

07/00 13
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 137/2004

✓ R.A/C.P No. 05/2005

E.P/M.A No.

1. Orders Sheet. O.A. 137/04 Pg. 1 to 2
RA-05/05 order Pg - 1 to - 10
2. Judgment/Order dtd. 12/04/05 Pg. 1 to 3 Dismissed
RA-05/2005 17/06/05 Pg - 1 to - 2 Dismissed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 137/04 Pg. 1 to 20
5. E.P/M.P. Pg. to
6. R.A/C.P. 05/05 Pg. 1 to 9
7. W.S. Respondents Pg. 1 to 7
8. Rejoinder Pg. to
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply

SECTION OFFICER (Judl.)

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

ORDER SHEET

137/2004

✓ Org. App. / Misc Petn / Cont. Petn / Rev. Appl.

In O.A.

Sir Chinnay Dass

Name of the Applicant(s)

Name of the Respondent(s)

Advocate for the Applicant

Counsel for the Railway / CGSC

ORDER OF THE TRIBUNAL

OFFICE NOTE DATE

7.6.2004

Heard Mr. A. Ahmed, learned counsel for the applicant.

The O.A. is admitted. Issue notice to the parties, returnable by four weeks.

List on 14.7.2004 for order.

Meanwhile status quo shall be maintained till the returnable date.

The application is in form
 is filed C.F. for 1st 0/1
 deposited vide P. BD
 No. 31 G 389747

Dated 3.06.04

Done
 Dy. Registrar

NS
 6/6/04

steps taken

bb
 9.8.2004

Written statement has been filed.
 List the case for hearing on 10.9.2004.
 In the meantime, applicant may file rejoinder, if any.

Notice & order
 Sent to D/Section
 for issuing to
 respondent nos

1, 2 & 3, by regd 8.12.2004
 Shillong
 with A/D post.

bb

present: The Hon'ble Mr Justice R.K. Batta, Vice-Chairman.
 Mr. B.C. Pathak, learned Addl.
 C.G.S.C. was present for respondents.
 Mr. A. Ahmed, learned counsel has sent a letter of absence. Hence adjourned to 19.1.2005.

K.P. Dass
 Member (A)

10/6/04
 D/Memo NO-
 1008 to 1010
 10/6/04

R
 Vice-Chairman

A/D corr return
from resp. No. 23,

19.1.2005

At the request of Mr. A. Ahmed, learned counsel for the applicant the matter is adjourned to 4.2.2005 for final hearing.

Con
4/7/04

Notice received back
from R-1 with marks
re incomplete Salders

W.S.
8/7/04

bb

R
Vice-Chairman

23.2.2005

Heard Mr. A. Ahmed, learned counsel for the applicant. Order is reserved.

6-8-04

Notice duly served
on R-2 No 2, 3

No W/S have been filed

bb

Dr. Dabir
Member (A)

12.4.2005

Judgment pronounced in open
Court, kept in separate sheets.

The O.A. is dismissed in terms
of the order. No costs.

9.8.04

W/S submitted
on behalf of Respondents

bb

Dr. K. R. Dabir
Member (A)

7-12-04

W/S filed
br.

Recd. 4/5/05

M. H. Ahmed

6.5.05
Copy of the Judgment
has been sent to the
Office for issuing
the same to the applicant
as well as to the Respondents
by post & by

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No.137 of 2004.

DATE OF DECISION : 12.4.05

Shri Chinmoy Das

APPLICANT(S)

Mr.A.Ahmed

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

None for the Respondents

ADVOCATE FOR THE
RESPONDENT(S)

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

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment?

4. Whether the judgment is to be circulated to the other Benches?

NO.

Judgment delivered by Hon'ble Member (A).

Verd

5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

ORIGINAL APPLICATION NO.137 OF 2004.

Date of Order: This, the 12th Day of April, 2005.

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

Shri Chinmoy Das
Son of Shri Cittaranjan Das
Chowkidar (Casual Worker)
in the Office of the
Anthropological Survey of India
North East Regional Centre
Mawblei Block-B, Madanrtting
Shillong – 793 021.

..... Applicant.

By Advocate Mr.A.Ahmed.

Versus –

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Human Resource
New Delhi-1.
2. The Director
Anthropological Survey of India
27th Jawaharlal Nehru Marg
Kolkata – 16.
3. The Deputy Director
Anthropological Survey of India
North East Regional Centre
Mawblei Block-B, Madanrtting
Shillong-793021. Respondents.

None appeared for the Respondents.

ORDER

K.V.PRAHLADAN, MEMBER(A):

This application has been filed by the applicant seeking regularization of his service in the Group 'D' post with all consequential benefits with effect from



1992. He had joined respondent no.3 as a chowkider in 1992. The applicant claims that he has worked more than twelve years under respondent no.3 continuously. The applicant claimed that one Mr.D.Barik was recruited as a casual labourer in 1995-1996 and later regularized against a Group 'D' vacancy. The applicant has prayed that a direction be issued by this Tribunal to regularize his service in a Group 'D' post with retrospective effect with all consequential benefits.

2. The respondents claim that the applicant was recruited as a chowkider for 89 days from 18.9.1992 to 15.12.2002 after which he was disengaged. The applicant had been on 'No Work No Pay' basis as and when required. He is a contingent paid worker and is therefore not eligible for any benefits other than wages as per Govt. of India rules. As the applicant is engaged on a contract basis as and when required after which his services used to be terminated and is therefore not entitled to regularization as per the DOP&T Scheme of 1993. With reference to the claim of the applicant that one Mr. D. Barik junior to him has been recruited as a casual worker and later regularized. The respondents have stated that Mr. Barik was working as a casual worker from 1989. He was recruited from the Employment Exchange in September, 1993. Since he had fulfilled all the required conditions, he was regularized.

