

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 177/2004

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

E.P/M.A No.....

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SECTION OFFICER (Judl.)

*Seal*  
10/11/17



10-12-04  
13.12.2004 Present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

SIR *aaarthi*  
Mr. B.C. Pathak, learned advocate for respondent nos. 2 & 3 seeks six weeks time to file written statement.

Stand over to 25.1.2005.

10-2-05

*R*  
Vice-Chairman

*no-wts ha-seen 25/12*  
SIR *aaarthi*

bb

11.2.05.

Adjourned on the request of

Mr. D. Baruah, proxy counsel appearing on behalf of Mr. B.C. Pathak, Addl. C.G.S.C to file written statement to 9.3.05.

*Member (J)*

7-3-05  
lm

*no-wts ha-seen*  
SIR *aaarthi*  
9.3.2005 Present: Hon'ble Justice Shri G. Sivarajan, Vice-Chairman

At the request of the learned counsel for BSNL and the Standing Counsel for the other respondents the case is adjourned to 30.3.2005. Written statement of the respondents, if any, should be filed before 30.3.2005.

*Sivarajan*  
Vice-Chairman

*29-3-05*  
nkm

*30.3.2005 Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.*

*WTS. filed by the  
Respondent No. 2 & 3.*

*Pari*

Counsel for the respondents submits that written statement has been filed. Mr. S. Nath, learned counsel for the applicant wants time for filing rejoinder. List on 4.5.2005.

*Arvind*  
Vice-Chairman

*3-5-05  
no-information ha-seen  
filed*  
*bb*

4.5.05

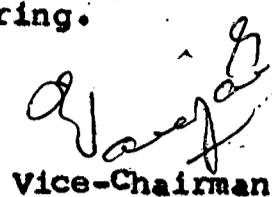
Learned counsel for the parties submit that the case can be posted for hearing. List on 25.5.05 for hearing.

24-5-05

✓ C/B for Second-27/5/05 by  
the R-No 283  
✓ No. registered for Second  
Bench.

Day

pg



Vice-Chairman

15-6-05

✓ No. registered for  
Second-27/5/05

25.5.2005

List the case on 8.6.2005 for hearing.

Day

bb



Member

8.6.05

Since the jurisdiction aspect regarding maintainability of the application against the BSNL, as respondent is raised in the application, I am of the view that the matter must be heard by the Division Bench.

Post on 16.6.05 before Division Bench.



Vice-Chairman

pg

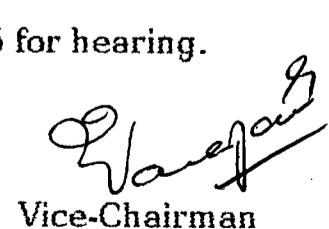
16.6.05

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 <sup>understanding the</sup> of the Central Government and the BSNL for a proper consideration of the question of jurisdiction.

Post on 22.7.2005 for hearing.



Member



Vice-Chairman

pg

22.7.2005 Since Mr.B.C.Pathak, learned counsel for the BSNL is unwell post on 10.8.2005.

W.S.H.M. been filed.

BB  
9.8.05.

K.C.Pandey  
Member

Q. V. Patel  
Vice-Chairman

10.8.2005 Post this case ~~Exempted~~ on 16.8.05 at 2.30 P.M.

mb

K.C.Pandey  
Member

Q. V. Patel  
Vice-Chairman

16.8.05. Mr. B.C.Pathak, learned counsel appearing on behalf of BSNL submits that he is not well and required time to fully recover. Therefore, all these matters has to be adjourned to another date.

Post the matter on 22.11.05.

K.C.Pandey  
Member

Q. V. Patel  
Vice-Chairman

lm

22.11.2005 Post before the next Division Bench.

Q. V. Patel  
Vice-Chairman

mb

23.12.05.

Mr. M. Chanda/Mr. S. Nath, Advi has mentioned to come upto on 23.12.05. But from the records it appears that they have no Vakalatnamas/power available.

Mr. S. Nath learned counsel on behalf of Mr. I. Hussain learned counsel for the applicant submits that since the matter relates to BSNL, in view of the decision of the Hon'ble Gauhati High Court the application against BSNL is not maintainable. Therefore the applicant wants to withdraw the application. Accordingly, the application is dismissed as withdrawn. The liberty is given to the applicant to file fresh application before appropriate forum for redressal of the

Subm'td.

6/11/05

contd/-

23.12.85. grievance if any.

*6 - 8*  
*D. J. Sardar*  
Vice-Chairman

18-1.06

Copy of the order  
has been sent to  
the office for issuing  
the same to the applicant  
as well as to the  
L/Advocate for the  
respon.

lm

*AB.*

Central Administrative Tribunal  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI.

11 AUG 2004

(An application under Section 19 of the Central Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO. 177/2004.

Sri Paresh Barman - Vs. - The Union of India & Ors.

I N D E X

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Filed by

- 1 -

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

(An application under Section 19 of the Central  
Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO. 177 /2004.

Sri Paresh Barman

... Applicant.

-Vs.-

The Union of India & Ors.

... Respondents.

LIST OF DATES AND SYNOPSIS.

1.1.1990. : Initial engagement as Casual  
worker (Driver).

12.7.1999. : Disengagement of the applicant  
as Casual worker (Driver) and  
thereafter he is working as  
Contract labour.

31.8.1999 : Common order passed the Hon'ble  
C.A.T., in 15 Nos of Original  
Application filed by various  
applicants for regularisation  
of services of Casual workers.

2.11.1999 : Representation filed by the  
applicant before the BSNL  
authority for regularisation  
of his service.

3

contd..

4.9.2002. : Order passed by the Hon'ble C.A.T. in O.A. No. 120/2001 directing the authority to regularise the service of the applicant against any Group 'C' vacant post.

16.10.2002. : Representation filed by the applicant for regularisation of his service in pursuant in the Hon'ble CAT's Order dated 4.9.2002.

17.3.2003 : Order passed the BSNL authority giving temporary status to the service of one Junior Casual workers and another outsider.

18.6.2004 : Order passed by Hon'ble Central Administrative Tribunal disposing the C.P.(Civil) No. 36/2003 filed by the applicant.

\*\*\*\*\*

Filed by the applicant  
Through  
Abul Hussain Sisra  
Plaowalee  
/o

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI

(An application under Section 19 of the Central  
Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO. 177 /2004.

Sri Paresh Barman ... Applicant.

-Vs.-

The Union of India & Ors. ... Respondents.

Particulars of the : Sri Paresh Barman,  
Applicant. S/o. Sri Rohini Barman,  
Casual Labour (Driver),  
Vill - Barnakoli  
P.O. Belsor,  
Dist. Nalbari, Assam.

Particulars of the : 1. The Union of India,  
Respondents. represented by the  
Secretary to the  
Govt. of India,  
Ministry of Communication,  
Department of Telecommuni-  
cation, New Delhi - 1.

2. The Chief General Manager,  
Bharat Sansar Nigam Ltd.  
(BSNL) Assam Circle,  
S.R. Bora Road, Ulubatri,  
Guwahati - 7.

3. The ..

: 2 :

3. The General Manager,  
Bharat Sansar Nigam Ltd. (BSNL),  
Kamrup Telecom Dist.,  
S.R. Bora Road, Ulubari,  
Guwahati - 7.

1. Particulars for which this application is made :

This application is made praying for a direction upon the Respondents for setting aside the disengagement of the applicant and to regularise his service as regular driver.

2. Jurisdiction of the Tribunal :

The applicant declares that the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

The applicant declares that the application is filed before this Hon'ble Tribunal within time limit prescribed under Section 21 of the Central Administrative Tribunal Act, 1985.

4. Facts of the case :

4.1. That the applicant served in the Office of the General Manager, Kamrup Telecom District at Guwahati as Casual Driver from 1.1.1990 to 12.7.1999 in stop-gap vacancies and during this long period he was engaged under various officers of the then telecom Department.

: 3 :

However, the applicant has not been engaged in his service as Casual labour since 12.7.99 by the authority without any valid reason. Since 12.7.1999 till date the applicant is working as Contract labour under the Bharat Sansar Nigam Ltd. (BSNL) authority.

The copy of the statement of the applicant's engagement in service during 1.1.90 to 12.7.99 is annexed as Annexure No. 1.

4.2. That when the Applicant was working in the then Telecom Department the Casual Labourers filed several court cases in the Central Administrative Tribunal, Guwahati Bench, Guwahati for regularisation of the services of the Casual employees and during the pendency of those cases the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati passed interim orders with direction to the Respondents not to disengage the casual workers till disposal of the original applications vide order dated 20.8.98.

It may be mentioned here that the Circle Secretary, Assam Circle, Guwahati of "All India Telecom Employees' Union" when communicating the above Hon'ble Tribunal's orders submitted a list of the applicants of those cases concerned giving priority on seniority basis and approved by the Telecom Departmental authority and the seniority position of this applicant in the above list is at S1. 49.

The copy of the Seniority list is annexed herewith and marked as Annexure No. 2.

4.3. That the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati after hearing the parties passed a common order dated 31.8.99 comprising 15 Nos Original applications covering most of the cases having similar facts for regularisation of the services of the casual employees in Telepom Department, Kamrup District, Guwahati and in disposing the above applications in the common order the Hon'ble Tribunal directed the Respondents to examine the case of each application. Further, it was also observed by the Hon'ble Tribunal that 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 within the records and thereafter ✓ pass a reasoned order on merits of each case within a period of six months thereafter, Besides, it was also stated in the said final order of the Hon'ble Tribunal that the interim order passed in any of the cases with direction not to disengage the casual employees in the department shall remain in force till the disposal of the representation.

