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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A/T.A No. 133/2003

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SECTION OFFICER (Judl.)

Salik
16.11.17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 133 / 03

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Azizur Rahman

Respondants: - N.O.I Joms

Advocate for the Applicants: - M. Chanda, G. N. Chakraborty, S. Nath

Advocate for the Respondants: - Case.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time. Contempt Petition is filed. The C.F. for IP is deposited. Filed No. 86.490736. Dated 28.5.03.</p> <p><i>H. N. B. 18/6/03</i> <i>Dr. Registrar</i> <i>Ph</i></p> <p>steps taken along with envelope.</p> <p><i>Ph</i></p>	<p>23.6.2003</p> <p>bb</p>	<p>Heard counsel for the parties. Judgment delivered in open Court kept in separate sheets.</p> <p>The application is disposed of at the admission stage itself in terms of the order. No costs.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>15.7.2003</p> <p>Copy of the order has been sent to the office for issuing the same to the applicant as well as to the R.C.G.S.C. for the Respondent.</p>		

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~XXX~~ No. . . . 133 of 2003.

DATE OF DECISION 23.6.2003.....
BILL OF COST

... Sri Azizur Rahman APPLICANT(S).

... Mr. M. Chanda, G. N. Chakraborty & S. Nath. ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

... Union of India & Others. RESPONDENT(S).

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

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

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Ho'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL , GUWAHATI BENCH.

Original Application No.133 of 2003.

Date of Order : This the 23rd Day of June, 2003.

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

Sri Azizur Rahman
Village:- Hatkhola
P.O:- Kanaibasar
District:- Karimganj (Assam). Applicant.

By Advocates Mr.M.Chanda, G.N.Chakraborty & S.Nath.

- Versus -

1. The Union of India
Through the Secretary
to the Government of India
Ministry of Communication
Department of Telecommunication
New Delhi.
2. Bharat Sanchar Nigam Limited
(Represented by the Chief General Manager
Assam Circle, Department of Telecommunication
Govt. of India
Ulubari, Guwahati.
3. The General Manager, Telecom, Silchar SSA
Department of Telecommunications, Silchar, Assam.
4. Sub Divisional Officer, Telecom
Department of Telecommunication
Karimganj.
5. Divisional Engineer (P & M)
Office of the General Manager
Bharat Sanchar Nigam Limited
Silchar. Respondents.

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

ORDER

CHOWDHURY J.(V.C.):

This is an application under section 19 of the Administrative Tribunals Act, 1985 for conferment of temporary status.

1. According to the applicant, he was working under the department as a casual labourer since 1988 continuously to 1995. The applicant further pleaded that on 22.12.1997 the applicant alongwith others was conferred with the tempo-



rary status, but subsequently the same was cancelled illegally vide order dated 27.6.1998. Aggrieved by the action of the respondents applicant moved this Tribunal by way of an application which was numbered and registered as O.A.No.141 of 1998. A batch of petitions were considered at a time and by order dated 31.8.1999 the said O.A. was disposed alongwith O.A.107 of 1998 and Others. By the said judgment and order all the applicants were to file representations individually within a period of one month from the receipt of the order and if such representations were made, the respondents were directed to scrutinise 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. By the said order also all the applicants who were armed with interim order were allowed to continue till the disposal of their representations. Mr.M.Chanda, learned counsel for the applicant submitted that in applicant's case O.A.141/1998 there was also an interim order not to disengage the applicant. Despite the order no action was taken by the respondents and hence this application for conferment of temporary status. The applicant also pleaded that after the judgment was rendered by this Bench the applicant submitted his representation on 25.10.1999. In para 4.10 of the application the applicant stated ^{that} although the applicant submitted his representation on 25.10.1999 in terms of the order dated 31.8.1999 but for a long time no communication were received, from the respondents regarding consideration of his case for grant of temporary status. It then pleaded "However, applicant came to learn that his case for grant of temporary status has been rejected. The respondents are, therefore, liable to pay wages for the period with effect from 30.6.1998 till the formal order of reinstatement is passed by the respondents." The applicant therefore, moved this application for appropriate remedy. Mr.M.Chanda, learned counsel for the applicant,

also referred to the order dated 12.3.2003 passed by the authority conferring temporary status to persons similarly situated.

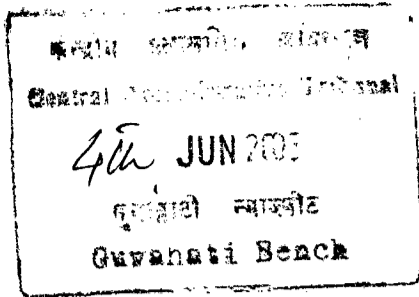
2. I have heard Mr.M.Chanda, learned counsel for the applicant at length and also Mr.A.Deb Roy, learned Sr.C.G.S.C. Admittedly, this Tribunal passed an order as far back on 31.8.1999 for considering the case of those applicants within the time specified. On the own showing of the applicant, he submitted representation on 25.10.1999, but he did not receive any communication and after long interval moved this Tribunal for appropriate direction. The applicant did not even clarify on which date he came to know that his case for temporary status was not granted.

Considering all aspects of the matter, it would not be appropriate to entertain the O.A. at such long distance of time, more so, in the absence of any acceptable explanation for not approaching the Tribunal in time. The law of limitation is based on public policy.