3. I have heard Mr.A.Ahmed, learned counsel for the applicant. The applicant claims that he has worked continuously for 12 years from 1992. But he has not produced any document to support such any document to support such a claim. The documents he has produced at Annexures A1 to A5 show the applicant was engaged occasionally and irregularly. He has not produced any document that he had worked continuously for 240/206 days in any financial year as on 10.9.1993 as per requirement in the DOPT O.M. dated 10.9.1993. So the applicant does not

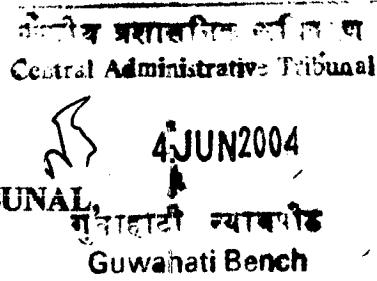
fulfill the basic requirement of the O.M. cited above. Therefore, the O.A. is liable to be dismissed and thus stands dismissed.

4. No order as to costs.

KV Prahledan
(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

bb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.



(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 137 OF 2004.

BETWEEN

Shri Chinmoy Das

...Applicant

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES AND SYNOPSIS

Annexure-A to A are the photocopies of some of appointment letter issued by the Respondents.

Annexure-B is the photocopy of Judgment Order dated 24th February 2004 passed by this Hon'ble Tribunal in O.A.No.106 of 2003.

Annexure-C is the photocopy of the Judgment and Order passed by the Hon'ble Apex court.

Annexure-D is the photocopy of Order dated 29-4-2004 passed in Original Application No.102 of 2004.

This original application is made for regularisation of the service of the applicant in the Gruoup-D post from the date of his joining and also seeking a direction from this Hon'ble Tribunal to the Respondents to release the regular pay scale of the applicant in the Group-D post with retrospective effect from date of his joining with all

Chas

consequential service benefits including seniority etc. The applicant is working as Chowkider in the year 1992 on Casual basis under the Respondents. He is working continuously more than 12(Tweleve) years as Casual Worker. But the Respondents have not yet regularise the service of the applicant in any Group-D post. Moreover the applicant is now over aged for any other jobs under the government or semi government organization. Hence he has filed this Original Application for a direction from this Hon'ble Tribunal to the Respondents for regularisation of the service of the applicant in any Group-D post with effect of his date of joining and also to pay him the regular pay scale of the Group-D employee.

225

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

**(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT 1985)**

ORIGINAL APPLICATION NO. 137 OF 2004.

BETWEEN

Shri Chinmoy Das
Son of Shri Cittaranjan Das
Chowkidar (Casual Worker)
in the Office of the
Anthropological Survey of India,
North East Regional Centre,
Mawblei Block-B, Madanrtting,
Shillong-793021.

...Applicant

-AND-

1. The Union of India represented by the Secretary to the Government of India, Ministry Of Human Resource, New Delhi-1.
2. The Director, Anthropological Survey of India, 27th Jawaharlal Nehru Marg, Kolkata-16.
3. The Deputy Director, Anthropological Survey of India, North East Regional Centre, Mawblei Block-B, Madanrtting, Shillong-793021.

... Respondents

1) DETAILS OF THE APPLICATION PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This application is not made any particular order but the applicant seeks a direction from this Hon'ble Tribunal to the Respondents for regularisation of the service of the applicant in any Group-D post.

2) JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3) LIMITATION

The applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

- 4.1) That your humble applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India.
- 4.2) That your applicant begs to state that he was appointed as chowkidar in the year 1992 on casual basis. Till date he is working as chowkidar under the Office of the Respondent No.3.

Annexure-A to A₅ are the photocopies of some of appointment letter issued by the Respondents.

- 4.3) That your applicant begs to state that he is working continuously for more than 12(Twelve) years as Casual worker but he has been deprived from regular pay scale, service benefits, dearness allowance, house rent, medical allowance and not even minimum pay scale was granted to him. He had already served a considerable long period under the Respondent and he is over aged for other government or semi government jobs.



4.4) That your applicant begs to state that the Office of the Respondent No.3 under which he is presently working was a newly set up office and the office was properly functioning with effect of the year 1992. In the said office the Respondents in requirement of his service appointed your applicant on casual basis with an assurance that the services will be regularised within a short span of time but the assurance given to the applicant by the Respondents is yet to be materialised.

4.5) That your applicant begs to state that he has acquired a legal right for regularisation and regular pay scale of his above said post. He made several request to the authority concerned but the Respondents have not taken any interest in this matter. Now the applicant apprehend that at any moment the Respondent may terminate the service of the applicant as such the applicant filed this Original Application before this Hon'ble Tribunal praying for an Interim Order and direction to the Respondents by this Hon'ble Tribunal not to terminate the service of the applicant by the Respondent till disposal of this Original Application.

4.6) That your applicant begs to state that the similarly situated persons Shri Naresh Sarkar, Shri Umanath Rai and Shri Sanjeet Kumar has approached this Hon'ble Tribunal by filing the Original Application No.106 of 2003 the Hon'ble Tribunal vide its Judgment and Order dated 24th February 2004 directed the Respondents to consider the claim of the applicant for regularisation in the light of notification and scheme promulgated by the government.

Annexure-B is the photocopy of Judgment Order dated 24th February 2004 passed by this Hon'ble Tribunal in O.A.No.106 of 2003.