A copy of the final common order dated 31.8.99 passed by the Hon'ble Tribunal is annexed as Annexure No. 3.

: 5 :

4.4. That the applicant begs to state that though he could not get a copy of the common order he applied before the then General Manager, Kamrup Telecom Dist. Guwahati for continuous engagement at least at the same status till regular appointment which was received by the respondent authority on 2.11.99 as the interest of the petitioner was effected in the above Tribunals order.

The copy of the above representation is annexed as  
Annexure No. 4.

4.5. That the applicant begs to state that when ~~xx~~ he was not engaged even as casual Driver also for a long time he filed again an individual application before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati which was registered as O.A. No. 120/2001 (Sri Paresh Barman -Vs.- Union of India and Others (Telecom) which was finally disposed of by the Hon'ble Tribunal vide order dated 4.9.2002 in Original application No. 120/2001 and in disposing of the above application the Hon'ble Tribunal observed that the applicant worked all in all and ~~xx~~ as such the Respondents need to take care of the situation and consider his case against future vacancy of Group 'C' alongwith others on priority basis, if necessary by relaxing his age keeping in mind the services rendered by him in the department. It may be mentioned here that the term "alongwith others on priority basis" stated

: 6 :

in the ~~to~~ above order indicated the casual employees in the list prepared by the Respondents on seniority ~~to~~ basis where-in the position of the applicant is at serial 49 which was also ~~to~~ covered by the common order dated 31.8.99 passed by the Hon'ble Tribunal.

It may be further mentioned that the Hon'ble tribunal in the order dated 8 4.9.02 kept open to the applicant for seeking for being engaged as Casual Mazdoor till he is finally absorbed in a regular post and in that event the Respondent authority may consider such prayer of the applicant fairly which the Respondents have not yet complied with inspite of the application submitted by the petitioner dated 16.10.2002.

The copy of the order dated 4.9.02 passed in O.A. No. 120/2001 is annexed as Annexure as Annexure No. 5.

The copy of the application dated 16.10.02 submitted by the applicant is annexed as Annexure No. 6.

4.6. That the applicant begs to state that regarding the time factor for compliance of the Hon'ble Tribunal's Judgment and order the final order ~~to~~ in O.A. No. 120/2001 was passed on 4.9.02 similarly and parity with the earlier common order dated 31.8.99 where-in the respondents were directed to scrutinize and examine each

case after receiving the individual representations in consultation with the records and thereafter to pass a reasoned order on merits of each case within a period of six months from the date of receiving such individual representations. Besides, the interim order passed in any of the concerned cases is not to disengage any of the casual employees was allowed to be remain in force till the disposal of the representations.

4.7. That the applicant begs to state that he received the formal copy of the order dated 4.9.02 passed by the Hon'ble Tribunal in O.A. No. 120/2001 after 13.12.02 vide letter Original Application No. 120/2001/3342 dated 13.12.02 and the ~~applicant~~ submitted individual representation before the respondents on 16.10.02 as soon as he could know the passing of the order by the Hon'ble Tribunal, but no action for disposing the representation of the ~~applicant~~ dated 16.10.02 has been taken by the respondents.

4.8. That the applicant begs to state that when the ~~applicant~~ was waiting for regular appointment as per Hon'ble Tribunal's verdict dated 4.9.02 in O.A. No. 120/2001 in parity with the common order dated 31.8.99 systematically as per seniority in service amongst the casual employees in the list prepared by the department itself and already approved by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati, at the Respondents started to discriminate in regularising the casual employees according to their suit-will and the interest of the applicant was kept pending abnormally and negligently till date.

4.9. That the applicant begs to state that the Petitioner becomes more surprised when the Respondent ~~approx~~ appointed one Out-sider Sri Tankeswar Talukdar and Sri Bhupen Deka <sup>W/A</sup> junior to the applicant, vide an order dated 17.3.03 violating the norms of regularisation of the casual employees as per Hon'ble Tribunal's verdict without even engaging the applicant in casual manner.

The copy of the order dated  
17.3.03 is annexed herewith and  
marked as Annexure No.7.

4.10. That the applicant begs to state that the seniority position of the applicant in the approved list is at S1. No. 49 and that of Sri Bhupen Deka is at S1. No. 50 according to the service rendered in the department and accordingly, the applicant should have been conferred temporary status and subsequently regularised in service prior to Sri Bhupen Deka which the Respondents have not done, besides the question of conferring temporary status to that of Sri Tankeswar Talukdar whose name has not appeared in the list should have not come till and until the list in question is exhausted as per order passed by the Hon'ble Tribunal and still in force and hence he filed a Contempt petition before the said Tribunal being C.P.(Civil) No. 36/2003 which has been closed due to non joinder of parties and not on merit by an order dated 18.6.04 and hence this fresh Original Application before this Hon'ble Tribunal for redressal of his grievances.

: 9 :

The copy of the order dated  
18.6.04 passed in C.P.(Civil) No.  
36/2003 is annexed as Annexure  
No. 8.

4.11. That the applicant begs to state that if the Hon'ble C.A.T., Guwahati would not intervene in the matter the applicant will suffer irreparable loss which can not be compensated in terms of money.

4.12. That the applicant begs to state that it is a fit case where the Hon'ble Tribunal may be pleased to pass appropriate direction to the Respondents to regularise the service of the applicant.

4.13. That the applicant begs to state that this petition is filed bonafide and for the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISION :

- a) For that the applicant was engaged as casual labour (Driver) for more than eight(8) years.
- b) For that, the Hon'ble Tribunal approved a list of Casual workers under the Respondent authority where the applicant was placed at S1.No.49.
- c) For that, services of some junior workers have been regularised and even some outsiders were appointed.

9

: 10 :

- d) For that the applicant has attained the required eligibility for regular absorbtion.
- e) For that the earlier petition was closed only on the ground of non joinder of necessary parties and not on merit.
- f) For that the case of the applicant deserves to be considered for regular absorbtion in relaxation of the recruitment Rules.

6. DETAILS OF REMEDY EXHAUSTED :

The applicant has approached the Respondents from time to time with a prayer for redressal of his grievances and exhausted the remedies available to him.

7. MATTERS NOT PENDING IN ANY OTHER COURT OR TRIBUNAL :

The applicant declares that no case is pending before any court regarding this matter.

8. RELIEF SOUGHT FOR :-

In view of the facts and circumstances, narrated above, the applicant prays for the following reliefs :-

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: 11 :

- i) That the Respondents may be directed to regularise the service of the applicant against the existing Group 'C' vacant post.
- ii) That the disengagement of the applicant as Casual driver may be ~~declared~~ declared illegal.
- iii) That any other relief or reliefs entitled by the applicant which this Hon'ble Tribunal deem fit and proper.

**9. INTERIM RELIEF IF ANY PRAYED FOR :**

That the applicant prays that pending disposal of the application -

- i) That the Respondents may be directed to re-engage the applicants as Casual worker (Driver) giving him temporary status.
- ii) That the Respondents may be directed to regularise the service of the applicant against any existing Group 'C' vacant post.
- iii) That the Respondents may be directed not to oust the applicant from his service till his service is regularised.

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: 12 :

9. DETAILS OF POSTAL ORDERS :

Postal Order No. : IPO No. 114389340

Date of Issue : 10-5-04

Issued from : GPO, Guwahati.

Payable at : Guwahati.

10. LIST OF ENCLOSURES :

As per Index.

VERIFICATION

I, Sri Paresh Barman, S/o. Sri Rohini Barman, a resident of Village Bernertdi, p.o. and P.S. Belsor, in the District of Nalbari, Assam do hereby verify that the contents made in paragraphs 1,2,3,4, 5,6,7,10 and 11 are true to my personal knowledge and Paragraphs 8 and 9 are believed to be true as legal advise and I have not expressed any material facts.

Date : 10.8.04

Paresh Barman

Signature of the Applicant.

Place : Guwahati.

3

Statement of Shri Paresh Barman ; Casual Driver working in Telecom Department in Different Wings.

Sl. No.	From	To	No of Days or Year.	Working under Whom	Vehicle No.	Remarks.
1	2	3	4	5	6	7
1	1-1-1990	31-12-96	6 Years	SDOT/Kamrup Departmental Vehicle.		Working more than 240 days in each year.
2	1-1-1997	10-1-97	10 days.	- do -		
3	1-4-1997	30-4-1997	30 days	SDE(Phone)Goalpara Departmental Vehile	AS-18/0047	Working less than 240 days in 1997
4.	1-5-1997	25-5-1997	25 days	- do -		i.e. only 132 days.
5.	26-5-1997	31-5-1997	6 days.	SDE/C(West),Ambari Departmental Vehicle	AS-01/0598	
6	1-6-97	9-6-1997	9 days	- do -		
7	10-6-1997	19-6-1997	10 days	SDE(C)/East/Ambari Departmental Vehicle	AXA- 7814	
8	2-11-1997	20-11-97	19 days	SDOT/Rangia, Departmental Vehicle.	AS-01/E-8203	
9.	22-11-97	30-11-97	9 days	- do -		
10	20-12-97	29-12-97	12 days	SDE(C)/West, Ambari Departmental Vehile	AS-0598	
11	30-12-97	31-12-97	2 Days	- do -		
			132 days.			
12	1-1-98	8-1-98	8 days	SDE(C)/West/ Ambari Departmental Vehile	AS-0598	

*Amber  
f. Seal  
Advocate*

~~Answer to your query~~

AX. NO. 1 (Contd.)

