

50/100
3
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No.....129/2004

R.A/C.P No.....

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Org. App./Miscretn/Cont. Petn/Rev. Appl..... 129/2004.....

In O.A.....

Name of the Applicant(s) N.S. Senghoya.....

Name of the Respondent(s) M.O. T. & O.S.

Advocate for the Applicant Mr. N. Borah.....

Counsel for the Railway/CGSC M. A. K. Chaudhuri, Addl. C.G.S.C.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

28.05.2004 Present ; The Hon'ble Shri K.V. Prahladan Member (A).

This application is in form
is filed/C. F. for Rs 10/-
deposited vide P. B.
No. 115 - 389561

Dated 27-5-04
Dy. Registrar

S. O. (G. M.)
S. O. (O/A).
27/5/04

Heard Mr. N. Borah, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.

The applicant was initially appointed as Extra Departmental Branch Post Master w.e.f. 28.3.1980 to 28.12.1991. Thereafter, the applicant was transferred to the Telegraph Office Dhemaji w.e.f. 29.12.1991 to 13.8.2000 as Daily Rosgar Mazdoor. As per the certificate issued by the District Telecom Office, Dhemaji dated 4.6.1999 at Annexure - A, the applicant was worked above 300 days in the year 1992 to 1998. The applicant also submitted representations before the concerned authorities for regularisation of the service as regular casual employee, but there is no positive response from the authorities.

Contd/-

✓
✓
Contd/-
28.5.2004

The applicant is directed to file a fresh representation before the concerned authorities narrating all the facts. If such representation is filed by the applicant, the respondents are directed to consider the case of the applicant sympathetically and pass reply within three months from the date of receipt of the representation.

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

3/6

Copy of the order
has been sent to the
Office for issuance
in case to the applicant
as well as to the
L/Advocate for
the Respondent.

KS

Received copy:
TAK/Ch
4/6/09

ICP
Member (A)

केन्द्रीय प्रशासनिक आयोग ।
Central Administrative Tribunal

27 MAY 2004

Original Application No. 2008/2009/13
Guru Nanak Dev University, Amritsar

Sri N. Ch. Senchow

• • • Applicants.

x - Versus -

Union of India & Ors.

• • • Respondents.

LIST OF DATES AND SYNOPOSYS

The applicant above named most respectfully submits that this Original Application seeking a direction upon the Respondents for conferring Temporary Status. The Applicant is working as Daily Rosgar Mazddo under the ~~xxxxxxxx~~ Department of Telecommunication.

Some of the relevant facts dates with brief facts leading to filing of this present application are as under:-

28.03.1980. The Applicant initially appointed as
to Extra Departmental Branch Post Master

to Extra Departmental Branch Post Master
1991 w.e.f. 28.3.1980 to 28.12.1991.

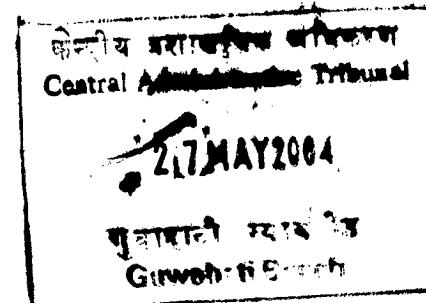
Thereafter, applicant transferred to the Telegraph Office, Dhmaji w.e.f 24.12.1991 to 13.8.2000 as Daily Rosgar Mazdoor regularly.

04.06.1999 Certificate issued by the District Telecom Officer, Dhemaji clearly specified that in the year 1992 to 1998 applicant was doing his service per year 300 days above.

18.08.1999 The applicant moved before this Hon'ble Tribunal by filing an O.A. 184/1999.

17.02.2002 Representation.

04.11.1999 Notification.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH

O.A. NO. 129/2004

BETWEEN

Sri Nagen Chandra Senchowai

...Applicant.

- Versus -

The Union of India and others.

... Respondents.