4.7) That your applicant begs to state that the Respondents have acted in an unfair manner in discriminating the applicant in the matter of employment and subsequent regularization. It is worth to mention here that one Mr.Dasarath Barik was recruited by the Respondents in the year 1995-1996 in the same capacity of Casual Worker but subsequently he got the benefit of regularisation against the vacant post of Group-D under the Respondent No.2. As per the procedure prescribed the



15

Respondents ought to have maintained a Master Seniority List of all Casual Workers through out the country and thereafter their services should be regularised in order of seniority without discriminating or without any super session. But in the instant case admittedly a person junior to the applicant have given appointment on regular basis. Similar controversy arose before the Hon'ble Apex Court vide its judgment and order dated 21-04-1999 laid down the law that in the matter of regularisation such type of direction have been issued to the authorities to regularise their service with retrospective effect i.e. from the date when the services of the junior were regularised.

Annexure-C is the photocopy of the Judgment and Order passed by the Hon'ble Apex court.

4.8) That your applicant begs to state that similarly situated person who is also working under the Respondent No.3 has also approached this Hon'ble Tribunal for regularisation of his post by filing Original Application No.102 of 2004. The Hon'ble Tribunal vide its order dated 29-4-2004 granted status quo to the applicant.

Annexure-D is the photocopy of Order dated 29-4-2004 passed in Original Application No.102 of 2004.

4.9) That your applicant begs to state that apart from the illegality of the Respondents regarding non regularisation of the service of the applicant, the Respondents have denied the benefit of equal pay to equal work to the present applicant. The work performed by the applicant is similar to the work performed by the regular Group-D employees but those Group-D employees are in receipt of higher pay than that of the present applicant. On the other hand in some occasion the applicant had to work even for Sixteen hours continuously in day without any break and needless to say here that the responsibility of those works are higher than that of regular employees.

4.10) That your applicant begs to state that finding no other alternative your applicant has compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Abas

4.11) That this application is filed bona fide for the ends of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, on the reason and facts which are narrated above the action of the Respondents is *prima facie* illegal and without jurisdiction.

5.2) For that the action of the Respondents are *mala fide* and illegal and with a motive behind.

5.3) For that, the applicants having worked for a considerable long period, therefore, he is entitled to be regularised in Group-D posts.

5.4) For that fresh recruitment of Group-D post in super session of the claim of the applicants are hostile discrimination and violative of Articles 14 & 16 of the Constitution of India.

5.5) For that the applicants have become over aged for other employment.

5.6) For that it is not just and fair to terminate the service of the applicants only because he was initially recruited on casual basis.

5.7) For that he has gathered experience of different works in the establishment.

5.8) For that the nature of work entrusted to the applicant is of permanent nature and therefore he is entitled to be regularised in his post.

5.9) For that the applicant has got no alternative means of livelihood.

5.10) For that the Central Government being a model employer cannot be allowed to adopt a differential treatment as regard payment of wages to the applicant.

DhS

5.11) For that there are existing vacancies of Group-D post under the Respondents.

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of instant application.

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal.

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

The applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition of suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following reliefs.

8.1) That the Respondents may be directed by the Hon'ble Tribunal to regularize the service of the applicant in the Group-D posts with effect from the date of his joining and also the Hon'ble Tribunal may be pleased to direct the Respondents to release the regular

1203

pay scale of the applicant in the Group-D post with retrospective effect with all consequential service benefits including seniority etc.

8.2) Cost of the application.

9) INTERIM ORDER PRAYED FOR:

Pending final decision of this application the applicant seeks issue of an Interim order by this Hon'ble Tribunal:
That the Respondents may be directed by this Hon'ble Tribunal not to terminate the services of the applicant till final disposal of this Original Application.

10) THIS APPLICATION IS FILED THROUGH ADVOCATE.

11) PARTICULARS OF I.P.O.

I.P.O. No. : JJG 389747
Date of Issue : 3.06.2004
Issued from : Guwahati G.P.O.
Payable at : Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification,

[Signature]

VERIFICATION

I, Shri Chinmoy Das Son of Shri Cittaranjan Das, Chowkidar (Casual Worker), in the Office of the Anthropological Survey of India, North East Regional Centre, Mawblei Block-B, Madanrtting, Shillong-793021. do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.3, 4.4, 4.5, 4.9 ————— are true to my knowledge, those made in paragraph nos. 4.2, 4.6, 4.7, 4.8, — are being matter of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 6th day of June 2004
at Guwahati.

Chinmoy Das

- 9 -

Anthropological Survey of India,
Government of India,
North East Regional Centre,
Upper Lachmiers,
Shillong-793001.

Dated : August 26, 1997.

OFFICE D.R.D.E.R.

As per the approval of Deputy Director dated 25-8-97. The following Daily Wages Chowkidars will be perform their duties in Main Building and Museum building from 26-8-97 to 25-9-97 as per the scheduled programme given below on working days. They may handover the keys to O.I.C./Chowkidars of the respective building.

- 1) Shri Kulen Barman, will perform his duty in Main building from 6.00 A.M. to 9.30 A.M. and from 5.30 P.M. to 10.00 P.M. for 8 hours w.e.f. 26-8-97 to 25-9-97.
- 2) Shri Umanath Rai, will perform his duty in the Museum building from 10.00 P.M. to 6.00 A.M. for 8 hours w.e.f. 26-8-97 to 25-9-97.
- 3) Shri Iterson Sangma, will perform his duty in Museum building from 6.00 A.M. to 9.30 A.M. and from 5.30 P.M. to 10.00 P.M. for 8 hours w.e.f. 26-8-97 to 25-9-97.
- 4) Shri Chinmoy Das, will perform his duty in the Main office building from 10.00 P.M. to 6.00 A.M. for 8 hours w.e.f. 26-8-97 to 25-9-97.

(B.R. Rizvi)
Deputy Director &
Head of office

Attested
J. B. Rizvi
Head of office

~~10~~ = 10 -

19
ANNEXURE - A

No. 1-292/91/Eatt.