13	28-1-98	31-1-98	4 days	SDOT/Rangia Departmental Vehicle	AS-01/E-8203	Working more than 240 days in 1998.
14	1-2-98	7-2-98	7	SDE/Cable(E) Ambari Departmental Vehicle	AXA-7814	
15	1-3-98	31-3-98	31	Commercial Officer O/o TDM/Guwahati-781007.		
16	1-4-98	30-4-98	30	Dept. Vehicle and also working under ADT (MIS), O/o the CGMT/ Guwahati-781007.		
17	1-5-98	31-5-98	31			
18	1-6-98	30-6-98	30			
19	1-7-98	31-7-98	31			
20	1-8-98	31-8-98	31			
21	3-10-98	31-10-98	29	- do -	AXA-2029	
22	1-11-98	30-11-98	30	SDE(Elect), Guwahati Departmental Vehicle.		
23	1-12-98	31-12-98	31	ADT(MIS), O/o CGMT/ Departmental Vehicle.		
			293 days	- do -		
			1999.			
24	1-1-99	6-1-99	6 days	ADT(MIS), O/o CGMT Guwahati.		Working only 56 days.
25	15-2-99	28-2-99	14 days	- do -		
26	22-6-99	27-6-99	6 days	ADT(Genl), O/o CGMT Guwahati.	AS-01/F-4820	
27	1-7-99	12-7-99	12 days	- do -		
28	12-3-99	29-3-99	18 days	D.E.(EXT)/TDM/GH.		
			56 DAYS.			

N. T. T. B.  
All India Federation of Peasants & Workers' Union  
LINK STATE & GROUP ID  
ASSAM CIRCLE : GUWAHATI  
Dr. L. C. Das Road, Panbazar, Guwahati

Dated.....

Dated at Guwahati, the 2<sup>nd</sup> September '98

To  
Shri Yash  
General Manager Telecom  
Kamrup Telecom District  
Guwahati

Short Circular regarding Casual Mazdoor's dated 28.8.98

Sir,

Kindly find herewith the verdict of Honourable CAT in respect of Casual Mazdoors dated 20.08.98 vide case No. OA 112/98, OA 114/98 and OA 131/98 covering misc petition no. 151/98, 150/98 and 149/98. (Copy enclosed)

I would therefore request you to engage the Casual Mazdoors as per list enclosed herewith to avoid contempt of the CAT.

In this connection, I like to inform you that the 5(five) Circle Secretaries of NFTB met CGMT, Guwahati in this regard and CGMT Mr. Misra advised the then GMT, Kamrup Mr. Ramalingam in his chamber in presence of 5(five) Circle Secretaries to engaged the Casual Mazdoors in question immediately.

I hope you would do the needful as earliest.

The action taken in this regard may kindly be intimated to the undersigned.

Thanking you,

Yours faithfully,

*J. N. Misra*  
(J. N. MISRA)  
Circle Secretary,  
Assam Circle, Guwahati.

Attested  
for  
Advocate

G.M.T. Kamrup, G.H

SL. NO.	NAME OF THE MAZDOORS.	FATHER'S NAME.	YEAR.
01	Bikram Roy		0
02	Sukeshwar Paswan	S/o Rajendra Paswan.	April' 90
03	Gunjan Bordolai	S/o Kuleswar Bordolai	Jan' 91
04	Suren Kalita	Late Sakunafam Kalita.	Jan' 91
05	Bhumidhar Deka.	Late Maheswar Deka.	Jan' 91
06	Naren Ch. Das	Late Upen Ch. Das.	
07	Ramesh Roy.	S/o Gajendra Ray.	1993
08	Arun Kumar.	S/o Sukuldeo Prasad.	Jan' 91
09	Dayksha Kalita.	Late Jogen Kalita.	Feb' 89
10	Dinesh Thakuria.	S/o Bonkhi Thakuria.	
11	Debendra Sarma.	Late Nareswar Sarma.	Feb' 89
12	Madhab Baishya.	S/o Hariram Baishya.	Feb' 89
13	Pirajhan Ali.	S/o Ali Ahmmed.	1993
14	Umesh Mahato.	S/o M. Mahato.	1993
15	Umesh Das.	Late Tarani Das.	Jan' 94
16	Mukut Das.	S/o Kamal Das.	Feb' 87
17	Khagen Das.	Late Nripati Das.	Feb' 89
18	Bandhu Kalita.	S/o Abhiram Kalita.	Feb' 92
19	Rohit Chetri.	Late Korno Chetri.	May' 93
20	Bijay Prasad.		Feb' 89
21	Dhiren Bharali.	Late Tarun Bharali.	Jan' 88
22	Jiten Kalita.	S/o Mahendra Kalita.	Feb' 89
23	Biren Bharali.	Late Tarun Bharali.	Jan' 87
24	Akhil Das.	S/o Bipin Das.	March' 88
25	Gobinda Barman.	S/o Jogen Barman.	Feb' 92
26	Akshyamflya Das.	S/o Bhupen Das.	Feb' 85
27	Paben Deka.	S/o Siddheswar Deka.	Feb' 89
28	Kismatia Basfore	S/o Dasai Basfore	Dec' 93
29	Harendar Sarma.	S/o Indep Sarma.	Aug' 96
30	Ramesh Basfore.	S/o Gadru Basfore.	Dec' 93
31	Manju Basfore.	S/o Bhadul Basfore	Dec' 93
32	Jagdish Das.	S/o Khagen Das.	Feb' 89
33	Bhagneswar Das.	S/o Bipin Das.	April' 87
34	Mukut Deka.	S/o Hareswar Deka.	Feb' 89
35	Karim Ali.	S/o JamshedAli.	April' 89
36	Musin Ali.	Late Lahar Ali.	April' 89
37	Mainul Choudhury.	S/o Rangsha Ali.	April' 89
38	Kishan Basfore	S/o Lt. Mati Basfore.	Feb' 87
39	Shriram Singh.	S/o B.N. Singh.	June' 88
40	Janmiram Baishya.	S/o Lt. Khargeswar Baishya	Jan' 88
	Santi Basfore.	Late Kanchan Basfore.	Aug' 94
	Hakib Ali.	Late Motib Ali.	April' 96
43	Dhiren Majundar.	S/o Nagen Mazdumder	Feb' 89
44	Debojit Sonowal.	S/o Prafulla Sonowal.	Feb' 92
45	Harindar Singh.	S/o Nandolal Singh.	Feb' 91
46	Gautam Baishya.	S/o Bishnu Baishya.	Jan' 94
47	Sitali Basfore.	Late Sawkhi Basfore.	Dec' 93

Contd...P/2.



Alleged  
Co

Name of the Mazdoors.	Father's Name.	Years.
49. Hirendra Hazarika.	Late Dijen Hazarika.	Sep' 89
50. Paresh Barman.	S/o Rohini Barman.	Jan' 90
51. Bhupen Deka.	S/o Robin Deka.	Jan' 96
52. Parmananda Das.	Late Gorgo Das.	Feb' 89
53. Ganesh Chetri.	S/o Surja Chetri.	March' 83
54. Hemishikesh Das.	Late Ramesh Das.	March' 85
55. Harkanta Das.	S/o Nareswar Das.	Feb' 93
56. Rajib Duttabaruah.	S/o Ramani Duttabaruah.	March' 97
57. Manoj Ojha	S/o Triveni Ojha	March' 95
58. Harish Talukdar		July' 87
59. Atul Baishya.		Jan' 88
60. Bimal Haloi		June' 87
61. Dhiren Bharali		Jan' 88
62. Dibakar Das.		May' 87
63. Babul Das.		April' 87
64. Biren Ch. Das.		Feb' 87
65. Gadu Lal Roy		April' 87
66. Anil Ch. Kalita		Jan' 87
67. Md. Firoj Kasir		Jan' 87
68. Ram Singh		April' 88
69. Dilip Ch. Das.		Jan' 86
70. Rabi Kumar		88
71. Ramendra M. Talukdar		Jan' 87
72. Gautam Kalita.	S/o Suren Kalita.	Jan' 96
73. Shri Dilip Bhattacharjee	S/o N. Kr. Bhattacharjee	Jan' 96
74. Y. Ibomcha Singh	Lt. Y. Apabi Singh	Jan' 96
75. Y. Raju Singh	S/o Y. Ningthemjao Singh	Jan' 96
76. L. Nishikanta Singh	S/o L. Bira Singh	Jan' 96
77. M. Omen Singh	S/o M. Romesh Singh	Jan' 96
78. M. Nongmai Montoi	S/o M. Singhjit Singh	Jan' 96
79. Ajay Kr. Sinha	Lt. Parash Nath Sayah.	Jan' 96
80. N. Romesh Singh	S/o Kumar Singh	Jan' 96
81. M. Bijoy Meitei	S/o M. Thabai Meitei	Jan' 96
82. A. Shantanu Sharma	S/o Ranbir Sharma	Jan' 96
83. Chandra Kanta Patguri		1.2.89.
84. Bishu Deb Roy		1.2.97.



All New  
Arrived

AMARU  
GAJHATI  
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# The Central Administrative Tribunal

**GUWAHATI BENCH : GUWAHATI**

ORDER SHEET

ORDER SHEET  
APPLICATION NO. MP. 150

OF 199 8

OA:114 198

Applicant(s) All India Telecom Employees Union  
Address 8 ORS

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Respondent(s) John Doe et al v. All Cities & Ob

Advocate for Applicant(s) No. B.R. Shearmur  
Mr. B. Shearmur  
Mr. T. R. Nair

Advocate for Respondent(s) Mr. S. Ali, SC

20.8.98 Now This Misc. Petition has been filed  
complaining that the interim order  
dated passed in C.A.No.114/98 has not  
been implemented. We have heard Mr S.  
Ali, learned Sr.C.G.S.C and Mr. B.K.Sharma  
learned counsel for the applicants. On  
hearing the counsel for the parties  
we direct the opposite party to imple-  
ment the interim order forthwith.  
Misc. petition is disposed of.