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3b

(NIRAN BARAH)

Signature of the Advocate.

For use in the Tribunals' Office.

Date of fitting:

Registration No.:

Signature.

Central Admin. Trib.
27 MAY 2004
Guwahati Bench

DISTRICT: DHEMAMI

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: GUWAHATI.

6
Filed by the Applicant
Sri Nagen Chandra Senchowla
through Niranjan Barua
Advocate, 27/5/04

O.A. No. /2004

IN THE MATTER OF:

Sri Nagen Chandra Senchowla.

S/o- late Bhekula Senchowla.

Resident of village - Gohpuria,

P.O. - Bishnupur, Dist. - Dhemaji (Assam)

Last Employed

As a D.R.M. in the Office of the Telegraph
Office at Dhemaji, Assam.

...Applicant.

-AND-

1. The Union of India (represented by the Secretary, Telecommunication, Sanchay Bhawan, New Delhi).
2. The Chairman-Cum-Managing Director, B.S.N.L., Government of India Enterprise, New Delhi.
3. The Chief General Manager, Telecom, B.S.N.L., Assam Telecom Circle, Ulubari, Guwahati-7.

Contd.

4. The Telecom District Manager, Telegraph Traffic, B.S.N.L., Tezpur, S.S.A, Tezpur, PIN - 784001.

5. The Sub-Divisional Engineer (Group), Dhemaji Sub-Division, B.S.N.L., Dhemaji, Assam.

...Respondents.

DETAILS OF APPLICATION:

1. Particulars of the order : Retrenchment order dated 14-07-2000 bearing vide letter No.X-1/2000-01 issued by Sub-Divisional Engineer, Tezpur, B.S.N.L., Tezpur without serving any copy thereof to the petitioner nor giving any show cause or opportunity of being heard or payment of 1 month salary in lieu of notice.

2. Jurisdiction : The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation : The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

Contd..

4. FACTS OF THE CASE: -

(a) That the applicant is a citizen of India and he is permanent resident of village Gohpuria, P.O. - Bishnupur in the District of Dhemaji, Assam.

(b) That the applicant was initially appointed as E.D.B.P.M (Extra Departmental Branch Post-Master) w.e.f. 28-03-1980 to 28-12-1991. Thereafter the applicant was transferred to the Telegraph Office, Dhemaji w.e.f. 29-12-1991 to 13-08-2000 as Daily Rosgar Mazdoor regularly. The applicant was regularly doing his service 8 hours per day. As per certificate issued by the District Telecom Officer, Dhemaji dated 04-06-1999 clearly specified that in the year of 1992 to 1998 the applicant was doing his service per year 300 days above.

A copy of the aforesaid certificate issued by the District Telecom Office, Dhemaji on 04-06-1999 is annexed hereto and marked as ANNEXURE - A.

(c) That the applicant states that the applicant along with similarly situated Casual labourers of the Department of Telecommunication has moved this Hon'ble Tribunal for regularisation of their services by filing O.A. No.184 of 1999 (Prabin Doley & ors. -Vs- Union of India). The Hon'ble Tribunal by Judgment and Order dated 18-08-1999 has been discussed the relevant notification issued by the Department of Telecommunication proposing to confer status of temporary employees and confirm them phasewise, and also relied on the judgment of the Apex Court. Daily Rafed - Casual Labourers

employed in Postal Department -Vs- Union of India & others, reported in 1988 (i) Section 122 and held as follows -

"I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of casual labourers (grant of temporary status and regularisation) prepared by the Department of Telecommunication. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Posts as per Dunex - 3 (in No.O.A. 308/96) and Dunex-4 (in O.A. No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt of copy of this order".

(The copy of the judgment dated 18-08-1997 passed in O.A. No.299/96 will be produced when necessary).