Anthropological Survey of India
North East Regional Centre,
Upper Lachumiere,
Shillong-793001.

Dated : December 1, 1998.

OFFICE ORDER

In partial modification of the earlier office order of even number dated 27-11-98, the allotment of duties of the Daily-Wages Chawkidars of this Regional Centre, Shillong will be as follows with effect from 2-12-98 to 31-12-98 :

Sl. No.	Name	<u>MAIN BUILDING</u>		Days
		Time	Time	
1.	Shri K. Barman	2:00 PM to 10:00 PM.		Monday - Tuesday - Wednesday - Thursday - Friday - Sunday
2.	Sri. Chinmoy Chinmoy Das	6:00 AM to 2:00 PM		Monday - Tuesday - Wednesday - Thursday - Saturday - Sunday
<u>MUSEUM BUILDING</u>				
3.	Sri. N. Sarker.	6:00 AM to 2:00 PM		Monday - Tuesday - Thursday - Friday - Saturday - Sunday

Copy to :-

1. Shri N.N. Sengupta, Asstt. Keeper, ZM, An.S.I., Shillong for information and necessary actions.
2. Shri B.P. Uredu, Security Officer, An.S.I., Shillong for information and necessary actions.
3. A/C. Section, An.S.I., Shillong for information and necessary actions.

R.K. Saha

(R.K. Saha)
Head of office (C.B.).

Attested
J. S.
Advocate

10/12/98

Anthropological Survey of India,
North East Regional Centre,
Upper Lachumiere,
Shillong-1.

70

Dated : July 31, 2000.

OFFICE ORDER

The allotment of duties of Regular & Daily Wages Chowkidar in this Regional Centre, Shillong both Main & Museum building will be as follows E.E.F. 1-8-2000 to 3-8-2000. The duties of Daily Wages Chowkidars will be on temporary basis and may be terminated as and when required and not be allowed double duties and they will be paid Rs. 104/- RxMxix per day i.e. a no work no pay basis as per rules-

Sl. No. Particulars

MAIN BUILDING

	<u>Times.</u>	<u>Days.</u>
1. Sri. K. Barman, D/W. Chowkider	10.00 P.M. to 6.00 A.M.	Tuesday -Wednesday -Thursday Friday -Saturday-Sunday.
2. Sri. G.Khongwir Chwokider	6.00 A.M. to 2.00 P.M.	Monday -Tuesday-Wednesday- Thursday-Saturday-Sunday.
3. Sri. Sanjeet Kumar, D/W. Chowkider	2.00 P.M. to 10.00 P.M.	Monday -Tuesday-Thursday- Friday-Saturday-Sunday.

MUSEUM BUILDING

4. Sri. Uma Nath Rai, D/W. Chowkidar	10.00 PM to 6.00 AM	Monday- Tuesday -Wednesday- Thursday -Friday -Saturday.
5. Sri. Narash Sarker, - do -	6.00AM to 2.00 PM	Monday-Tuesday-Wednesday- Thursday-Friday-Sunday.
6. Sri. I. Sangma, Chowkidar	2.00 PM to 10.00 PM	Monday -Wednesday-Thursday- Friday -Saturday-Sunday.

MAIN BUILDING (HOLIDAYS/SUNDAYS)

7. Sri. Chinmoy Das, D/W. Chowkider.	10.00PM to 6.00 6.00 AM to 3.00 PM 2.00 PM to 10.00 PM	- Monday - Friday - Wednesday.
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MUSEUM BUILDING (Holidays/Sundays)

10.00 PM to 6.00 AM	- Sunday.
6.00 AM to 2.00 PM	- Saturday
2.00 PM to 10.00 PM	- Tuesday.

Copy to 1-

1. Sri. N.N. Sengupta, Asst. ZAM,
2. Account Section, Asst. S.I., Shillong | for information and
necesssary action.

1 R.F. 8.6
1 a.m. 8.7.1911

Used oil Oxidation

Anthropological Survey of India
Government of India
North East Regional Centre
Shillong 793001.

Albert
Albert

Anthropological Survey of India
North East Regional Centre,
Mawblei Block B, Madanring,
Shillong - 793 021.

29.
Dated : October 28, 2001.

OFFICE ORDER

In ~~pxxxm~~ supersession of office order of even number dated 01-10-2001, the duties of Regular & Daily Wages Chowkidars for the month of November, 2001 as suggested will be as follows. The duties of D/W. Chowkidars will be on temporary basis and may be terminated automatically as and when required and they may be allowed extra emergent duties and they will be paid @ Rs. 116/- per day i.e. no work no pay basis as per rules :-

<u>S.I.</u>	<u>Name of Chowkidars</u>	<u>Period</u>	<u>Days</u>
1.	Shri. I. Sangma, Regular Chowkidar.	10.00PM to 6.00 AM	From 1st to 30th November, 2001 Weekly off - 5, 12, 19, 26 (Monday)
2.	Sri. G. Khongwir, - do -	6.00AM to 2.00PM	From 1st to 30th November, 2001 Weekly off - 6, 13, 20, 27 (Tuesday)
3.	Shri. Chinmoy Das, D/W. Chowkidar (Museum)	9.00AM to 5.00 PM	From 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30 = 25 days. Weekly off - 3, 10, 17, 24 (Saturday)
4.	Shri. Uma Nath Rai, - do - (Library)	9.00AM to 5.00 PM	From 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30 = 26 days. Weekly off - 4, 11, 18, 25, (Sunday)
5.	Shri. Kulen Barman, - do -	10.00PM to 6.00AM	From 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30 = 26 days Weekly off - 7, 14, 21, 28 (Wednesday)
6.	Shri. Sanjeet Kumar, - do -	2.00PM to 10.00PM	From 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 30 = 25 days. Weekly off - 1, 8, 15, 22, 29 (Thursday)
7.	Sri. Naresh Sarkar, - do -	6.00AM to 2.00 PM 2.00PM to 10.00PM 9.00AM to 5.00PM 9.00AM to 5.00PM 10.00PM to 6.00 AM	On 6, 13, 20, 27 On 1, 8, 15, 22, 29 On 3, 10, 17, 24 (Museum) On 4, 11, 18, 25 (Library) On 5, 12, 19, 26, 27, 12, 14, 19, 21, 26, 28. Weekly off - 2, 9, 16, 23, 30 (Friday)