The application is accordingly dismissed at the admission stage itself. There shall, however, be no order as to costs.



(D.N.CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

O.A. No. 133 /2003

Sri Azizur Rahman

-vs-

Union of India & Ors.

- 1.3.88 The applicant was initially engaged as casual worker along with others in the Telecommunication Department (now BSNL) in the office of the Respondent No.1 since 1988.
- 8.11.95 The case for granting of Temporary status was warded to the Telecom Divisional Engineer, Silchar by the then Sub Divisional Engineer, Patherkandi.
- 4.3.96 That it is stated that the applicant was granted temporary status after the approval in the minutes of LJCM held on 4.3.1996. The said Meeting was held on 4.3.96, 13.3.96, 20.8.96, 14.2.97, 27.6.97, 22.7.97, 22.9.1997 and 24.12.97.
- 16.12.97 The applicant along with other similarly situated casual workers was granted temporary status provisionally.
- 22.12.97 The Temporary Status of the applicant was confirmed with a direction that the conferment of the Temporary status can be terminated at any time without assigning reason.
- 27.6.98 Temporary status granted to the applicant was

Filed by the applicant
through advocate Sri
G. N. Chakravarty on
5-6-03

cancelled by the TDM, Silchar without assigning any reason.

- 02.07.98 The applicant being highly aggrieved for cancellation of temporary status as well as disengagement from service approached this Hon'ble Tribunal through All India Telecom Employees Union Line staff and Group which was registered as O.A. 141/98.
- 31.8.99 The aforesaid O.A. was disposed of by this Hon'ble Tribunal on 31.8.99 with a direction to the respondents to examine the case of the applicant on merits within a period of six months.
- 25.10.99 The applicant submitted the judgment and order through representation with a prayer to consider the case of the applicant for grant of Temporary Status in the light of the aforesaid judgment.
- 12.3.03 The case of the applicant was not considered although other similarly situated casual workers who were appointed along with the applicant have granted temporary status pursuant to the judgment and order passed in O.A. 332/2000 and in O.A. 408/2000 on 12.03.03.

PRAYER

- 8.1 That the respondents be directed to grant temporary status to the applicant in terms of the judgment and order dated 5.9.2001 passed in O.A. No. 332/2000 with immediate effect.
- 8.2 That the applicant be declared entitled to grant of Temporary Status and regularisation and the respondents

be accordingly directed to grant them the benefit of the scheme named as Casual Labourers (Grant of temporary Status and regularisation) Scheme of the Department of Telecommunication, 1989 with effect from the date as had been granted to him vide letter dated 15.12.1997, 16.12.1997 and 22.12.1997.

- 8.3 That the respondents be directed to allow the applicant to continue in service in terms of the interim order passed by the Hon'ble Tribunal on 2.7.1998 and in terms of the judgment and order 31.8.1999 and 30.3.2001 passed in O.A. No. 141/98 and in O.A. No. 332/2000 respectively till the benefit of temporary status and regularisation are granted to them in terms of the order dated 15.12.1997, 16.12.1997 and 22.12.1997 with retrospective effect.
- 8.4 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to full back wages with effect from 30.6.1998 till the date of actual reinstatement.
- 8.5 Costs of the application.
- 8.6 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O.A. No. 133 /2003

Sri Azizur Rahman : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

Date : 4-6-2003

Jenupakravaty
Advocate

Md. Azizur Rahman.

*Filed by the applicant
through advocate Sri
G.N. Chakravarty on
4-6-03.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

O.A. No. _____ /2003

BETWEEN

1. Sri Azizur Rahman
Village - Hatkhola P.O.- Kanaibazar,
District - Karimganj (Assam).
.....Applicant

-AND-

1. The Union of India,
Through the Secretary to the Govt. of India,
Ministry of Communication, Department of
Telecommunication,
New Delhi.
2. Bharat Sanchar Nigam Limited,
(Represented by the Chief General Manager,
Assam Circle, Department of Telecommunication,
Govt. of India
Ulubari, Guwahati)
3. The General Manager, Telecom, Silchar SSA,
Department of Telecommunications, Silchar, Assam.

Mhd. Azizur Rahman

4. Sub Divisional Officer, Telecom
Department of Telecommunication, Karimganj

5. Divisional Engineer (P & A)
Office of the General Manager
Bharat Sanchar Nigam Limited,
Silchar.

.....Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.

This application is made praying for a direction upon the respondents for conferment of Temporary Status in the light of the direction passed by this Hon'ble Court in O.A. No. 141/98 and also in the light of Judgment and order passed in O.A. No. 408/2000, O.A. No. 332/2000 which were filed by the other similarly situated casual workers and also praying for grant of all consequential benefit at least with effect from the date of conferment of temporary status to the other similarly situated casual workers.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

Mhd. Azizur Rahman

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

4. Facts of the case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant was initially engaged as casual worker in the Telecommunication Department (Now BSNL) under the then SDE (G), Telecom, Patherkandi along with Luthfur Rahman, Prithubhusan Roy and along with some other similarly situated casual workers since Ist March, 1988. Be it stated that the applicant had also served under the aforesaid respondents even prior to March, 1988. The case for conferment of Temporary status of the applicant, in fact forwarded to the Telecom Divisional Engineer, Silchar by the then Sub Divisional Engineer, Patherkandi vide its letter bearing No. E-27/95-96/PT-II dated 08.11.1995. In the said letter the detail particulars of the working days in respect of the present applicant had been shown as follows :

Name	Date of engagement	Year	Total no. Of working days
Azizur Rahman	01.03.88	1988	245

Mhd. Azizur Rahman.

