regard to the statement made in paragraph 5.5 to 5.7 of the OA, the respondents beg to state that the applicants could not satisfy the eligibility criteria as per scheme 1989 for conferment to TSM. The available records/documents not allow the applicants for conferment to TSM.
- 23) That with regard to the statement made in paragraph 5.8 of the OA, the respondents while denying the contentions made therein beg to state that the applicants are not still working under the respondents.
- 24) That with regard to the statement 5.9 of the OA, the respondents while denying the contentions made therein beg to state that the respondents are quite ignorant about the engagement of the labourers by the contractors as mentioned in this Para.
- 25) That with regard to the statement made in paragraph 6 to 10 of the OA, the respondents beg to reiterate and reaffirm the statements made above.
- 26) That the respondents beg to submit that all the available records/documents are gone against the applicants. The claim of the applicants is beyond the rules. So the verification committee could not recommended the case for conferment to TSM.

Further, it is already stated in Para 2 and 3 that BSNL is a company duly registered under the Companies Act 1956 having separate and distinct legal entity and the Hon'ble Tribunal may not be pleased to exercise power as provided under section 14 (3) of the said Act without complying with the condition precedent under section 14 (2) of the Act.

Hence the OA has no merit and the Hon'ble Tribunal may be pleased to dismiss the same.

- 6 -

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VERIFICATION

I Shri Shankar chandra Das,
aged about 59 years at present working as
Asstt. Director Telecom (Legal) To C.B.M.T Assam Circle BSNL
Guwahati who is taking steps in this case, being duly authorized and
competent to sign this verification, do hereby solemnly affirm and state that
the statement made in paragraph
1 are true
to my knowledge and belief, those made in paragraph
2 to 26 being matter of records, are
true to my information derived there from and the rest are my humble
submission before this Humble Tribunal. I have not suppressed any material
fact.

And I sign this verification this 4th the day of August 2005 at Guwahati

Shankar chandra Das
Assistant Director Telecom (Legal)
O/o the Chief General Manager BSNL
Assam Telecom Circle, Guwahati-7

DEPONENT.

~~10~~ - 7 - Ann - 1

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 291 of 2003.

Date of Order: This the 20th day of June, 2005.

HON'BLE MR.JUSTICE G.SIVARAJAN, VICE-CHAIRMAN.

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

1.Sri Tapas-Kr:Paul
son of Sashanka Mohan Paul,
resident of Station Road,
P.O. Dullavcherra, Dist. Karimganj,

2.Sri Uttam Das Baishnab,
son of Sri Umesh Das Baishnab,
resident of Lawairpoa,
PO. Hatikhira, Dist. Karimganj

3.Sri Paresh Akura,
son of Radhakanta akura,
resident of Hatikhira, PO. Hatikhira,
Dist. Karimganj, Assam

4.Sri Ashok Das,
son of Sri Ananta Kr. Das,
resident of Banamali, PO & Dist.
Karimganj, Assam.

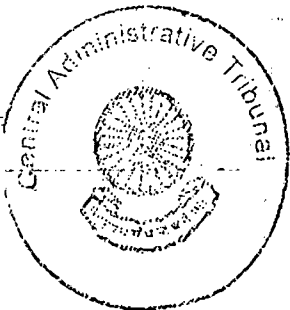
5.Sri Bhudev Das,
son of Sri Sujit Das,
resident of Patharkandi,
PO. Mahakal, Dist. Karimganj.

..... Applicants

By Advocate Miss B.R.A.Sultana.

- Versus -

- 1.Union of India,
represented by the Chief General
Manager, Assam telecom Circle,
Ulubari, Guwahati-7.
- 2.Bharat Sanchar Nigam Limited,
in short BSNL, through the Chief
General Manager, Assam Telecom Circle,
Ulubari, Guwahati-7.
- 3.The Telecom District Manager,
Karimganj Telecom District.
- 4.The Divisional Engineer, (P&A),
O/O the General Manager, BSNL,
Silchar SSA, Silchar.



bws

7/ 5. Sub Inspector, Karimganj
Telephone Exchange, Dist. Karimganj.