Copy to :- Shri. N. N. Sengupta, A.C. and Security Officer, A.N.S.I., Shillong for information and necessary action.

cc: 1) A/C and Security Officer, A.N.S.I., Shillong for information and necessary action.

2) A/C. Section, - do -

4) A/C. Section, - do -

13 -

Dated : October 30, 2002

ANNEXURE - A
 4

OFFICE ORDER

In supersession of this office order of even number dated 30-9-2002, the duties of Regular and Daily Wages Chowkidars for the month of November, 2002 as suggested will be as follows. The duties of the Daily Wages Chowkidars will be on temporary basis and may be terminated automatically as and when required and they will be paid @ Rs. 116/- per day i.e. no work no pay basis as per rules :-

Sl. No.	Name of Chowkidars.	Times.	Days.
1.	Sri. I. Sangma, Regular Chowkidar	10.00 PM to 6.00 AM From 1-30 November, 2002 Weekly off : 5,12,19,26 Nov'02	
2.	Sri. (G. Khongwir, - do - Uma Nath Rai	9.00 am to 5.00 pm From 1-30 November, 2002 Weekly off: 4,11,18,25 Nov'02	
3.	Sri. ShrimayxxDas , Daily Wage Chowkidar	2,00pm to 10.00 pm From 1-30 November, 2002 Weekly off : 3,10,17,24 Nov'02	
4.	Sri. Naresh Sarkar, -do-	10.00 pm to 6.00 am From 1-30 November, 2002 Weekly off: 2,9,16,23,30 Nov'02	Break :- on 8th & 9th November, '02
5.	Sri. Kulen Barman, -do-	6.00 am to 2.00 pm From 1-30 November, 2002 Weekly off : 6,13,20,27 Nov'02	Break :- on 19th & 20th November'02
6.	Sri. Sanjeet Kumar, -do- (Library)	9.00am to 5.00pm From 1-30 November, 2002 Weekly off: 7,14,21,28 Nov'02	
7.	Sri. Chinmoy Das, -do- Museum - Library -	10.00 - 6.00 am on 5,12,19,26,28 , 2,9,16,23,30 9.00am - 5.00 pm - on 4,11,18,25, November, 2002 9.00am - 5.00 pm - On 7,14,21,28 November, 2002 Weekly off: 1,8,15,22,29 November'02 6.00am - 2.00 pm - 6,13,20,27 November, 2002 2.00pm - 10.00pm - 3,10,17,24.November, 2002.	

Copy to :-

- 1) Sri. Ramesh Sahani, A.A(P) & Security officer, A.S.I., Shillong-21
for information and necessary action.
- 2) Account section, - do - - do -

Office
 (B.F. Kulirani)
 Head of Office

Anthropological Survey of India
 Government of India
 North East Regional Centre
 Shillong 793001

After
Ansata

- 14 -

ANNEXURE - A

Dated: 01-01-03

OFFICE ORDER

In supersession of this office order of even number dated 28-11-2002 the duties of Regular and Daily wages Chowkidars for the month of January 2003, as suggested will be as follows. The Duties of the Daily Wages Chowkidars will be on temporary basis and may be terminated automatically as and when required and they will be paid @ Rs.127/- per day i.e. no pay basis as per rules:-

Sl. No.	Name of Chowkidars,	Times	Days
1.	Sh. Kulen Barman, D/W Chowkidar	10.00 PM to 5.00 AM 6.00 AM	1-31 January, 2003 Weekly off : 1, 8, 15, 22, 29 Jan 03
2.	Sh. I. Sangma, Regular	10.00 PM to From - 1-31 January, 2003 6.00 AM	Weekly off : 7, 14, 21, 28, Jan 03
3.	Sh. Sanjeet Kumar D/W Chowkidar	6.00 AM to From - 1-31 January, 2003 2.00 PM	Weekly off : 2, 9, 16, 23, 30, Jan 03
4.	Sh. G. Khongwir, Regular	9.00 AM to From 1-31, January, 2003 5.00 PM	Weekly off : 6, 13, 20, 27, Jan 03
5.	Sh. Nares Sarkar, D/W Chowkidar	2.00 PM to From 1-31, January, 2003 10.00 PM	Weekly off : 4, 11, 18, 25, Jan 03 Break on 31.01.2003
6.	Sh. Chinmoy Das D/W Chowkidar (Museum)	9.00 AM to From 1-31, January, 2003 5.00 PM	Weekly off : 3, 10, 17, 24, 31, January 2003. Break on 16, 17 Jan. 2003
7.	Sh. Uma Nath Rai, D/W Chowkidar (Museum) (Library)	10.00 PM to 6.00 AM - 1, 7, 8, 15, 21, 22, 28, 29, January 2003 2.00 PM to 10.00 PM - 4, 11, 18, 25, Jan. 03 6.00 AM to 2.00 PM - 2, 9, 16, 23, 30, Jan. 03 9.00 AM to 5.00 PM - 3, 10, 17, 24, 31, Jan. 03 9.00 AM to 5.00 PM - 6, 13, 20, 27, Jan. 03 Weekly off : 5, 12, 19, 26 January 2003.	