		1989	250
		1990	215
		1991	242
		1992	243
		1993	242
		1994	242
		1995	207

It is relevant to mention here that since March, 1988 the applicant was continuously working under the respondents with all sincerity devotion and duty.

The applicant along with others repeatedly approached the higher authorities for conferment of temporary status in terms of the casual labourers (Grant of Temporary Status and Regularisation) Scheme, 1989, wherein it is stated that a casual employee who have rendered continuous service of at least one year out of which he should be engaged for a period of 240 days (206 days in the case of offices observing 5 days week), such casual labourers would be designated as temporary Mazdoor and also entitled to conferment of temporary status without reference to the creation/availability of regular Group D post. The present applicant in fact had attained eligibility long back for conferment of temporary status in terms of the aforesaid scheme as because he had rendered service for 240 days in each calendar years since his engagement as casual worker.

Mhd. Azizur Rahman.

A copy of the letter dated 8.11.1995 indicating the detail service particulars is enclosed herewith and marked as Annexure-1.

4.4 That your applicant further begs to state that the respondents constituted a responsible committee in the name and style "LJCM" for verification of service particulars of the applicant and other similarly situated casual workers for conferment of temporary status to the casual workers under the supervision of the high ranking officers of the Telecommunication department under TDM, Silchar. Be it stated that after detail scrutiny of service records of the applicant he was granted temporary status provisionally along with other similarly situated casual workers along with Luthfur Rahman and Prithu Bhusan Roy vide letter bearing No. E-37/97-98, dated 16.12.1997 issued by the SDE Group, Patherkandi. The same SDE again issued a letter bearing No. E-27/97-98, dated 22.12.97 regarding conferment of temporary status, wherein it is stated that such conferment of temporary status can be terminated at any time without assigning any reason.

Surprisingly, the order of temporary status granted to the present applicant in pursuance of the TDM, Silchar letter bearing No. E-20/GRP-D/Rectt/97 dated 9.12.1997, has been cancelled by the TDM Silchar vide his letter bearing No. X-11/TDM SC/CM-Rectt/98-99/213 dated 27.6.1998 and it is also stated that

Mrd. Azizur Rahman

service of the applicant is no longer required with effect from forenoon of 29.6.1998. Be it stated that no reason is assigned for cancellation of order of conferment of temporary status and on the face of it, the same appears to be extremely illegal and as such the order is void ab initio.

A copy of the letter dated 16.12.1997 and 22.12.97 are enclosed herewith and marked as **Annexure-II and III** respectively.

4.5 That your applicant being highly aggrieved for cancellation of temporary status as well as disengagement from service approached this Hon'ble Tribunal through All India Telecom Employees' Union, line staff and Group-D and others by filing an application which was registered as O.A. 141 of 1998. The said Original Application came up for consideration before this Hon'ble Tribunal for admission on 02.07.98 and the Hon'ble Tribunal after hearing the parties was pleased to admit the said O.A. on 2.7.98 and was also pleased to issue show cause as to why the interim order as prayed for should not be granted and the notice made returnable by 4 weeks as an interim measure the Hon'ble Tribunal was also pleased to direct the respondents not to disengage the service of the applicant and further directed the respondents that the applicant of the said Original Application should be allowed to continue in their service. The relevant portion of the order dated 2.7.1998 passed in O.A. No. 141/98 is quoted below:

Md. Azizur Rahman

" Heard Mr. B. K. Sharma, learned counsel appearing on behalf of the applicant and Mr. S. Ali, learned Sr. C.G.S.C. for the respondents.

Application is admitted. Mr. B. K. Sharma prays for an interim order not to discontinue the services of the applicant. Mr. S. Ali, has no instructions in the matter.

Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.

Meanwhile, the casual workers shall not be disengaged and the applicant shall be allowed to continue in their services."

The applicant immediately after obtaining the interim order had approached the respondents repeatedly for reinstatement in service and also submitted the order of the Hon'ble Tribunal passed in O.A. No.141/98 but surprisingly the respondents did not take any action in spite of the clear order passed by the Hon'ble Tribunal, which amounts to contempt of court. It is also pertinent to mention here that the above order had been passed in presence of Sr. C.G.S.C. who had also communicated the order of the Hon'ble Tribunal and notices were also duly served upon the respondents by the Registry of the Hon'ble Tribunal. Therefore,

Md. Azizur Rahman

inaction of the respondents in the instant case amounts to violation of the order of the Hon'ble Tribunal dated 2.7.1998 referred to above.

A copy of the order-dated 2.7.1998 is annexed as **Annexure - IV.**

4.6 That it is stated that the benefit of Temporary Status had been granted to the applicant after detail scrutiny of their service records and after finding them eligible/suitable for grant of temporary status. Therefore, they are covered by the terms and conditions laid down in the scheme to grant temporary status and regularisation. It is pertinent to mention here that the conferment of temporary status had also been approved in the minutes of LJCM held on 4.3.1996 in the Chamber of Telecom District Manager, Silchar. The said meeting was held on 4.3.1996, 13.6.1996, 29.8.1996, 14.2.1997, 27.6.1997, 22.7.1997, 22.9.1997 and 24.12.1997 and only thereafter the order of conferment of Temporary Status was passed by the Respondents in respect of the present applicant.