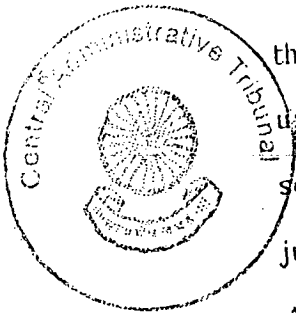
.... Respondents

By Miss U. Das, Addl.C.G.S.C.

ORDER

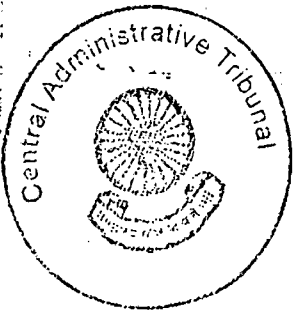
K.V.PRAHLADAN, MEMBER(A)

This application has been filed by the applicants praying for their re-engagement and continuation as casual mazdoors, giving temporary status and regularisation, payment of salary and other allowances from the date of their engagement and conferment of similar benefits as has been granted to casual employees in the Postal Department. The applicants claim that they were engaged as casual mazdoors in the establishment of the Divisional Engineer (P&A) under the General Manager, BSNL, Silchar in 1992, 1993. They functioned under the Respondents till 1998. The applicants claim that their service records showing them as working under the administrative jurisdiction of the General Manager, Telecom, Silchar are enclosed at Annexures A, B and C series. The applicants apprehending termination filed O.A.107 of 1998 in this Tribunal alongwith others who were similarly placed. In the judgment in O.A.107 of 1998 dated 31.8.1999, this Tribunal directed the applicants to file individual representations with the Respondents and the respondents were directed to consider the representations alongwith the available records and pass a reasoned order. The applicants were called before the scrutinizing committee on 16.7.2001 (Annexure E series at pages 60, 61, 62, 63 & 64). They were asked to bring all documents in their possession relating to their engagement and payment records. The Scrutinising committee vide Annexure F series (pages 65 to 75) found that none of the five applicants were eligible for temporary status and therefore not recommended. The applicants claim that in spite of the



Department of Telecommunications sanctioning 672 posts vide their letter No. 269-A/93-STM-II (Pt) dated 9.2.2000 they have not been given temporary status.

2. The respondents questioned the authenticity of various records filed by the applicants. The respondents say that there was no post like DE (P&A) in the office of the General Manager/TDM, Silchar. Annexure A, Annexure B and Annexure C series filed by the applicants in support of their record of engagement are not based on any authentic official papers or have been signed by certain line staff who have no office to maintain such documents nor the authority to issue these documents. These records produced by the applicants and cited above, claim the respondents, are not based on any official documents and are fabricated. These papers have no validity whatsoever. The respondents say that as per directions in O.A.107 of 1998 they constituted a committee and the applicants appeared before this committee. The committee scrutinized all the documents produced by the applicants as well as the records available with the respondents and came to the conclusion that none of the five applicants fulfilled the eligibility conditions required for grant of temporary status. So their names were not recommended. The committee also found that none of the applicants were in engagement as on 7.8.2001 (Annexure-F, pages 65 to 75). The respondents also claim that the applicants were a party to O.A.45 of 2001 which was dismissed by this Tribunal. However, this claim is disputed by the applicants. Whether the applicants were a party to O.A.45/2001 or not is immaterial and has had no bearing on the outcome of the present application. The respondents finally state that the power to engage and even make payments to casual mazdoors have been withdrawn from the



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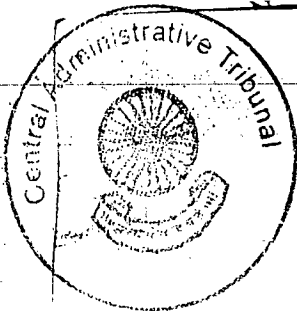
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Administrative and Accounts officials vide letter of 12.2.1999 (Annexure-H).