(d) That the petitioner/applicant begs to state that after the pronouncement of the above judgment dated 18-08-97 in O.A. No.184/99, the Deputy General Manager, Administrative has issued a Office Memorandum dated 16-10-98 bearing No.STES-21/160/26 for implementation of the Hon'ble Central Administrative Tribunal, Guwahati, order passed in similar cases namely, O.A. No.107/98, 100/97, 142/98, 120/98, 145/98, 131/98, 112/98, 141/98 and 118/98. The said office memorandum has specified that the casual labours like the petitioner who has worked for more than 240 days in a year are entitled to one month notice or payment of salary of one month in lieu of notice

as provided under Section 25 (F) of the Industrial Dispute Act, 1947 before termination/retrenchment order. It is further indicated in the said office memorandum that if any casual labour who worked for more than 240 days in a year, is terminated without notice or payment of salary in lieu of notice, the termination could be illegal ad-initio and the casual labour is liable to be reinstated with immediate effect. It may be mention that the petitioner has duly worked for more than 240 days as casual labour and therefore, his termination without notice or without payment of salary, as has been done by the respondents, is illegal and the applicant is liable to be reinstated with immediate effect.

(The copy of the Office Memorandum dated 16-10-1998 will be produced when necessary).

(e) That the applicant respectfully states that some of the similar casual labourers who are engaged later then the petitioner in the Department are being reinstated on the instruction of the legal advisor by the authority and as many as so many numbers of casual labours who were terminated along with the applicant and some who has joined the Department later than the applicant are reinstated/re-engagement passed by Hon'ble C.A.T., Guwahati, but for some unknown reason the applicant was left over and he was not re-instated till date.

(f) That, therefore, the applicant has filed several representations before the concerned authorities for regularisation of the service of the applicant as regular casual employee in the Department on the basis of his re-engagement as casual labour for more than 240 days in one year, including one which he has filed on 14th June '02 but there is

no positive response and the petitioner has not been reinstated or regularised as regular casual labour.

(A copy of the representation dated 17-02-2002 is annexed hereto and marked as ANNEXURE - B)

(g) That the applicant respectfully states that having no other alternative the applicant came before this Hon'ble Tribunal for grievances of the applicant may interfere in this case by giving appropriate direction to the respondent authority for re-engagement of the casual labour under the Department of Telecommunication.

(h) That the Assistant Director Telecom (E&R) on the basis of the instruction contained in D.O.T., New Delhi, Letter No.269-13/99 STN dated 16-09-1999 directed with his letter dated 01-11-99, the District/SSA to "convert the part-time casual labourers presently working for 4 hours or more a day who have worked for 240 days in the preceding 12 months to full-time casual labourers".

(The said notification dated 04-11-99 bearing No. Estt.9/12/Pt-I/8 is annexed as ANNEXURE - C)

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1. For that *prima-facie* the action/inaction on the part of the respondent is illegal so far as termination of the service of the applicant is concerned that too without assigning any reason and hence the same is liable to be set aside and quashed.

5.2. For that it is the settled law that when some provision have been laid down in a judgment extending certain set of employees, the said benefits are required to be extended to the similarly situated employees without requiring them to approach the Court again and again. The Central Government should set an example of a model employer by extending the said benefit to the applicant.

5.3. For that the discrimination meted out to the member of the applicant is not extending the benefit of the scheme and is not treating him at par with postal employee is violative of Article 14 and 16 of the Constitution of India.

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declare that he have exhausted all the remedies available to him and there is no alternative remedy available to him.

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

The applicant further declares that the applicant alongwith other similarly situated casual labours of the Department of Telecommunication has moved this Hon'ble Tribunal for regularisation of their services by filing O.A. No.184/1999 (Sri Probin Doley & others -Vs- Union of India). The Hon'ble Tribunal by Judgment and Order dated 18-08-1997, has discussed the relevant notification issued by the Department of Telecommunication proposing to confer status of Temporary Employees and confirm them phasewise and also relied on the judgment of the Apex Court. Thereafter, some of the employees were regularised by terminating service of the applicant.