4.7 That it is stated that after receipt of temporary Status the applicant continuously worked till 29.6.1998 and which would be evident from the pay slips issued by the office of the Respondents.

Copy of the pay slip is annexed as **Annexure-V** series.

Mhd. Azizur Rahman.

4.8 That it is categorically stated that after the interim order passed in 141 of 1998 the applicant regularly attended to the office but no work was allotted to him pursuant to the order dated 2.7.1998. But in terms of the interim order he has continued in service although no specific order of work is allotted and in the process he has continuously worked since 2.7.1998 till date. Be it stated that this period is also liable to be taken into consideration for the purpose of granting of temporary status. It is specifically stated that if the aforesaid period is taken into account the applicant would further be entitled to the temporary status.

4.9 That applicant beg to state that the O.A. No.141/98 the Respondents duly contested before the Hon'ble Tribunal and the Hon'ble Tribunal decided the same on 31.8.1999 with the following directions:

"In view of the above, we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicant 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

Mhd. Azizur Rahman.

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."

In terms of the above judgment and order of the Hon'ble Tribunal the applicant submitted representations along with the copy of the judgment and order passed in O.A. No.141/98 on 25.10.1999 i.e. within the time limit fixed by the Hon'ble Tribunal. In the said representation the applicant, inter alia, prayed for consideration of their case in the light of the judgment and order passed by the Hon'ble Tribunal referred to above. In this connection it may be stated that the interim order was granted in favour of the applicant on 2.7.998 in O.A. 141/98 has been continued for another 6 months w.e.f. 31.8.1999. Be it stated that the respondents even after the expiry of 6 months stipulated time granted by this Hon'ble Tribunal prayed for extension of time limit on number of occasions and in the process the respondent have consumed more than one year in addition to the 6 months time limit granted by this Hon'ble Tribunal and the interim order accordingly continued till such time and in the said process the applicant further attained eligibility for the grant of temporary status by rendering work for 240 days in a particular calendar year and since January, 1998 he has also rendered 240 days work in the

Mhd. Azizur Rahman.

calendar year 1998, 1999, 2000 and 2001 either by virtue of the interim order or by the review of the temporary status granted by the respondent Union of India.

A copy of the order dated 31.8.1999 passed in O.A. 141/98 is annexed as **Annexure-VI**.

4.10 That the applicant state that it is relevant to mention here that after passing of the interim order dated 2.7.1998 the entire matter had been referred before the Directorate of Telecommunication, New Delhi by the office of the CGMT, Assam Circle and opinion was also sought regarding implementation of the Interim Order passed by the Hon'ble Tribunal in different cases of similar nature including the case of the present applicant in O.A. No. 141/98. However, it would be evident from the order of the respondent no. 2 issued under letter No. STES-21/160/26 dated 16.10.1998. It is stated in the said order, that it would be appropriate and beneficial to DOT that the labourers might be re-engaged and in case DOT wishes to dispense with their services then procedure under Section 25F of the Industrial Disputes Act might be adopted after re-engaging the casual labourers. It is relevant to mention here that the applicant came to know from a reliable source that the local authorities sent compliance report to the Directorate of the Telecommunication in terms of the order dated 16.10.1998 but in fact the order of the Hon'ble

Mhd. Azizur Rahman.

Tribunal passed on 2.7.1998 directing the respondents to allow the applicant to continue in service had not been complied with in spite of the instruction passed by the Directorate of Telecommunication. Therefore, action of the respondents amounts to contempt of court. The Hon'ble Tribunal may, therefore, be pleased to declare that the applicant is still in service in terms of the Interim order passed on 2.7.1998 in O.A. No.141/98 and also in terms of the judgment and order passed by the Hon'ble Tribunal on 31.8.1999 wherein it was categorically ordered that interim order passed in any of the case should remain in force till the disposal of the representation of the applicant. It is categorically stated that although the applicant submitted their representation on 25.10.1999 in terms of the order dated 31.8.1999 but for a long time no communication were received, from the respondents regarding consideration of his case for grant of temporary status. However, applicant came to learn that his case for grant of temporary status, has been rejected. The respondents are, therefore, liable to pay wages for the period with effect from 30.6.1998 till the formal order of reinstatement is passed by the respondents.

4.11 That it is stated that the case of the applicant was not considered for grant of temporary status although other similarly situated casual works who was employed along with the applicant have been granted temporary

Md. Azizur Rahman.

status pursuant to the judgment and order passed in O.A. 332/2000 and 408/2000 namely; Md. Luthfur Rahman, Nihar Dey, Sri Prithubhusan Roy, vide BSNL Office Order bearing letter No. E-34/TSM/PTKN/02-03/4 dated 12.03.2003. The case of the applicant is squarely covered by the judgment and order of 332/2000. As such he is entitled to the grant of temporary status and regularization in terms of the Scheme issued by the Department of Telecommunication. The further cause of action in the instant case has arisen when temporary status is granted to the other similarly situated casual workers vide the order dated 12.03.2003. Be it stated that although there was a direction earlier passed in O.A. 141/98 but the respondents did not take any step for favourable consideration of the case of the applicant. As such the applicant had no other remedy but to approach this Hon'ble Tribunal.