Copy to:

1. Sh. Ramesh Bahani, AA(P) & Security Officer, An.SII, Shillong-21 for information and necessary action.
2. Accounts Section, An.S.I.O. Shillong-21, for information and necessary action.


(B.F. KULIRANI)
HEAD OF OFFICE

Head of Office
Anthropological Survey of India
Government of India
Dwarka, New Delhi-110 071
Shillong-793 021

*After 1st
JL
private*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.106 of 2003

Date of decision: This the 24th day of February 2004

The Hon'ble Shri Shanker Raju, Judicial Member

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

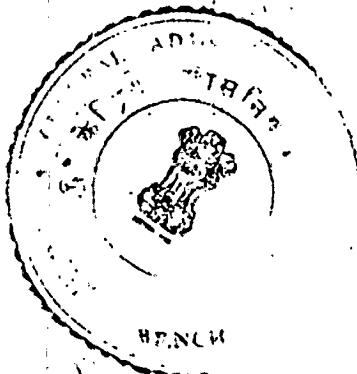
1. Shri Naresh Sarkar,
S/o Late G.C. Sarkar
Casual Worker in the
Office of the Anthropological Survey of India,
North Eastern Regional Centre,
Shillong, Meghalaya.
2. Shri Uma Nath Rai,
S/o of Sital Prasad Rai,
Casual Worker in the
Office of the Anthropological Survey of India,
North Eastern Regional Centre,
Shillong, Meghalaya.
3. Shri Sanjeet Kumar,
S/o Shri Jai Babu Rai,
Casual Worker in the
Office of the Anthropological Survey of India,
North Eastern Regional Centre,
Shillong, Meghalaya.Applicants

By Advocates Mr S. Sarma, Mr U.K. Nair
and Ms U. Das.

- versus -

1. The Union of India,
represented by the Secretary to the
Government of India,
Ministry of Human Resources,
New Delhi.
2. The Director,
Anthropological Survey of India,
Kolkata.
3. The Deputy Director,
Anthropological Survey of India,
Shillong, Meghalaya.Respondents

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



After
J.C.
Biju

O R D E R (ORAL)SHANKER RAJU, MEMBER(J)

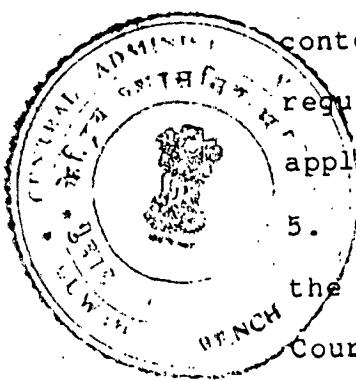
The applicants who had been working on Group 'D' post on casual basis for the last more than ten years have sought regularisation to Group 'D' posts and other consequential benefits.

2. Heard Mr U.K. Nair, learned counsel for the applicants and Mr A.K. Chaudhuri, learned Addl. C.G.S.C.

3. Relying upon the decision of the Apex Court in State of Haryana Vs. Pyara Singh, (1992) 3 SLJ 34 SCC, it is contended on behalf of the applicants that when a casual labourer works for longer period there is a presumption of vacancy against which he may be regularised. In this view of the matter it is stated that the applicants who are still working may be considered against other Group 'D' posts where vacancies are available.

4. The respondents in their reply oppose the contention and stated that as no junior has been accorded regularisation for want of vacancies, the claim of the applicants cannot be acceded to.

5. Having regard to the rival contentions we are of the considered view bearing support from the decision Apex Court in Pyara Singh (Supra) that the applicants who had already worked on casual basis for more than ten years are covered by the DOPT's Scheme of 1.9.1993. Having been in status on 1.9.1993 the respondents shall consider their cases. In so far as vacancies are concerned, we observe that instead of restricting reconsideration against the post of Chowkiar the applicants may be considered for



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other Group 'D' posts as there is no nomenclature for a casual labourer and he can be adjusted in any Group 'D' post.

6. Having regard to the above the O.A. is disposed of with a direction to the respondents to consider the claim of the applicants for regularisation in the light of the Notification and Scheme promulgated by the Government. Till then they may not be discontinued from service.

Sd/MEMBER (J)

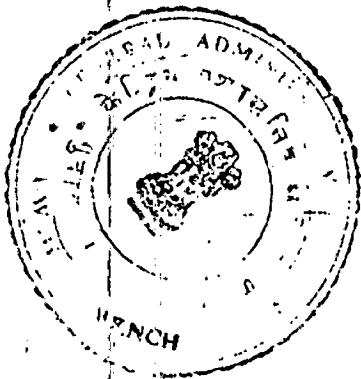
Sd/MEMBER(ADM)

TRUE COPY
Affidavit

26/6/04

ANIL GUPTA (S)

Administrative Officer
AFCI, DCC, DCC
26/6/04



Attn: [Signature]
[Signature]

18-

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1995 OF 1995
(Arising out of S.L.P.(C) No.15619 of 1994)

Arvind Kumar & Ors. Appellants

Versus -

U.O.I. & Ors. Respondents

WITH

CIVIL APPEAL NO. 1995 OF 1995
(Arising out of S.L.P.(C) No.15048 of 1994)

Subhash Chand & Anr. Appellants

Versus

U.O.I. & Ors. Respondents

O R D E R

C.A. @ S.L.P.(C) No.15619/1994

Special leave granted.

Heard learned counsel for the parties.

Admittedly, the employees concerned who are on daily wages are transferable from one job to another and also from one place to another in the country. Hence there has to be a common seniority list of all such employees.