SD/VICE CHAIRMAN

sd/ MEMBER (Adm)

TRUE COPY

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পরিচয় করিব। পরিচয় করিব।  
পরিচয় করিব। পরিচয় করিব।  
পরিচয় করিব। পরিচয় করিব।

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. O.A.No.107/1998

Shri Subal Nath and 27 others .....Applicants

By Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

The Union of India and others .....Respondents

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

2. O.A.No.112/1998All India Telecom Employees Union,  
Line Staff and Group 'D' and another .....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and others .....Respondents

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

3. O.A.No.114/1998All India Telecom Employees Union,  
Line Staff and Group 'D' and another .....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and others .....Respondents

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

## O.A.No.118/1998

Shri Bhuban Kalita and 4 others .....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda  
and Ms N.D. Goswami.

-versus-

The Union of India and others .....Respondents

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

Authenticated  
by  
Advocate

5. O.A.No.120/1998 ....Applicant  
 Shri Kamala Kanta Das and 6 others  
 By Advocates Mr J.L. Sarkar, Mr M. Chanda  
 and Ms N.D. Goswami.

-versus-

The Union of India and others ....Respondents  
 By Advocate Mr B.C. Pathak, Addl. C.G.S.C.  
 ....

6. O.A.No.131/1998 ....Applicants  
 All India Telecom Employees Union and  
 another  
 By Advocates Mr B.K. Sharma, Mr S. Sarma  
 and Mr U.K. Nair.

-versus-

The Union of India and others ....Respondents  
 By Advocate Mr B.C. Patha, Addl. C.G.S.C.  
 O.A.No.135/98 ....  
 7. All India Telecom Employees Union,  
 Line Staff and Group 'D' and  
 6 others ....Applicants  
 By Advocates Mr B.K. Sharma, Mr S. Sarma  
 and Mr U.K. Nair.

-versus-

The Union of India and others ....Respondents  
 By Advocate Mr A. Deb Roy, Sr. C.G.S.C.  
 ....

8. O.A.No.136/1998 ....Applicants  
 All India Telecom Employees Union,  
 Line Staff and Group 'D' and  
 6 others ....Applicants  
 By Advocates Mr B.K. Sharma, Mr S. Sarma  
 and Mr U.K. Nair.

-versus-

The Union of India and others ....Respondents  
 By Advocate Mr A. Deb Roy, Sr. C.G.S.C.  
 ....

O.A.No.141/1998

All India Telecom Employees Union,  
 Line Staff and Group 'D' and another ....Applicants  
 By Advocates Mr B.K. Sharma, Mr S. Sarma  
 and Mr U.K. Nair.

-versus-

The Union of India and others ....Respondents  
 By Advocate Mr A. Deb Roy, Sr. C.G.S.C.  
 ....

*SL*



10. O.A.No.142/1998

All India Telecom Employees Union,  
Civil Wing Branch. ....Applicants  
By Advocate Mr B. Malakar

-versus-

The Union of India and others ....Respondents  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 others ....Applicants  
By Advocate Mr I. Hussain.

-versus-

The Union of India and others ....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

12. O.A.No.192/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another ....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr U.K. Nair.

-versus-

The Union of India and others ....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

## O.A.No.223/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another ....Applicants  
By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

The Union of India and others ....Respondents  
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

14. O.A.No.269/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another ....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma,  
Mr U.K. Nair and Mr D.K. Sharma.

-versus-

The Union of India and others ....Respondents  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

*DK*

## 15. O.A.No.293/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another .....Applicants  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr D.K. Sarma.

-versus-

The Union of India and others .....Respondents  
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....  
O R D E R

BARUAH.J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

2. The All India Telecom Employees Union, is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applications were submitted by the said union, namely, the Line Staff and Group 'D' employees and some other applications were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the

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benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This Scheme was communicated by letter No.269-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the Scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended

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to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A.No.750/1994. The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A.Nos.302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus, the applicants have approached this Tribunal by filing the present O.A.s.

At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.A.s---is that the Association had no authority to



represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work.



The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents state that the present applicants in the O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the

Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr B.K.Sharma, Mr J.L. Sarkar, Mr I. Hussain and Mr B. Malakar, learned counsel appearing on behalf of the applicants and also Mr A. Deb Roy, learned Sr. C.G.S.C. and Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a

*DK*

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definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

8. 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 merits 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.

9. No order as to costs.



Sd/VICE CHAIRMAN  
Sd/MEMBER (Admn)

Certified to be true (S)  
प्रतिनिधि अधिकारी

17/3/03

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

nkm

The General Manager Telecom,  
Kamrup Telecom District, Ulubari,  
Guwahati.

Sub:-Prayer for appointment as casual motor driver/  
casual labour.

Sir,

With due respect and humble submission, I beg to lay before you the following few lines for favour of kind information and necessary action.

That Sir, Since 1997 I am serving in the Telecom Department as a Temporary motor driver in CGMT office, DE(External)-II Dispur SDE Electrical (outdoor) Panbazar, SDO(P) Rongia, TDM's office Guwahati. (Commercial officer), SDO(P)Goalpara, SDE cable(Elect.) Ambari, Guwahati and SDE cable (W), Ambari Guwahati satisfactorily under the officer to whom I was ordered to perform the duties of motor driver. The yearwise figures of days, I worked in the Telecom Department is mentioned below for your kind information.

Year	<u>1997.</u>	<u>1998.</u>	<u>1999.</u>
	118 days.	284 days.	56 days,

It will not be out of place to mentioned here that vide hon'ble(in spot/camp list) CAT Guwahati order dated 1-6-98, my name was listed under serial.49. It is seen that, a good number of persons were appointed as casual Driver who was listed along with me. It is sorry to intimate that, I have not appointed as casual driver till date . In that connection I applied for the same on 13/5/99 for consideration my case this may kindly be referred.

Lastly, I am earnestly requested; your honour kindly to go through all the aspects of the case, and favourable action in that respect may kindly be taken.

In that connection it is further requested that if at present appointment of casual motor driver is not possible, in that case I may kindly be appointed as casual labour till availability of vacancy of casual driver for this act of kindness, I shall remain ever greatefull to you.

Enclo:- Photo copy of the certificate received from the officer under whom, I served previously.

*Authored by  
Advocate  
B. Deka*

Copy to:-  
1. The DE (External-II) for information and necessary action please.  
2. SDOT/Kamrup for information and necessary action please.

Yours faithfully.  
*Shri Paresh Barman*  
( Shri Paresh Barman)  
Telecom Inspection Bengal  
C/O Bhupen Deka, Panbazar.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.120 of 2002

Date of Order: This the 4th Day of September 2002

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

HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

Sri Pares Barman  
Casual Labour(Driver)  
Village Barnartdi  
P.O.Belso, District Nalbari, Assam ... Applicant

By Advocate Mr.B.Malakar.

-Vs-

1. The Union of India represented by the Chief General Manager, Assam Telecom Circle, S.R.Bora Lane, Ulubari, Guwahati-7.
2. The General Manager, Telecom, Kamrup District, S.R.Bora Lane ... Respondents. Ulubari, Guwahati-7.

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

O R D E R.

D.N.CHOUDHURY, VICE-CHAIRMAN:

In this application under Section 19 of the Administrative Tribunals Act the applicant has assailed the order of termination from the post of Casual driver with effect from 1.4.99 and also sought for direction to regularise his service.

2. In this application it was interalia stated that the applicant was engaged as Casual Driver with effect from 1.1.90 to 31.12.96 under SDO(T) Kamrup from 1.1.97 to 31.12.97. He was engaged to work at various places such as SDE(Phone) Goalpara, SDE/C, West Ambari, Guwahati, SDE(E) Ambari Guwahati, SDO(T), Rangia, SDE(C) West Ambari, SDC, East Ambari etc. It was stated that he was first appointed as

contd/-

After  
Final  
Advocate

Driver to run Departmental vehicle from time to time by his concerned officers, though he worked for a long period he was terminated. Hence this application.

2. Assailing the legitimachy of the order of termination and also prayed for direction for regularisation. The Respondents contested the claim of the applicant and stated that the applicant was only engaged in the year 1994, 1996, 1997 and 1998, in total the applicant was engaged for about 94 days. The respondents also mentioned about ban on fresh recruitment of casual labourers against Group 'C' post on the basis of Office Memorandum issued by the Government of India, Ministry of Finance. Any employment in the breach of the Office Memorandum No. 4901/16/89-Estt(c) dated 26.2.1990 is invalid and unlawful contended by the Respondents. Therefore, the benefit for regularisation cannot be given to the applicant. The respondents also raised plea of maintainability of this application on this score that the responsibility of resehing the pending cases of the Casual labourers are entrusted to the Bharat Sanchar Nigam Limited a Company under the Government of India. The BSNL has not yet been notified under Sub-Section 2 of Section 14 of the Administrative Tribunal Act and thus the Tribunal has no jurisdiction to entertain such position. The new Telecom Policy of Government of India as well as other office Memorandum issued by the Government of India will clearly spelt out the position. We find it, difficult to accept the contention of the Respondent on the basis of the materials produced to the effect that the applicant was not working in the Telecom department prior to the introduction of the New Telecom Policy. The policy of conferment of temporary status was also introduced by the Telecom departments in pursuance to the legal policy laid down by the Supreme Court.

contd/-3

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3. On assessment of materials on record we however, find it difficult to issue a direction on the Respondent to confer temporary status to the applicant. The applicant worked as a Group 'C' Driver intermittently. But it will not absolve the Respondents from considering the case of the applicant fairly. The Respondents authority utilised the services of the applicant may be by deviation of the Government ban. It will not be fair to penalise the applicant for the breach. All in all the applicant worked. We are therefore, of the opinion that the Respondents need to take care of the situation and consider his case against future vacancy of Group 'C' alongwith others on priority basis, if necessary by relaxing his age keeping in mind the services rendered by him in the Department. It will also be open to the applicant for seeking for being engaged as Casual Mazdoor till he is finally absorbed in a regular post and in that event the authority may consider such prayer of the applicant fairly.