4.12 That in the facts and circumstances stated above the Hon'ble Tribunal be pleased to direct the respondents to consider the case of the applicant by granting temporary status with all consequential service benefits.

A copy of the judgment and order dated 5.9.2001 passed in O.A. 332/2000 and a copy of the order dated 12.3.2003 are annexed as Annexure- VII and VIII respectively.

Md. Azizur Rahman.

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

5. Grounds for relief(s) with legal provisions.

- 5.1 For that the benefit of temporary status granted to the applicant vide letter dated 15.12.1997, 16.12.1997 and 22.12.1997 can not be taken away by the respondents without following the procedure established by law.
- 5.2 For that the impugned decision of the respondents not to grant temporary status is contrary to the rule and law and order of the Hon'ble Tribunal in the facts and circumstance of the case of the applicant.
- 5.3 For that the applicant has acquired a valuable and legal right for grant of temporary status in terms of casual labourers (Grant of Temporary status and Regularisation Scheme of the Department of Telecommunication, 1989)..
- 5.4 For that the applicant has fulfilled the criterion laid down in paragraph 5 (i) of the provision laid down in casual labourers (Grant of temporary status and Regularisation) Scheme, 1989.
- 5.5 For that the applicant have completed the requisite number of days in terms of provisions laid down in paragraph 5(i) of the casual labourers (for grant of temporary status and regularisation) Scheme 1989.

Mhd. Azizur Rahman.

- 5.6 For that the applicant has continuously worked since 1988 without any break and performed works of permanent nature.
- 5.7 For that the present applicant was entrusted with the regular nature of works that are being performed by the regular Mazdoor of the department of Telecommunications.
- 5.8 For that non-consideration of the case of the applicant for grant of temporary status is contrary to the findings of this Hon'ble Tribunal given earlier in O.A. No. 332/2000 as well as the records of the respondents in the case of similarly situated employees and also contrary to the findings given earlier by the scrutinising committee constituted by the department of telecommunication itself as well as to the certificates relating working period issued in respect of the applicant countersigned by the competent authority of the department of Telecommunication.
- 5.9 For that the applicant were in engagement as on 1.8.1998 in terms of the interim order dated 2.7.1998 passed by the Hon'ble Tribunal passed in O.A. No. 141 of 1998.
- 5.10 For that non consideration of the claim of temporary status of the applicant have been issued without taking into consideration the spirit of the direction of this Hon'ble Tribunal in O.A. No.

Mhd. Azizur Rahman.

332/2000 is violative of Article 14 and 16 of the Constitution.

- 5.11 For that no opportunity or notice as contemplated under the scheme has been provided to the applicant before passing the impugned orders of cancellation of temporary status.
- 5.12 For that applicant have acquired temporary status by operation of law as they have fulfilled all the required conditions laid down in the relevant scheme for grant of temporary status and under the amended scheme.
- 5.13 For that the Interim order passed by the Hon'ble Tribunal on 2.7.1998 in O.A. No.141/98 is still in force but even then the applicant ^{has} ~~have~~ not been ^{ms.} allotted any work even after repeated approach before the competent authority by them.
- 5.14 For that the respondents have willfully restrained the applicant from discharging ^{his} ~~their~~ duties and as ^{ms.} such they are entitled to full back wages with effect from 30.6.1998 till the date of actual reinstatement.
- 5.15 For that the local authority did not allow the applicant to discharge their duties although the CGMT and Directorate of Telecommunication directed the local authority allow the applicant to discharge their duties in terms of the Interim

Md. Azizur Rahman.

order dated 2.7.1998 in O.A. No.141/98 of the Hon'ble Tribunal.

- 5.16 For that the instant impugned order has been passed on the same set of grounds, which were earlier taken by the respondents in O.A. No. 332/2000 but stood rejected by the Hon'ble Tribunal in the judgment and order dated 5.6.2001 and as such the impugned order of cancellation is arbitrary, unreasonable and without any basis.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had previously filed an application before the Hon'ble Tribunal which was registered as O.A. No.141/98 and 408/2000 the same was finally decided on 31.8.1999 dated 30.3.2001, with a specific direction to the respondents to consider the case of the present applicant for grant of temporary status in the light of the scheme as stated above.

8. Reliefs sought for:

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased

Mhd. Azizur Rahman.

to issue notice to the respondents to show cause as to why the relieves sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relieves:

- 8.1 That the respondents be directed to grant temporary status to the applicant in terms of the judgment and order dated 5.9.2001 passed in O.A. No. 332/2000 with immediate effect.
- 8.2 That the applicant be declared entitled to grant of Temporary Status and regularisation and the respondents be accordingly directed to grant ^{him} ~~them~~ the benefit of the scheme named as Casual Labourers (Grant of temporary Status and regularisation) Scheme of the Department of Telecommunication, 1989 with effect from the date as had been granted to him vide letter dated 15.12.1997, 16.12.1997 and 22.12.1997.
- 8.3 That the respondents be directed to allow the applicant to continue in service in terms of the interim order passed by the Hon'ble Tribunal on 2.7.1998 and in terms of the judgment and order 31.8.1999 and 30.3.2001 passed in O.A. No. 141/98 and in O.A. No. 332/2000 respectively till the benefit of temporary status and regularisation are granted to them in terms of the order dated 15.12.1997, 16.12.1997 and 22.12.1997 with retrospective effect.

Mhd. Azizur Rahman.