3. Heard both the counsel for applicant and counsel for the respondents. The applicants were given a very fair opportunity by the respondents to substantiate their claim for temporary status through a scrutinizing committee. They could not substantiate their claim in any manner whatsoever. The applicants themselves have not in any effective manner countered the argument of the respondents that the former produced fabricated and totally unreliable records mostly signed by the unauthorized officials, officials who were not competent to issue such records. The scrutinizing committee has gone by the authentic records placed for its perusal and disposal by the respondents. No fault can be found in the methodology or procedure adopted by the scrutinizing committee. The application is on a very weak ground and is liable to be dismissed and is therefore dismissed.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



TRUE COPY
सिद्ध

Signature
4.7.07
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
GUWAHATI-5.
4/7

12 -
✓
O.A.No.316/2000

1. Sri Sukleswar Kumar
(Since deceased)
2. Sri Mohan Chandra Kalita
3. Sri Binod Kumar Saikia
4. Sri Gakul Chandra Bora
5. Sri Dilip Kumar Bora
6. Sri Jayanta Hazarika
7. Sri Ashok Chandra Dey
8. Sri Ananda chandra Das
9. Sri Prahlad Chandra Bora
10. Md. Abdul Salam
11. Sri Luit Kumar Gayan
12. Sri Dilip Mazumdar
13. Sri Devi Rani Pal

- 13 -

14. Sri Tarun Chandra Kalita

15. Md. Nur Zaman

16. Sri Chandramal Senapati

17. Ganesh Ch. Bora

18. Sri Gojen Dewraja

19. Sri Radha Kanta Bordoloi

20. Sri Sanjit Kumar Banik

- PETITIONERS

- VERSUS -

1. Union of India

represented by the Secretary to
the Ministry of Communication,
New Delhi.

2. The Chief General Manager

Assam Telecom Circle

Shillong-793001

3. The Telecom District Manager

Nagaon Telecom Division

- RESPONDENTS

- AND -

IN THE MATTER OF :

1. Union of India

represented by the Secretary to
the Ministry of Communication,
New Delhi.

14-
2. The Chief General Manager

Assam Telecom Circle

Shillong-793001

3. The Telecom District Manager

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- PETITIONERS

RESPONDENTS IN O.A.

NO. 316/2000

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(Since deceased)

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16. Sri Chandramal Senapati

- 15 -

78

17. Ganesh Ch. Bora

18. Sri. Gojen Dewraja

19. Sri Radha Kanta Bordoloi

20. Sri Sanjit Kumar Banik

- RESPONDENTS

Gaibh... High...

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Case.No. W.P.(C) 678/2004

Date: 3.2.2004

PRESENT
HON'BLE MR. JUSTICE P.G.AGARWAL
HON'BLE MR. JUSTICE S.K.KAR

Heard Mr. C.Choudhury, learned Sr. C.G.S.C.

This writ petition is directed against the order dated 28.9.2001 passed in OA 316/2000 by the Central Administrative Tribunal, whereby the Tribunal directed that the directions given earlier in OA 107/98 shall be applicable in the case of applicants also. In OA 107/98, disposed of on 31.8.99, the directed as follows:

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

No order as to costs."

Shri Choudhury has submitted that all these applicants had not completed the required 240 days of actual working day in a year and, as such, they are not entitled to the confirmation of the status of temporary. It is also submitted that the applications were duly considered and specific orders have been passed.

As per the directions, as quoted above, we find that the Tribunal had asked the concerned authorities to examine each and every applications on merit and as per the Rules and as per the rules and guidelines which was given under the Scheme. Hence, the appellants before us are required to examine the matter and pass reasoned order as per the

schemes only and once they have done it, no case for interference is made out. This Writ petition, therefore, stands disposed of accordingly.

Sd/- P. H. Agarwal
Judge

Sd/- S. K. Iyer
Judge

CERTIFIED TO BE TRUE COPY

Date 17th day of Feb 2004

Superintendent (Coring Section)

Gauhati High Court

Authorised U/S 76, Act I, 1872

2/2/04

P.N. 7870

11/2/04

Gauhati