4. Subject to the observations made above, the application stands disposed. There shall however, be no costs.

TRUE COPY  
W.M. 3/10/02  
Section Officer (Judicial),  
Central Administrative Tribunal  
Executive Board, Government

K.S. 3/10/02

Sd/-  
Vice-Chairman

Sd/- Member (A)

Annexure ~~6~~ 42

To

Dated: 16/10/02

The General Manager  
Kamrup Telecom District  
Guwahati:-781007.

Sub: Engagement as casual labourer and regularization in  
Group "C" post.

Sir,

Most respectfully I beg to state that I was engaged as a casual driver by the SDOT/Kamrup w.e.f. 1-1-1990 to 31-12-1996 and from 1-1-1997 to 31-12-1997. I was engaged at various places at SDE, Phones, Goalpara, SDE (C) west Ambari, Guwahati, SDE(E), Ambari, Guwahati, SDOT/Rangia, SDE( C ), West Ambari, SDE( E ) east Ambari. During this period I was driving departmental vehicles of the concerned officers. But at the time of conferment of temporary status, my service was terminated. I move from pillar to post for getting justice from the authority which however was denied to me. Lastly, I approached the Central Administrative Tribunal, Guwahati Bench for getting justice in order that my service was regularized. This application filed by me was registered as OA.120/2001, wherein department contestad my claim. The matter was however heard by the Hon'ble Tribunal and vide order dt. 4-9-2002 disposed the application with observation made therein. It has been observed by the Hon'ble Tribunal to consider the case of my regularization in a Group 'C' post and until such regularization is made I may be allowed to mark as casual mazdoor on the basis of the observation made by the Hon'ble Tribunal. A copy of the order of the Hon'ble Tribunal is furnished herewith.

With kind regards,

Yours faithfully,

16/10/02  
PARESH BARMAN

( PARESH BARMAN )  
EX-CASUAL MAZDOOR

BARMAN  
16/10/02

Authenticated  
by  
Advocate

শ্রী পৃথিবী পুরুষ  
সম্পত্তি প্রতিষ্ঠান  
স্বাস্থ্য প্রতিষ্ঠান প্রকল্প  
গুৱাহাটী, মহানগৰ পুরসভা  
গুৱাহাটী, মহানগৰ পুরসভা, গুৱাহাটী

-34-

Annexure

BHARAT SANCHAR NIGAM LIMITED  
(A Govt. Of India Enterprise)  
OFFICE OF THE GENERAL MANAGER (BSNL)  
KAMRUP TELECOM DISTRICT :: GUWAHATI-7

Memo No: GMT/EST-179/TSM/Part-II/02-03/15  
Dated at Guwahati-7, the 17<sup>th</sup> March., 2003.

In pursuance of C.G.M.(BSNL), Assam Circle, Guwahati No. ESTT-9/12/CO/44 Dtd. 07.03.2003 and No. ESTT-9/12/CM/124 Dtd. 11.03.2003, the following Casual Labourers as approved by Circle Authority vide above mentioned letters are hereby conferred Temporary status and designated as Temporary Status Mazdoors with effect from the date mentioned against their name.

Sl.	Name of Casual Labourer	Unit under which attached	Date of effect
01.	Shri Tankeswar Talukdar	D.E.(Circle Instl.)/GH.	01.09.1999
02.	Shri Bhupen Deka	Circle Office/GH.	With immediate effect

The above Casual Labourers conferred with Temporary Status are entitled to the benefits as furnished in the enclosed Annexure.

Encl: One as above.

( R. Dutta Choudhury )  
Sub-Divisional Engineer (Admn.)

Copy to :

01. The Chief General Manager (BSNL), Assam Circle, Guwahati for favour of information w.r. to letters cited above.
02. The D.E.(Circle Installation)/Guwahati, Dispur Telephone Exchange Bldg, 2<sup>nd</sup> Floor, Guwahati-781 006.
- 03-04. TSMs concerned.
- 05-08. Service Book /Personal File of the TSMs.
09. E-3.
10. Spare.

For GM(BSNL)/Kamrup/Guwahati-7.

*Att. for  
S. S. S.  
Advocates*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No.36 of 2003 (O.A.120/2001)

Date of Order : This, the 18th Day of June, 2004.

THE HON'BLE SMT. BHARATI ROY, JUDICIAL MEMBER.

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

Sri Paresh Barman  
S/o Sri Rohini Barman  
Aged about 32 years, by occupation  
Casual Labourer (Driver)  
a resident of Barnaddi village  
P.O: Belsor, P.S: Belsor in the  
District of Nalbari, Assam. . . . . Petitioner

By Advocates Mr.R.K.Malikar, G.C.Deka & K.C.Sarma.

- Versus -

1. Sri S.K.Bhaduri  
General Manager, Telecom  
Kamrup District, Guwahati  
from 17.8.2000 to 31.10.2002 and at present  
Kolkata Telephones, Kolkata.
2. Sri M.K.Gogoi  
General Manager, Telecom  
Kamrup District, Guwahati-7  
from 31.10.2002 to 12.11.2002  
and at present Guwahati Area Manager  
(East), Dispur, Ulubari  
Guwahati - 6.
3. Sri N.M.Benerjee  
General Manager, Telecom  
District Kamrup, Guwahati - 7  
from 12.11.2002 to 22.1.2003 and at present  
Senior Deputy Director General (vigilance)  
and General Manager (Dev) Office of the  
Chief General Manager  
Assam Telecom Circle, Guwahati-7.
4. Sri B.K.Mishra  
General Manager, Telecom  
Kamrup District, S.R.Bora Lane  
Ulubari, Guwahati-7 since 22.1.2003 till date.

Respondents,

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

Contd./2

Sri B.C.Pathak  
Deputy General Manager  
Kamrup District, Guwahati-7  
from 31.10.2002 to 12.11.2002  
and at present Guwahati Area Manager  
Assam Telecom Circle, Guwahati-7.

Attested  
S. S. D  
Adv. C. G. S. C.

O R D E R

SMT. BHARATI ROY, MEMBER(J):

The petitioner, who was engaged as Casual Driver and was terminated from the post ~~on 1.4.1999~~, filed the Original Application No.120/Mof/2001 assailing the order of termination and also sought for direction to regularise his service.

2. Vide order dated 4.9.2002 passed in the said O.A. this Tribunal opined that respondents need to take care of the situation and consider the case of the applicant against future vacancy of Group 'C' alongwith others on priority basis, if necessary by relaxing his age keeping in mind the services rendered by him in the department. It was also kept open to the applicant for seeking for being engaged as Casual Mazdoor till he is finally absorbed in a regular post and in that event the authority was directed to consider such prayer of the applicant fairly.

3. The present Contempt Petition has been filed by the applicant for violating the order of this Tribunal. It is the contention of the applicant that the respondents did not consider his case in terms of the order of the Tribunal and recruited person who is junior to him. Respondents appointed one outsider and one Sri. Bhupen Deka, who is junior to the applicant.

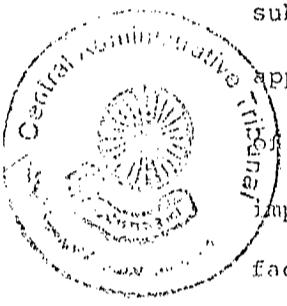
4. Respondent No.4 have filed counter reply. However, Mr. B.C. Pathak, learned Addl.C.G.S.C. for the

Contd./3

contemner raised the point of jurisdiction of the Tribunal in entertaining the Contempt Petition. He further referred to the order of this Tribunal passed in C.P.6/2004 (in O.A.467/2001), wherein this Tribunal dismissed the C.P. for lack of jurisdiction. In the similar context, he has also referred to the Full Bench judgment of the CAT, Jaipur Bench in O.A.401/2002 and 7

Others. Learned counsel for the applicant Mr.R.K.Malakar, however, submits that the orders of the Tribunal referred to by the learned counsel for the respondents relates to the C.P. where B.S.N.L. was party before this Tribunal, whereas in the present case B.S.N.L. has not been made party. In this context, Mr.B.C.Pathak, learned Addl.C.G.S.C. submits that in so far as the reliefs and question of appointment and regularisation are concerned, the Deptt.