8.4 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to full back wages with effect from 30.6.1998 till the date of actual reinstatement.

8.5 Costs of the application.

8.6 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

9.1 Pending disposal of this application the respondents be directed to allow the applicant to discharge his duties considering the interim order dated 2.7.98 in terms of the judgment and order dated 31.8.1999 passed in O.A. No.141/98.

10. This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I.P.O. No. : 89 490736.
- ii) Date of issue : 28.5.2003 ,
- iii) Issued from : G.P.O., Guwahati.
- iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Md. Azizur Rahman.

VERIFICATION

I, Shri Azizur Rahman, S/o Surman Ali, aged about _____ years, resident of village Hatkhola, P.O. Kanaibazar, District Karimganj, Assam, applicant in the instant Application do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this the 4/5 day of June, 2003.

Mhd. Azizur Rahman -

Particulars of working days in respect of Casual Labourers engaged from 31-03-85 and upto 22-06-88 under S.D.O./KRM & S.D.E/PTKN.

No.	Name & Address of Casual Labourers	Date of Engagement	Total work Days	Under which unit	
1.	Shri Debendra Kr. Sinha. S/O Shri Paya Sinha Vill : Guramanjee P.O : Mullanbhera Dist : Karimganj.	01-01-86	Year	Days	SDE/PTKN
			86	41	
			87	258	
			88	275	
			89	243	
			90	248	
			91	290	
			92	297	
			93	278	
			94	193	
95	79				
<i>Readm. by SDE/PTKN.</i>					
2.	Shri Sukumar Sinha S/O Lt. Kularga Sinha Vill : Krishna nagar P.O : Mullanbhera Dist : Karimganj.	01-04-86	86	68	SDE/PTKN
			87	249	
			88	288	
			89	245	
			90	258	
			91	319	
			92	311	
			93	315	
			94	148	
			95	...	
<i>Readm. by SDE/PTKN.</i>					
3.	Shri Birendra Das S/O Shri Kiran Ch. Das P.O. : Erigouri Vill : Dakshinagram P.S : Badarpur Dist. : Karimganj	01-01-87	87	260	SDOT/KRM
			88	305	
			89	264	
			90	245	
			91	250	
			92	241	
			93	241	
			94	...	
			95	...	
			<i>Readm. by SDOP/KRM.</i>		
4.	Shri Hripendra Das S/O Shri Ganesh CH. Das Vill : Bakrihwar (Kathakal) Dist. : Hailakendi	Feb '87	87	267	SDOT/KRM
			88	312	
			89	257	
			90	240	
			91	245	
			92	240	
			93	266	
			94	243	
			95	202	
			<i>Readm. by SDOP/KRM.</i>		
5.	Md. Samdul Haque S/O Md. Motiur Rahman. Vill : Latimara P.O : Latimara Dist. Cachar.	July '87	87	71	SDOT/KRM
			88	254	
			89	261	
			90	257	
			91	270	
			92	250	
			93	265	
			94	293	
			95	45	
			<i>Readm. by SDOT/KRM.</i>		

*Attested
Sub.
Adm. Secy
9/6/83*

Sl.No.	Name & Address of Casual Labourers	Date of Engagement	Total work days	Under which unit.
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6.	Md. Sahab Uddin Mazar Bhuyan. S/O Md. Mosaraf Ali Mazar Bhuyan. Vill : Latimara. P.O : Latimara Dist. : Cachar	Sept. '87	87	31	SDOT/KRM Retnch by SDOP/KRM
			88	255	
			89	262	
			90	242	
			91	264	
			92	271	
			93	260	
			94	264	
			95	135	

7.	Dhirendra Sarkar S/O Lt. Roychand Sarkar. Vill & P.O : Shyamnagar. Dist : Karimganj	01-01-88	88	129	SDOT/KRM Retnch by SDOT/KRM
			89	241	
			90	262	
			91	250	
			92	248	
			93	241	
			94	81	
			95		

8.	Shri Dilip Nath S/O Lt. Rajendra ch. Nath. Vill- Katirail. P.O - Katirail Dist. Cachar.	01-01-88	88	252	SDOT/KRM Retn. by SDOT/KRM
			89	261	
			90	281	
			91	271	
			92	250	
			93	247	
			94	60	
			95		

9.	Shri Habendu Malakar S/O Shri Nripendra Malakar Vill & P.O : Patherkandi Dist. - Karimganj	01-01-88	88	246	SDE/PTKN Retn by SDOP/KRM
			89	252	
			90	265	
			91	247	
			92	251	
			93	257	
			94	255	

10.	Shri Nihar Dey S/O Shri Nripendra Dey. Vill & P.O : Patherkandi. Dist : Karimganj.	01-01-88	88	241	SDE/PTKN Retn by SDE/PTKN
			89	242	
			90	240	
			91	242	
			92	241	
			93	242	
			94	242	

11.	Shri Mohit Roy S/O Lt. Ramcharan Roy Vill : Umapati P.O : Ambarkhana Dist. Karimganj	02-01-88	88	248	SDOT/KRM Retn. by SDOP/KRM
			89	246	
			90	249	
			91	240	
			92	247	
			93	245	
			94		