A. K. Alvi
A. K. Alvi

and the regularisation has to be made strictly according to such seniority list. The respondents are in fact maintaining what they call a master seniority list according to the dates of appointments of the employees concerned. It is not disputed before us that the appellants herein were engaged on different dates between March 1986 and September 1987. They have not yet been regularised while others about 15 in number whose names have been given by the appellants in their application before the tribunal who were engaged between November 1987 and 1992, have been regularised. The only ground given for regularising the said 15 persons ignoring the claim of the appellants, is that the said 15 workers are working on the mining side while the appellants are working on the drilling side. It is not disputed that the appellants themselves were first working on the mining side and they were later assigned to the drilling side. Further, as stated above the jobs are transferable and there has to be a common seniority list. Hence the ground made out for discrimination is untenable in law. We, therefore, direct that the appellants shall also be regularised from the day their juniors in the common seniority list were regularised. The appeals are allowed accordingly with no order as to costs.

Advocate
A. D. D. D.
Advocacy

Advocate
A. D. D. D.
Advocacy

20

S.L.P.(C) No. 15619/1994

Leave granted.

In view of our decision in the appeal arising out of S.L.P.(C) No.15619 of 1994, this appeal stands allowed: The respondents will regularise the appellants herein from the date their juniors were regularised. Appeal allowed accordingly. No order as to costs.

Gill
(P. B. SAWHNEY)

Gill
(K. VENKATASHAMI)

New Delhi;
April 21, 1995

execute

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

ORDER SHEET

102/2004

✓ Org. App./Misappn/Cont. Petn/Rev. Appn.....

In C.A.....

Name of the Applicant(s) ... Sri. Kelen. Borman.....

Name of the Respondent(s).... No. 2055.....

Advocate for the Applicant Mr. A. A. Ahmed.....

Counsel for the Railway/CGSC..... CGSC.....

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

29.4.2004

Heard Mr. A. Ahmed, learned counsel for the applicant.

The application admitted. Issue notice to the parties. Returnable within four weeks.

List on 3.6.2004 for order.
Status quo shall be maintained.

Sd/MEMBER(ADM)



TRUE COPY

নথিপতি

N. Sengupta
30/4/04
Section Officer

সচিব অধিকারী (সাধিকা)
Central Administrative Trib.
কাশীয় প্রশাসনিক বিধুত
Guwahati Bench, Guwahati
সাধিকা কাশীয়, গুৱাহাটী

Attest
Jit
Ananta

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

Guwahati Court
9 AUG 2004

In the matter of O.A. No. 137/2004

Union of India & or - Respondent
through -
Group Human Chonghob
Addl. Central Govt. Standing Council
C. A. T.
Guwahati

Shri Chinmoy Das ---- Applicant

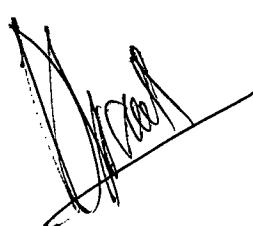
Vs

Union of India and Others --- Respondents

Written statement for and on behalf of Respondents.

I, Dr. B. Francis Kulirani, Superintending Anthropologist (C) & Head of office, Anthropological Survey of India, North East Regional Centre (NERC), Mawblei, Shillong, do hereby solemnly affirm and say as follow:

1. That I am the Superintending Anthropologist (C) and Head of office, Anthropological Survey of India, NERC and such I am fully acquainted with the facts and circumstances of the case, I have gone through a copy of the application served on me and have understood the contents thereof. Save and accept whatever is specifically admitted in this written statement, the other statements and contentions may be deemed to have been denied. I am authorized to file this written statement on behalf of all the Respondents.



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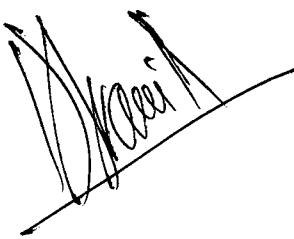
2. That the Respondents have no comments to the statements made in paragraphs 1, 2, 3 and 4.1 of application.

3. That with regard to the statements made in paragraph 4.2 of the application the Respondents beg to state that the applicant is working as Daily Wage 'Chowkidar' in the office of the NERC of the Anthropological Survey of India on 'No work No pay Basis' for a prescribed period of a maximum of 89 days at a stretch. His service is terminated automatically after the expiry of 89 days. The Applicant is engaged and re-engaged purely contingent in nature as and when required.

4. That with regard to the statements made in paragraph 4.3 of the application the Respondents beg to state that the Applicant is engaged as 'No work no pay basis' as and when required. The Applicant is drawing his wages as per existing rules governed by the Government of India time to time for contingent paid worker. Therefore, the question of deprivation from regular pay scale, service benefit, dearness allowance, house rent, medical allowances etc. does not arise. It is needless to say that the Applicant has never been compelled to serve this office for performing his duties.

5. That with regard to the statements made in paragraph 4.4 of the application, the allegation made by the applicant is baseless, motivated and an attempt to mislead the Hon'ble Tribunal. It is also submitted that no such assurance was given to the Applicant regarding regularization of services as stated by the Applicant.

6. That with regard to the statements – "he has acquired a legal right for regularization and regular pay scale of his above said post" made in paragraph 4.5 is arbitration. The applicant is not entitled for regularization as per existing rules governing by the Government of India. As he is engaged purely contract basis as when required, he is automatically terminated after completion of contract period. Therefore, the question of interim order or direction regarding termination of service of the Applicant does not arise.

A handwritten signature in black ink, appearing to read 'Wali', is positioned at the bottom center of the page. The signature is written in a cursive style with a diagonal line extending from the bottom right.