3. RELIEF SOUGHT FOR:

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

3.1. To direct the respondent to extend the benefits of the applicant and to regularise his service.

3.2. To direct the respondent to allow the applicant to continue in his respective service.

3.3. To direct the respondent to extend the benefits of the scheme to the applicant particularly who have joined in the year 1991 taking into

consideration the Hon'ble Ernakulam Bench Judgment and to regularise his service.

8.4. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

Pendency disposal of this application the applicant prays for an interim order directing the respondents to allow him to continue in his respective service till disposal of this Original Application.

10. PARTICULARS OF I.P.O. :

1. I.P.O. No.: - 116389561
2. DATE : - 27-5-04
3. PAYABLE AT: - GUWAHATI.

11. LIST OF ENCLOSURE:

As stated in the 'INDEX'.

VERIFICATION:

I, Sri Nagen Chandra Senchowa, son of Late Bhekula Senchowa, aged about 47 years, working as regular E.D.S.P.M. (Extra Departmental Branch Post-Master) in the office of the Telegraph Office, Dhemaji, Assam, do hereby verify and state that the statements made in paragraphs 4(a, e, g) — are true to my knowledge, and those made in paragraphs 4(b, c, f, 8-h) are matters of records which I believe to be true and rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 27th day of May 2004.

Sri Nagen Ch. Senchowa
Applicant.

11

Annexure - A

This is to certify that S/Sri Naba Kumar Baruah, Village - Bakalgaon, Post - Dhemaji, Sri Nagen Chandra Senchowa, Village - Dubia, Post = Dhemaji, Sri Pradip Kumar Gogoi, Village - Batgharia, Post - Dhemaji and Sri Jubaraj Deori of Gai Deorigaon, Post - Sripani, Dhemaji.

The annual working period of the above mentioned officials working with effect from 29.12.1991 to 31.5.1999. Yearwise performances as follows :

1991 - 29.12.91 to 31.12.91 = 3 days.

1992 to 1998 above 300 days and

1999 upto May 31st total working days
220 days.

The information as furnished above are physically verified by me and found correct.

Sd/- P.K. Chakravarty.

TOA(T)
I/C D.T.O., Dhemaji.

Seal. Dated at Dhemaji
The 4th June, 1999.

Certified to be
true copy.

S. B. R.
Advocate.

This is to certify that Sri Naba Kumar Baruah, village Bokalgaon, Post-Dhemaji, Sri Nagen Chandra Senchowra, village Dubia Post- Dhemaji, Sri Pradip Kumar Gogoi village Batgharia, Post - Dhemaji and Sri Jubanaj Deoni of Gai Deonigaon, Post- Sripani, Dhemaji.

The annual working period of the above mentioned officials working with effect from 29-12-1991 to 31-5-1999, yearwise performances as follows:

1991 - 29-12-91 to 31-12-91 = 3 days.

1992 to 1998 above 300 days and

1999 upto May 31st total working days 220 days.

The information as furnished above are physically verified by me and found correct.

P.K. Chakravarthy
T.O.A (IT)
D.T.O. Dhemaji D.T.O., Dhemaji
Pin-787057

Dated at Dhemaji

The 4th June 1999.

Federal District Manager

The Sub-Divisional Engineer

Telegraph Traffic

Sharet Sanchar Nigam Limited

Tezpur S.S.A.

Tezpur-784001.

Dated at Dhemaji the 06-06-2002.
(Through proper channel)

Sub- Prayer for providing on "CASUAL LABOUR DUTY" under your Sub-Division.

Sir;

I have the honour to state before you the following points for favour of your kind consideration and necessary action please.