*Attested
Sd/-
Advocate
3/04/83*

12. Md. Lutfur Rahman S/O Md. Akadus Ali Vill : Hapania P.O. : Kanaihaizer Dist : Karimganj.	23-01-88	88	225	SDE/PTKN Retn. by SDOP/KRM
		89	272	
		90	243	
		91	247	
		92	256	
		93	248	
		94	263	
95	15			
13. Md. Azizur Rahaman S/O Md. Surman Ali Vill : Hatikala P.O. : Kanaihaizer Dist : Karimganj	01-03-88	88	245	SDE/PTKN Retn. by SDOP/KRM
		89	250	
		90	213	
		91	242	
		92	243	
		93	242	
		94	242	
95	107			
14. Shri Sujit Kr. Sarma S/O Lt. Kanti Pn. Sarma Vill : Gojalghat P.O. : Dhakahaizer Dist : Cachar.	06-03-88	88	247	SDE/PTKN Retn. by SDOP/PTKN.
		89	292	
		90	254	
		91	253	
		92	253	
		93	249	
		94	249	
15. Shri Manindra Nath S/O Shri Mahendra ch. Nath Vill : Kankalash P.O. : Bhangabazar Dist : Karimganj.	March'88	88	284	SDOT/KRM Retn. by SDOT/KRM.
		89	246	
		90	287	
		91	279	
		92	287	
		93	284	
		94	250	
95	104			
16. Shri Niranjan Das S/O Shri Sujit Ram Das Vill : Paterakandi P.O. : Mahakal Dist : Karimganj .	March'88	88	257	SDOT/KRM Retn. by SDOP/KRM
		89	267	
		90	247	
		91	251	
		92	256	
		93	247	
		94	241	
95	228			

The above particulars of the mazdoor are forwarded to the TDE/SC by the (1) SDOT/KRM vide his letter NO. E-119/PT-II/94-95 dt. 10-7-95 and letter No. E-119/PT-II/95-96 dt. 8-12-95
(2) SDE/PTKN letter No. E-27/95-96 dt. 26-10-95

*Accepted
Same Advocate
2/12*

Sl. No.	Name & Address of Casual Labourers	Date of Engagement	Year	Total Work days	Under Which Unit.
17.	Sri Ratneswar Nath S/O Sri Kameswar Nath, Vill. Narainpur P.O. Pathar Kandi, Dist - Karimganj.	01-2-88	1988	248	SDE/PTKN <i>Reqd. by SDE/PTKN.</i>
			1989	246	
			1990	253	
			1991	249	
			1992	251	
			1993	260	
			1994	248	
18.	Sri Pritu Bhusan Roy S/O Sri Purma Ch. Roy C/O Prasanna Choudhury P.O. Girishganj Dist. Karimganj	01-01-88	1988	250	SDE/PTKN <i>Reqd. by SDE/PTKN.</i>
			1989	245	
			1990	245	
			1991	248	
			1992	250	
			1993	241	
			1994	264	
19.	Sri Sashanka Kr. Das S/O Sri Suresh Ch. Das Vill. Katigorah, P.O. Katigarh, Dist - Cachar	01-01-1987	1987	062	SDOT/HLK <i>Reqd. by SDOT/SC</i>
			1988	242	
			1989	240	
			1990	244	
			1991	246	
			1992	294	
			1993	288	
20.	Sri Amresh Das S/O Late Hormohan Das Vill - Bokrihawar P.O. - Kalinagar Dist - Hailakandi	01-01-1988	1988	273	SDOT/HLK <i>Reqd. by SDOT/SC</i>
			1989	275	
			1990	241	
			1991	246	
			1992	259 (249)	
			1993	263 (243)	
21.	Shri Ashim Roy S/O Sri Atul Roy Vill. Matijuri P.O. - Tempur Dist - Hailakandi	01-04-1988	1988	260	SDOT/HLK <i>Reqd. by SDOT/HLK.</i>
			1989	247	
			1990	249	
			1991	247	
			1992	247	
			1993	245	
22.	Sri Arobinda Das S/O Sri Arun Das Vill.- Sripur P.O. - Sripur Dist.- Cachar	01-01-1984	1984	365	SDOT/HLK <i>Reqd. by SDE/VDB.</i>
			1985	365	
			1986	245	
			1987	364	
			1988	287	
			1989	276	
			1990	276	
			1991	269	
			1992	247	
			1993	243	

The above Casual Mazdoor has been forwarded to the TDE/SC by the SDE/PTKN vide his letter No. E-27/95-96/Pt-II dated 8-11-95 and SDOT/HLK vide his letter No. E-22/Rect/95-96 dated 14-8-95.

*Attested
Sd/-
Advocate
02/06*

No. E-37/97-98

Dated 16.12.97.

To,

1. Sri Debendra Kr. Sinha, S/O. Sri Paje Sinha, Vill. Guramanze.
 2. Sri Sukumar Sinha, S/O Late Kala Raja Sinha, Vill - Krishna nagar
 3. Sri Snyel Kr. Sarma, S/O L. Kanti Boshan Sarma, Vill - Gajalghat
 4. Sri Nabendra Kr. Malakar, S/O Sri Nripendra Malakar, Vill - Jawarashree.
 5. Md. Azizur Rahman, S/O. Md. Surman Ali, Vill - Hat Khola
 6. Sri Nihar Dey, S/O. Sri Nripendra Dey, Vill - Patharkandi.
 7. Lotpure Rahman, S/O. Md. Akadras Ali, Vill - Hafania
 8. Sri Ratneswar Nath, S/O. Kamrwar Nath, Vill - Narayanpore.
 9. Sri Pritu Boshan Roy, S/O. Purna Ch. Roy, Vill - C/O. Basoana Choudhury
- PO: Girishganj.