7. That with regard to the statement made in paragraph 4.6 of the Application it is submitted that in the light of Judgement of O.A. No.106/2003, the claim of the Applicant had carefully been considered but could not be acceded to in the light of Notification and Scheme promulgated by the Government. (~~Annexure H~~) ^{as per the Scheme of 1993}

8. That with regard to the statements made in paragraph 4.7 of the application the Respondents beg to state that they have abided the law. The Applicant pointed out that one Mr. Dasarath Barik who was recruited in the year 1995-96 in the same capacity of Casual worker but subsequently he got the benefit of regularization against vacant post of Group-D. This statement is totally false and self-willed. One Mr. Dasarath Barik had been working as casual worker since 1989 and he was recruited as Casual Worker from local Employment Exchange on September 1993. Mr. Baraik had also fulfilled all the criteria for regularization of existing notification and scheme promulgated by the government. Therefore, the question of junior was given the benefit of regularization does not arise. The supporting documents will be submitted if the Hon'ble Tribunal directs at the time of hearing.

9. That the Respondents have no comments to the statements made in paragraph 4.8 of the application.

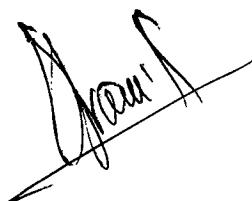
10. That with regard to the statements made in paragraph 4.9 the Respondents beg to state that the disparity in status is inbuilt and perhaps not at par.

11. That with regard to the statements made in paragraph 4.10 and 4.11 the Respondents have no comments to offer.

12. That with regard to the GROUNDS FOR RELIEF WITH LEGAL PROVISIONS as sought by the Applicant in 5.1 the Respondents beg to state that the acts of the Respondents are fair, law abiding and within Jurisdiction.

13. That with regard to the statements made in paragraph 5.2, the Respondents have never acted, as mentioned, 'Contrary to the settled proposition of law'. In fact the regularization could not be done, as there are no directives for doing so. Moreover the statement 'malafide and illegal and with motive behind' is totally incorrect, imaginative and uncalled for.

14. That with regard to the statements made in paragraph 5.3 the Respondents beg to state that the Applicant cannot be considered for regularization in Group - D post till the Government promulgates amended Notification and Schemes.
15. That with regard to the statements made in paragraph 5.4 the Respondents have not, thus, acted in any discriminatory or in unfair manner, which can be confirmed from paragraph 8 above.
16. That the Respondents have no comments to the statements made in paragraph 5.5, 5.6 and 5.7 of the application.
17. That with regard to the statements made in paragraph 5.8 the Respondents beg to state the duties of the applicant was not in permanent nature it was exclusively on casual nature as 'No work no pay basis'. Therefore, the question of regularization does not arise.
18. That the Respondents have no comments to the statement made in paragraph 5.9 of the application.
19. That with regard to the statements made in paragraph 5.10 the Respondents beg to state that no such differential treatment was adopted towards the payment of wages to the Applicant and payment have been made within the frame of law.
20. That the Respondents have no comments to the statements made in paragraphs 5.11, 6 and 7 of the application.
21. That with regards to the statement made in paragraph 8 & 8.1 the Respondents beg to say that the Applicant is not entitled to any relief as sought for in the application and the same is liable to be dismissed with costs.

A handwritten signature in black ink, appearing to read 'M. A. M.' or a similar name, is placed here.

VERIFICATION

I, B.Francis Kulirani, Superintending Anthropologist(C) and also presently holding charge of Head of Office, Anthropological Survey of India, North East Regional Centre, Shillong – 21, being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statements made in paragraphs 1-~~20~~ are true to my knowledge and belief and those made in paragraphs 2-~~20~~ being matters of record are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 5th day of August, 2004, at Shillong.

(Depponent)

6
Ans - I - 27 - 10
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No. 1-292/91/Estt.

ANTHROPOLOGICAL SURVEY OF INDIA
GOVERNMENT OF INDIA
NORTH EAST REGIONAL CENTRE
SHIV BHAWAN, UPPER LACHUMIREE
SHILLONG-793001.

Dated : 18th September, 92.

OFFICE ORDER

work The following persons have been appointed for *Chowkidars* on daily wage basis @ Rs. 32.00 per day (Thirty two only) for a period of 89 days (Eighty nine) from 18-9-1992 to 15.12.1992 and their duties will be terminated automatically after the expiry of the said period. They should note that the above temporary service will not count for any regular appointment in this office.

(1) Shri Chinmoy Das
C/O Shri B N Dey
Upper Laben
Shillong-793004

(2) Shri Uma Nath Rai
S/O Shri S P Rai,
Lalchand Basti
Shillong.

Attested
Addl. G. G. S. G.

Shroy
of
Shroy 18/9/92
(SHIBANI ROY)
Head of Office

No. 1-292/91/Estt. / 2185-84 Dated: 18th Sept. 92.

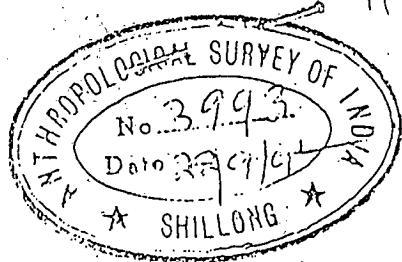
Copy to: (1) Office Order file.
(2) Shri Chinmoy Das.
(3) Shri Uma Nath Rai.
(4) Accounts Section.
(5) Office copy.

(6) Incharge of Munnu - building

Shroy
of
(SHIBANI ROY)
Head of Office

Shroy
18/9/92
18/9/92

To
The Head of office
Anthropological Survey
of India, Shillong.



Madam,

With reference to my letter
No. 1-292/91/ESII dated 18/9/92 I am reporting
my duty to-day the 18/9/92.

dated Shillong
The 18th Sept/92

Yours faithfully
Chinnamuttam

(Chinnamuttam)

Early Images
Chinnamuttam

Attested
S. C. G. S. C.