Telecommunication (DOT) has no role to play in implementing the order of the Tribunal because of the fact that all the posts of Group 'B' & 'C' have been transferred from DOT to B.S.N.L. w.e.f.1.10.2000. In so far as the appointments of the two persons referred above is concerned, Mr.B.C.Pathak submits that the appointments were made by B.S.N.L. In this context, he has also drawn our attention to Annexure-P2 enclosed by the applicant in the O.A. to show that the appointments were made by B.S.N.L. We find force in the contention of the learned counsel for the contemners. In view of the facts and circumstances that the alleged contemners are not in a position to implement the order of this



Tribunal dated 4.9.2002 passed in O.A.120/2001, it cannot be held that there is any wilful disobedience of the order of this Tribunal. In this context, it requires mentioning that Bharat Sanchar Nigam Limited (B.S.N.L.) is a newly constituted corporation and no notification under section 14 under Section 14(2) of the Administrative Tribunals Act, 1985 has been issued in respect of new organisation i.e. B.S.N.L. Therefore, this Tribunal cannot issue any direction on the B.S.N.L. authorities.

That being the position, we hold that there is no contempt lies and accordingly the present Contempt Petition is dismissed.

Sd/MEMBER(J)  
Sd/MEMBER(Adn)

TRUE COPY

affidavit

21/6/04  
Section Officer (J)

C.A.T. GUWAHATI BANCH

Guwahati-781005

21/6/04

31 MAR 2004

Guwahati Bench  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: AT GUWAHATI

Filed by  
Dipan Barman  
Advocate for  
the Respondents  
20138105

O.A. NO. 177/2004

Sri Paresh Barman

...Applicant

-vs-

Union of India & others

...Respondents

(Written statements filed by the Bharat Sanchar Nigam Limited, Respondent No. 2 and 3)

The written statements of the above respondents are as follows:

1. That a copy of the Original Application No. 177/2004 (hereinafter referred to as the "application") has been served on the answering respondents. The respondents have gone through the same and understood the contents thereof.
2. That save and except those statements made in the application, which are specifically admitted, all other statements are hereby denied.
3. That the application is not maintainable against the Respondent No. 2 and 3 who are the authority under the Bharat Sanchar Nigam Ltd. (hereinafter referred to as the 'BSNL'), a company duly registered under the Companies Act, 1956 having separate and distinct legal entity which can sue or could be sued by its name. The BSNL has been incorporated w.e.f. 15.9.2000 and all the assets and liabilities of the erstwhile Department of Telecom (hereinafter referred to as the "DoT") has been transferred to the said BSNL w.e.f. 1.10.2000. The BSNL and the authorities under it has not been brought under the jurisdiction of the Hon'ble CAT so far by issuing any notification by the Central Govt. as required under Section 14(2) of the Administrative Tribunal Act, 1985 (hereinafter referred to as the

"Act"). That being the legal position, this Hon'ble Tribunal may not 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. The law has already been settled in this regard as per decision of the Co-Ordinate Bench of the Tribunal. The rules of precedents are also applicable to the Hon'ble tribunal. Hence this application is not maintainable against the answering respondents No. 2 and 3.

4. That the application is also liable to be dismissed as the same is barred by the doctrine of res-judicata. The issues raised in this application by the applicant are identical and the same as those raised by the applicant in OA No. 120/2001 against the same respondents and the final pronouncement has been made on merit in the said OA No. 120/2001 vide order dated 4.9.2002. It is also pertinent to mention here that the applicant filed a contempt petition in this Hon'ble tribunal vide CP No. 36/2003 alleging violation of the order dated 4.9.2002 passed in OA No. 120/2001. The said contempt petition was dismissed by the Hon'ble Tribunal on the ground that no direction could be issued against the BSNL as the Hon'ble Tribunal has no jurisdiction over the BSNL.

The copies of the order dated 4.9.2002 and 19.6.2004 are annexed hereto as Annexure R1 and R2 respectively.

**Parawise comments:**

5. That with regard to the statements made in para 1 of the application, the answering respondents state that there is no cause of action for filing this application and no particulars have been shown for filing of the application and instead some vague statements are made in this para.
6. That with regard to the statements made in para 2 of the application, the answering respondents state that so far as the Respondent No. 2 and 3 are concerned, this Hon'ble tribunal has no jurisdiction to pass

any order or judgment against the said respondents which has been clearly stated hereinabove.

7. That with regard to the statements made in para 3 of the application, the answering respondents state that the issues raised in the application are barred by the law of limitation as provided under Section 20/21 of the Act.
8. That with regard to the statements made in para 4.1, 4.2, 4.3 and 4.4 of the application, the answering respondents state that the averments made in those para are denied by the respondents as the same are not based on records maintained by the BSNL (erstwhile DoT). In fact, the applicant was not entirely engaged by the erstwhile DoT on such occasion continuously, rather the applicant was engaged by the officer of the erstwhile DoT on personal capacity in the period as a private driver for their personal/ family use. The respondents in order to ascertain the engagement particulars of the applicant issued letters to such officer and directed them to submit clarification with regard to 3 questions – firstly, to clarify the authenticity of the certificate, secondly, how a departmental vehicle was allowed to be driven by a non departmental person and thirdly as to what was the mode of payment to such person. This was done vide BSNL letter No. STES-21/328/4 dated 7.9.2001. In response to such queries the BSNL could come to know that the applicant was used as a personal driver to drive a personal vehicle of such officer. It was also ascertained by such officer that the period indicated in the certificates regarding engagement of the applicant was also wrong as during such period some other driver was allowed to work. This was communicated vide reply statements dated 6.3.2002 by one J.M. Basumatary and vide communication dated 8.3.2002 by the DE(OP), Guwahati. As such, the claim of the applicant was not supported by documentary proof and the claim was not based on facts.

The copies of the letter dated 7.9.2001 and the clarification statements dated 6.3.2002 and 8.3.2002 are annexed as Annexure R3, R4 and R5 respectively.

9. That with regard to the statements made in para 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 and 4.13 of the application, the answering respondents state that the case of the applicant was taken up for through scrutiny to examine the eligibility as provided by the Govt. of India Scheme, namely the Casual Labourer (Grant of Temporary Status and Regularization) of the Dept. of Telecommunications Scheme, 1989. The case of the applicant was taken for scrutiny as done in the case of the other casual labourers after the common order passed in a series of cases by the Hon'ble Tribunal as on 31.8.1999. The Verification Committee, which is a high power independent committee constituted after the order dated 31.8.1999, have gone into the verification of all the records of the applicant and found that the applicant could not complete 240 days in any 12 calendar months during the period when he was engaged by the DoT. It was also proved as stated above that the period against he claimed to be engaged by the certifying officer, he was as personal diver for the personal vehicle. Therefore, the Verification Committee did not recommend the applicant for conferment of temporary status under the said Scheme. This was reported vide No. GMT/ENG/CL-1/2001-2002/43 dated 12.3.2002. Accordingly, the applicant was informed about the position.

The answering respondents also state that the claim of the applicant with regard to the seniority is a vague suggestion which is not tenable in law and which is also not correct. The criteria for a casual labour for conferment of temporary status is engagement for 240 or more days in a calendar year and such engagement must be prior to 1.8.1998. Only on fulfilment of these criteria, a casual labour could be considered under the scheme. Moreover, the applicant was engaged in a Group C post (driver) which is strictly prohibited vide Govt. of India, Ministry of Finance OM No. 49014/16/89-Estt(C) dated 26.2.1990 and there was complete ban on the engagement of casual labour for performing duties of Group C post. On this ground alone, the applicant is not entitled to get the benefit under the scheme which is made for only to persons lower than the Group D post only. The respondents also state that the complaint petition filed by the applicant was also dismissed which is explained hereinabove.

The report of the verification committee with enclosure is annexed hereto as Annexure R6.

10. That with regard to the statements made in para 5(a), 5(b), 5(c), 5(d), 5(e) and 5(f), the answering respondents state that in view of the facts and circumstances of the case and the provisions of law, the grounds sought to be set up by the applicant are not tenable in law and the application is liable to be dismissed with cost.
11. That with regard to the statements made in para 6 and 7 of the application, the answering respondents state the applicant has tactically and tactfully avoided to provide proper information and the requirements of the given form and omitted information required to be given in details in para 6 and 7 of the application, particularly in column 7 to be written with the heading as "matters not previously filed or pending with any other court". But in the application this has been written as "matters are not pending in any other Court or Tribunal". There is no declaration with regard to his earlier application vide OA No. 120/2001 and the CP No. 36/2003 and by suppression of such vital material facts, the applicant succeeded in getting the application admitted for hearing. The application therefore is liable to be dismissed for the clear suppression of material facts. It is also pertinent to state here that in the verification filed by the applicant, the applicant has clearly stated that he has not suppressed any material facts. In the said verification, the applicant has also stated nothing about records. As such, the verification signed by the applicant is false, improper and misleading.
12. That with regard to the statements made in para 8(i), 8(ii), 8(iii), 9(i), 9(ii) and 9(iii), the answering respondents state that in any view of the matter and the facts and circumstances of the case and under the provisions of law, the applicant is not entitled to any relief, whatsoever, and the application is liable to be dismissed with cost.

In the premises aforesaid, it is therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall also be pleased to dismiss the application with cost.

### VERIFICATION

I, Shri Kamakhya Ranjan Das, son of late D.C. Das, aged about 50 years, at present working as the S.D.E. (Legal) in the Office of the General Manager, Kamrup Telecom District of M/s. Bharat Sanchar Nigam Limited, Ulubari, Guwahati-7 do hereby solemnly affirm and declare that the statements made in para 1, 2, 3, 5, 6, 7, 10 & 11, of the written statements are true to my knowledge and belief and those made in para 4, 8 and 9..... being matter of records are true to my information derive therefrom and the rest are my humble submission before this Hon'ble Forum. I have not suppressed any material fact.

And I sign this verification on this 30<sup>th</sup> day of March, 2005 at Guwahati.

Kamakhya Ranjan Das.