That Sir, I worked as E.D.G.P.M. (Extra Departmental Branch Post-Master) w.e.f. 28-3-1980 to 28-12-1991. Then I was transferred to Telegraph Office Dhemaji and worked there w.e.f. 29-12-1991 to 13-06-2000 as D.R.M. RR regularly, 8 hours per day. I was terminated from my service from Telegraph Office Dhemaji by SOE (TT) / Tezpur vide letter No. X-1/2000-01 dated at Tezpur the 14-7-2000, reason of which unknown to me.

That Sir, there are 5 (five) family members in my family and my only income source to maintain my family was my that temporary service. Now that single income source has also gone and I and my family are passing our days with starvation and many troubles.

Hence Sir, I pray you kindly to provide for me " CASUAL LABOUR DUTY" under your Sub-division to save me and my family earliest and obliged.

copy to:-

- 1) C E M T, G H
- 2) Circle Secy BSNL EV, G H
- 3) Dist Secy BSNL EV, T Z

Thanking You Sir

Yours Faithfully

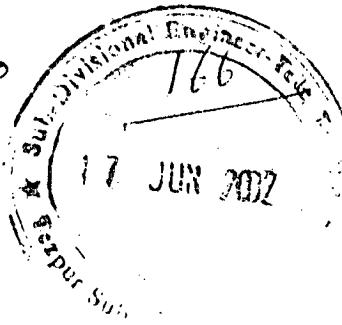
S. Nagan Senchowra

Shri Nagan Chandra Senchowra
S/O Late Bhakula Senchowra
Vill- Gohpuria
PO- Bishnupur
Dist- Dhemaji (Assam)

Certified to be
True Copy.

Ab

(NIRBAL BARUA)



M

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM
ASSAM CIRCLE: ULUBARI: GUWAHATI-7.

ANNEXURE - C

NO. ESTT-9/12/Pt-I/6

Dated at Guwahati, the 04-11-99.

In accordance with the instructions contained in D.O.T. New Delhi letter No. 269-13/99-ST.I dated 16-09-99 the head of concerned district/S.S.A. is hereby authorised to convert the part-time casual labourers presently working for 04 hours or more a day who have worked for atleast 240 days in the preceding 12 months into full time casual labourers. This will be applicable only to the extent of the number shown below against respective S.S.A./District:-

Kenrup Telecom District	: 02 (Two).
Nowgaon S.S.A.	: 04 (Four)
Tezpur S.S.A.	: 39 (Nine)
Dibrugarh S.S.A.	: 03 (Three)
Bongaigaon S.S.A.	: 06 (Six)
Jorhat S.S.A.	: 12 (Twelve)

TOTAL : 36 (Thirty-six)

The conversion of the part time casual labourers into full time casual labourers as above will be further subject to the following :

- (a) As a one-time relaxation, part time casual labourers with 04 hours or more hours of duty per day who have worked for 240 days in the preceding 12 months may be converted into full time casual labourers. This will be applicable only to the extent of the numbers indicated against respective field units in the Annexure.
- (b) They should be engaged as causal labourers subject to suitability.
- (c) They should be engaged as causal labourers only where there is shortage of Group 'D' staff (i.e. existence of vacant Group '1' posts after accounting for all T.S.Ms and existing full time casual labourers) and no posts should be created for the purpose.
- (d) In the event, there is no shortage in Group 'D' at the station where the part time casual labourer is to be engaged to work as full time casual labourers, the part time casual labourers will not be converted into full time casual labourers.
- (e) Payment to the above casual labourers may be made as provided for under Rule 331 of P & T F.A.B. Vol. I. Under no circumstances should they be paid through muster roll.
- (f) No part time casual labourers will be engaged hereafter and any violation will result in disciplinary action.

Sd/- (B.C. PAL)
Asstt. Director Telecom (E&R)

Copy to :-

1. The General Manager, Kenrup Telephone, Guwahati
2. The Telecom District Manager,
Jorhat/Nowgaon/Tezpur/Bongaigaon.

Sd/- (B.C. PAL)
Asstt. Director Telecom (E&R).

certified to be

True copy.

Bb
Akhilesh