SD-नंदल बर्मियन्स (सिद्धि)

Sub-Divisional Engineer (Legal)

नारत संचार नियम लिमिटेड / BSNL

ठायीलिय महाप्रद बक, कामरुच दुर्लंधार चिता

Office of the GM / KTD

गुवाहाटी / Guwahati-781 007,

DEPONENT

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Annexure - 25

ANNEXURE R

Original Application No.120 of 2002

Date of Order: This the 4th Day of September 2002

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

HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

Sri Paresh Barman  
Casual Labour(Driver)  
Village Barnartdi  
P.O.Belsoor, District Nalbari, Assam ....., Applicant

By Advocate Mr.B.Malakar.

-Vs-

1. The Union of India represented by the Chief General Manager, Assam Telecom Circle, S.R.Bora Lane, Ulubari, Guwahati-7.
2. The General Manager, Telecom, Kamrup District, S.R.Bora Lane ....., Respondents, Ulubari, Guwahati-7.

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

O R D E R.

D.N.CHOUDHURY, VICE-CHAIRMAN:

In this application under section 19 of the Administrative Tribunals Act the applicant has assailed the order of termination from the post of Casual driver with effect from 1.4.99 and also sought for direction to regularise his service.

2. In this application it was interalia stated that the applicant was engaged as Casual Driver with effect from 1.1.90 to 31.12.96 under SDO(T) Kamrup from 1.1.97 to 31.12.97. He was engaged to work at various places such as SDE(Phone) Goalpara, SDE/C, West Ambari, Guwahati, SDE(E) Ambari Guwahati, SDO(T), Rangia, SDE(C) West Ambari, SDC, East Ambari etc. It was stated that he was first appointed as

contd/-

river to run Departmental vehicle from time to time by his concerned officers, though he worked for a long period he was terminated. Hence this application.

Assailing the legitimacy of the order of termination and also prayed for direction for regularisation. The Respondents contested the claim of the applicant and stated that the applicant was only engaged in the year 1994, 1996, 1997 and 1998, in total the applicant was engaged for about 94 days. The respondents also mentioned about ban on fresh recruitment of casual labourers against Group 'C' post on the basis of Office Memorandum issued by the Government of India, Ministry of Finance. Any employment in the breach of the Office Memorandum No. 4901/16/89-Eatt(c) dated 26.2.1990 is invalid and unlawful contended by the Respondents. Therefore, the benefit for regularisation cannot be given to the applicant. The respondents also raised plea of maintainability of this application on this score that the responsibility of releasing the pending cases of the Casual labourers are entrusted to the Bharat Sanchar Nigam Limited a Company under the Government of India. The BSNL has not yet been notified under Sub-Section 2 of Section 14 of the Administrative Tribunal Act and thus the Tribunal has no jurisdiction to entertain such position. The new Telecom Policy of Government of India as well as other office Memorandum issued by the Government of India will clearly spelt out the position. We find it, difficult to accept the contention of the Respondent on the basis of the materials produced to the effect that the applicant was not working in the Telecom department prior to the introduction of the New Telecom Policy. The policy of conferment of temporary status was also introduced by the Telecom departments in pursuance to the legal policy laid down by the Supreme Court.

3. On assessment of materials on record we however, find it difficult to issue a direction on the Respondent to confer temporary status to the applicant. The applicant worked as a Group 'C' Driver intermittently. But it will not absolve the Respondents from considering the case of the applicant fairly. The Respondents authority utilised the services of the applicant may be by deviation of the Government ban. It will not be fair to penalise the applicant for the breach. All in all the applicant worked. We are therefore, of the opinion that the Respondents need to take care of the situation and consider his case against future vacancy of Group 'C' alongwith others on priority basis, if necessary by relaxing his age keeping in mind the services rendered by him in the department. It will also be open to the applicant for seeking for being engaged as Casual Nazdoor till he is finally absorbed in a regular post and in that event the authority may consider such prayer of the applicant fairly.

*711R 992 SC 2120  
Punjab & J&K  
revised*

4. Subject to the observations made above, the application stands disposed. There shall however, be no costs.

TRUE COPY  
18/10/02  
Section Officer (Judicial)  
Central Administrative Tribunal  
Administrative Board, Government  
18/10/02

Sd/-  
Vice-Chairman

Sd/- Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No. 36 of 2003 (O.A. 120/2001)

Date of Order : This, the 18th Day of June, 2004.

THE HON'BLE SMT. BHARATI ROY, JUDICIAL MEMBER.

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

Sri Paresh Barman  
 S/o Sri Rohini Barman  
 Aged about 32 years, by occupation  
 Casual Labourer (Driver)  
 a resident of Barnaddi village  
 P.O.: Belsor, P.S.: Belsor in the  
 district of Nalbari, Assam. Petitioner

By Advocates Mr. R.K. Malakar, G.C. Deka &amp; K.C. Bhattacharya.

VERSUS -

1. Sri S.K. Bhaduri  
 General Manager, Telecom  
 Kamrup District, Guwahati - 7  
 from 17.8.2000 to 31.10.2002 and at present BENCH.  
 Kolkata Telephones, Kolkata.
2. Sri M.K. Gogoi  
 General Manager, Telecom  
 Kamrup District, Guwahati - 7  
 from 31.10.2002 to 12.11.2002  
 and at present Guwahati Area Manager  
 (East), Dispur, Nalbari, ADMINISTRATIVE MEMBER.  
 Guwahati - 6.
3. Sri N.N. Denerjee  
 General Manager, Telecom  
 District Kamrup, Guwahati - 7  
 from 12.11.2002 to 22.1.2003 and at present  
 Senior Deputy Director General (vigilance)  
 and General Manager (Dev) Office of the  
 Chief General Manager  
 Assam Telecom Circle, Guwahati - 7.
4. Sri B.K. Mishra  
 General Manager, Telecom  
 Kamrup District, S.R. Bora Lane  
 Nalbari, Guwahati - 7 since 22.1.2003 till date.  
 Respondent.

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

Signature of  
 Sri Paresh Barman  
 Barnaddi  
 (from 17.8.2000 to 31.10.2002)  
 and at present  
 Casual Labourer (Driver)  
 (East), Guwahati - 7

Contd./2

SMT. BHUPATI ROY, MEMBER(J):

The petitioner, who was engaged as Casual Driver and was terminated from the post w.e.f.1.4.1999, filed the Original Application No.120/Mof/2001 challenging the order of termination and also sought for direction to regularise his service.

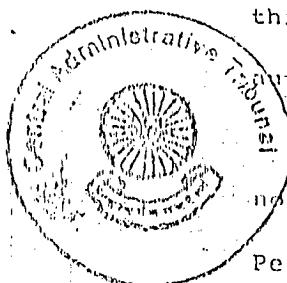
2. Vide order dated 4.9.2002 passed in the said O.A. this Tribunal opined that respondents had to take care of the situation and consider the case of the applicant against future vacancy of Group 'C' alongwith others on priority basis, if necessary by relaxing the age keeping in mind the services rendered by him in the department. It was also kept open to the applicant for seeking for being engaged as Casual Mazdoor till he is finally absorbed in a regular post and in that event the authority was directed to consider such prayer of the applicant fairly.

3. The present Contempt Petition has been filed by the applicant for violating the order of this Tribunal. It is the contention of the applicant that the respondents did not consider his case in terms of the order of the Tribunal and recruited person who is junior to him. Respondents appointed one outsider and one Sri Bhupen Deka, who is junior to the applicant.

4. Respondent No.4 have filed counter reply. However, Mr. B.C. Pathak, learned Addl.C.G.S.C. for the

contemnor raised the point of jurisdiction of the Tribunal in entertaining the Contempt Petition. He further referred to the order of this Tribunal passed in C.P.6/2004 (in O.A.467/2001), wherein this Tribunal dismissed the C.P. for lack of jurisdiction. In the similar context, he has also referred to the Full Bench judgment of the CAT, Jaipur Bench in O.A.401/2002 and 7 Others. Learned counsel for the applicant Mr.R.K.Malakar, however, submits that the orders of the Tribunal referred to by the learned counsel for the respondents relates to the C.P. where B.S.N.L. was party before this Tribunal, whereas in the present case B.S.N.L. has not been made party. In this context, Mr.B.C.Pathak, learned Addl.C.G.S.C. submits that in so far as the reliefs and question of appointment and regularisation are concerned, the Deptt. of Telecommunication (DOT) has no role to play in implementing the order of the Tribunal because of the fact that all the posts of Group 'B' & 'C' have been transferred from DOT to B.S.N.L. w.e.f.1.10.2000. In so far as the appointments of the two persons referred above is concerned, Mr.B.C.Pathak submits that the appointments were made by B.S.N.L. In this context, he has also drawn our attention to Annexure-P2 enclosed by the applicant in the O.A. to show that the appointments were made by B.S.N.L. We find force in the contention of the learned counsel for the contemnor. In view of the facts and circumstances that the alleged contemnor are not in a position to implement the order of this

Tribunal dated 4.9.2002 passed in O.A.120/2001, it cannot be held that there is any wilful disobedience of the order of this Tribunal. In this context, it requires mentioning that Bharat Sanchar Nigam Limited (B.S.N.L.) is a newly constituted corporation and no notification under section 14 under regulation 14(2) of the Administrative Tribunals Act, 1985 has been issued in respect of new organisation i.e. B.S.N.L. Therefore, this Tribunal cannot issue any direction on the B.S.N.L. authorities.



That being the position, we hold that there is no contempt lies and accordingly the present Contempt Petition is dismissed.

Sd/MEMBER(J)  
Sd/MEMBER(Adm)

TRUE COPY  
Ranbir

21/6/04  
Section Officer (J)  
C.A.T. GURGAON BANCH  
Gurahari-781005

21/6/04  
Ranbir

BIHARAT SANCHAR NIGAM LIMITED  
 (A GOVT OF INDIA ENTERPRISE)  
 O/O THE CHIEF GENERAL MANAGER  
 ASSAM TELECOM CIRCLE:ULUBARI:GUWAHATI-7

ANNEXURE - R<sub>7</sub>

No. STES-21/328/4  
 Dated at Guwahati the 07.09.2001

Shri Paresh Barman, S/o Late Rajani Barman, P.O. & Vill Barnaddi, District Nalbari (Assam) has filed the OA No. 120/2001 before Hon'ble Administrative Tribunal Guwahati, making a prayer for regularization of his service as 'Driver'. It is the case of the applicant that his service was engaged and utilized as Motor Driver by various Departmental authorities from time to time for driving Departmental vehicles. It is his claim that in the process he has put on duty continuously from 1990 to March' 1999. In support of his claim, Shri Barman has furnished copies of certificates granted by following departmental officers to show that he is actually utilized for driving Departmental vehicle.

1. Shri J. M. Basumatary, SDE, CTO/Guwahati.
2. Shri N. K. Rabha, ADT (Genl), Circle Office/Guwahati.
3. Shri R. Bhattacharjee, SDE Cable (East), Panbazar, Guwahati.

The certificate issuing officers noted above are called upon to give their Written statement on the following points.

1. Authenticity of the certificate.
2. Circumstances under which the Departmental vehicle was allowed to be driven by non-departmental person.
3. Mode and particulars of payment made to the person for driving the vehicle.

The officers will submit their Written Statement covering the above points within a period of 10 days and they will be made party in Court justify there too. Failure to comply with the direction within the time limit will be construed as insubordination and

Contd... 2

(15)

26

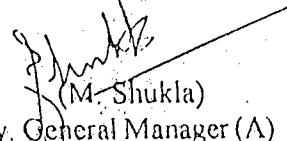
Chakdil/DP/ 7

52

(2)

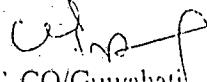
dealt with accordingly.

A photocopy of the certificate is forwarded to the respective officers.

  
(M. Shukla)  
Dy. General Manager (A)

Copy to :-- 1. Shri N. K. Rabha, ADT (Genl), Circle Office/Guwahati.  
2. Shri J. M. Basumatary, SDE, C.T.O./Guwahati.  
3. Shri R. Bhattacharjee, SDE, KTD/Guwahati.

Encl:-A/A

  
For CGMT, CO/Guwahati



(16)

27

16/C

ANNEXURE : R<sub>4</sub>  
ANNEXURE - R<sub>8</sub> 59

6/3/02

To

The Sub-Divisional Engineer (CS-II & L),  
O/O the G.M. BSNL, Kamrup District,  
Uluberia, Guwahati-781007.

Dated at Guwahati, the 06-03-2002.

Sub:- O.A. No. 120/2001 (Case of Shri Parech Barman.)

Ref:- Your letter No. GM/K/Court Case/O.A.-120/01/11 dated 04-03-2002.

With reference to above cited letter, the required statement against the points given are hereby submitted below for your necessary action.

1. The certificate in question was perhaps issued by me. However, Shri Parech Barman was driving my personal vehicle only.
2. Shri Barman was driving my personal vehicle only.
3. He was paid different amount at different times without any written receipts.

Q. 6/3/02  
(J.N. BASUMIARY)  
Sub-Divisional Engineer (Adm.),  
C.T.O, Guwahati-781001.

Corr-22

भारत संचार निगम लिमिटेड

BHARAT SANCHAR NIGAM LIMITED  
(A Government of India Enterprise)

BSNL

प्रेषक  
FromDivisional Engineer (OP) निवास में  
भारत संचार निगम लिमिटेड To M/s. A.R.T. (Legal),  
O/O GM/Kamrup Telecom Distt. of the CGMT/ENH-1  
Guwahati-781007फॉरम संख्या १८५  
No. C.M.(K)/Courtcase/CA 120/ filed at Guwahati on 8-3-2002  
/2001-2002/17.मामिला: OA-120/2001 filed  
Subject by Sri Paresh Barman.

Ref. to your letter no. STEs-21/328/9 dttd. 27-2-02.

Received  
Date  
8/3

With reference to above mentioned letter on the subject cited above. The report submitted by Sri J.M. Basumatary SDE/CTO/CH on the specific points regarding certificate issued to Sri Paresh Barman is sent herewith as desired by you. The other official SDE cable (East)/Panbazar Sri B.B. Bhattacharjee has retired on superannuation two years back. The certificate issued by Sri B.B. Bhattacharjee to Sri Paresh Barman was partially wrong i.e. The Period 10/6/97 to 19-6-97 was not worked by Sri Paresh Barman as stated by SDE (C-1) Sri Nishikar, on those days Sri Banchu Kalita was engaged. A copy of SDE (C-1)/Ambani report is enclosed herewith for ready reference.

c/c  
Divisional Engineer (OP)  
Bharat Sanchar Nigam Ltd.  
O/O GM/Kamrup Telecom Distt.  
Guwahati-781007

Enclo.:- As stated  
above and  
SDE (E-11)/Adiabari  
Report

-23-

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ANNEXURE R

ANNEXURE : R

BHARAT SANCHAR NIGAM LIMITED  
(A Government of India Enterprise)  
O/o the General Manager, Kamrup District,  
Ulubari :: Guwahati-7.

NO:- GMT/ENG/CU-1/2001-2002 / 43 Dated at Guwahati the 12-03-2002

Sub:- Verification committee's report

A verification committee was constituted to examine and scrutinise the engagement particulars of the casual labourers in consultation with records. The same committee has been revived by GM/KTD/GH vide his office letter No:- GMT/EST/179/TSM/ 2000- 2001/ 187 dated 4-01-2002 to examine and scrutinise the working particulars of the Casual Labourers claimed to have worked under the jurisdiction of Kamrup SSA.

The Committee consists of the following members:-

- (1) Sri M.C. Patra Divisional Engineer ( ADMIN)
- (2) Sri N.K. Das, Chief Accounts officer (Finance)
- (3) Sri S.C. Das ADT ( Legal), Circle office / Guwahati,

The committee has started functioning & reverified various records relating to the payment particulars in respect of the Applicant of OA NO: 120/2001 (Sri Paresh Barman). The committee after careful examination of the records found that the applicant in OA No 120/01 have not completed at least 240 days in any calendar year prior to August 1998. The findings of the committee in respect of the applicant of above OA is furnished in separate sheet.

Considering the above facts and circumstances of the case, and the guidelines of the "Grant of Temporary status and Regularisation Scheme, 1989" of the DEPTT & other related letters issued from DOT/ND No:- 269-13/99-STN-II dated 1-9-1999 & 269-20/2000-STN-II dated 4-9-2000, the committee does not find any reason to grant him temporary status.

The committee, therefore does not recommend the applicant in the above OA to grant temporary status.

*[Signature]*  
ADT (Legal)  
Circle Office

*[Signature]*  
C.A.O. (Finance)  
O/o the GM/T/KTD/GH

*[Signature]*  
D. E. (ADMIN)  
O/o the GMT/KTD/GH

Copy to:- The GM Telecom/Kamrup Telecom District for information please.

claiming 24<sup>th</sup> period -> 2/10 to 10/11/97 - 5322/-  
 DUE SUBSTC (Page 2)  
 EXAGGERATED AND ABSTRACTED BILLS ON DRAFT  
 26/5/97 to 9/6/98 - 5322/-  
 6/7/97 to 4/8/98 - 5322/-  
 1/8/97 to 8/1/98 - 5322/-

Sri P. S. Banerjee

07/02/61

8/2

YEAR	MONTH	DEBT DATE	TYPE OF PAYMENT S/NUMBER RECEIVED PARTICULARS D/NUMBER	AMOUNT	ENCAGED BY WHOM	BILLED PAWARI AUTHORITY	NAME OF A.O. WHO HAS PAID
1994	Jan.						
	Feb.						
	March						
	April	6	A/c. 72/96-95	255/-	SSE(K)		
	May	10	A/c. 44,89,189/96-95	425/-	"		
	June						
	July	1	A/c. 16/74-95	110/-	SSE(K)		
	August						
	Sept.						
	Oct.						
	Nov.						
	Dec.		17 days				
1996	Jan.						
	Feb.						
	March						
	April	1	A/c. 5/96-97	50/-	SSE(K)		
	May						
	June						
	July						
	August						
	Sept.						
	Oct.						
1997	Nov.	197	A/C. 17	1539/-	SSE/R		
1997	Dec.	125	A/c. 466/97-98 V. 12/08	972/-	SSE(CW-)		
1998	Jan.	714	A/c. 6, V. 32/39	810/-	-50-		
	Feb.	7	A/c. 27, V. 49	181/-	-50-		
	March			567/-			
	April						
	May						
	June						
	July						
	August						
	Sept.						
1998	Oct.	27	A/c. 3 P/E. 2/1/98 V. 1, 22, 33, 48, 53, 65	Rs. 2187/-	SSE(E167) 02/1/98		
	Nov.						
	Dec.		1, 5 days				

SIGNATURE/STAMPS OF COMMITTEE MEMBERS

ADM (Circle office number) C/A.O.  
 (Legal) O/o the C.M./P.M./C.I.

1. B. (Adm) O/o the C.M./P.M./C.I.