Sub:- Casual Labour (Grant of temporary status & regularisation scheme) 1989 engaged after 30.3.85 upto 22.6.88.

In pursuance of TDM/Sc Ltr No. E-20/Gr. D/Rech/97 dt. 9.12.97, you have been provisionally approved for TSM. You are requested to submit the following certificates to this office immediately to take further necessary action.

1. Age at the time of engagement.
2. Educational Qualification upto VIII standard.

Copy to
the TDM/Sc for kind information
Please -

anand
SDE GROUP
PATHARKANDI

Attested

Executive Engineer, P.W.D.
Patharkandi BFC Division

Sd/
SDE GROUP
PATHARKANDI

Attested to
Advocate
3/8

DEPARTMENT OF TELECOMMUNICATIONS - 26 - Annexure - III
OFFICE OF THE SUB-DIVISIONAL ENGINEER (GROUP)
PATHARKANDI - 788724.

37

No. 1-27/97-98/dtd.22-12-97.

Sub : Casual labourers (Grant of temporary status and regularisation Scheme) 1989 engaged after 30-03-85 upto 22-06-88).

In pursuance of T.M./Silchar letter No. 2-20/Pr. 0/Recruit/98 dtd. 09-12-97 the following listed casual labourers are hereby conferred temporary status Mandoor provisionally approved by the T.M./Silchar.

They are directed to report to duty to the undersigned temporarily. Their final place of posting will be decided by the T.M./Silchar and on receipt of the same further posting order will be issued for the interest of service.

1. Sri Debendra Kr. Sinha, S/O. Sri Paye Sinha, Vill. Gurmansoe, Dist. Karimganj.
2. Sri Sukumar Sinha, S/O. Lt. Kama Raja Sinha, Vill. L. Krishnanagar Dist. Karimganj.
3. Sri Sujit Kr. Sarmah, S/O. Lt. Smta. Suman Sarmah, Vill. ... Dist. Cachar.
4. Sri Nabendra Kr. Malakar, S/O. Sri Nipendra Malakar, Vill. Iswarshree, Dt. Karimganj.
5. Md. Azizur Rahman, S/O. Md. Suman Ali, Vill. Hatkhola, P.O. Kandi-bazar, Dt. Karimganj.
6. Sri Nihar Dey, S/O. Sri Nipendra Dey, Vill. Patharkandi, Dt. Kxj.
7. Lotfur Rahman, S/O. Md. Akaddas Ali, Vill. Hafunia, Dt. Kxj.
8. Sri Ratneswar Nath, S/O. Kameswar Nath, Vill. Narainpur, Dt. Kxj.
9. Sri Pritu Sushan Roy, S/O. Purna Ch. Roy, P.O. Girishganj, Dt. Kxj.

Terms and condition for granting of temporary status.

1. The granting of temporary status is purely on temporary basis and may be terminated at any time by giving one month notice in writing by appointing authority without assigning reasons thereof.
2. The granting of temporary status carries with its liability for transfer within the S. S. A.
3. The granting of temporary status shall also liable for field service within India during war emergency.
4. The service conditions will be governed by the relevant rules in force from time to time.

Sd/-
Sub-Divisional Engineer,
(Group) Patharkandi.
788724.

Copy to :-

- 1) The T.M./Silchar w.r. to his letter No. mentioned above. He is requested kindly to issue necessary instruction for their place of posting as desired by him.
- 2) The A.O. Cash, O/O the T.M./Silchar.
- 3) The Asst (P&A) O/O the T.M./Silchar.
- 4) The SDE (HRD) O/O the T.M./Silchar.
- 5) to 13) official concerned.
- 14) E-119 (TEP) File.

Asst. Patharkandi
Patharkandi

22-12-97
Sub-Divisional Engineer,
(Group) Patharkandi.

Advised
2/11

FORM NO. 4
(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 141 OF 1998

Applicant(s) All India Telecom Emplyees Union
-vs-

Respondent(s) Union A Grades & Ors

Advocate for Applicant(s) Mr. D.K. Sharma
Mr. S. S. Sharma

Advocate for Respondent(s) Mr. B.K. Sharma

C.G.S.C

Notes of the Registry.	Date	Order of the Tribunal
	2-7-98	<p>Heard Mr. B.K. Sharma learned counsel appearing on behalf of the applicant and Mr. S. Ali, learned Sr. C.G.S.C for the respondents.</p> <p>Application is admitted. Mr. B.K. Sharma prays for an interim order, not to discontinue the services of the applicants. Mr. S. Ali has no instructions in this matter.</p> <p>Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.</p> <p>Meanwhile, the casual workers shall not be disengaged and the applicants shall be allowed to continue in their services.</p> <p>List it on 31-7-98 for orders.</p> <p>Member Vice-Chairman</p>

Attested
S. S. Sharma
2/8

per
lm

(Space for communication)

PAY & ALLOWANCES FOR THE MONTH OF March			
Basic Pay.....	2556	D.A.....	332
H.R.A.....	128	Transport Allow	75
EPF Cont.	0	DEDUCTIONS(Dep)	0
NET SALARY Rs.	3076	A.Comp.Allow...	28
		GROSS SALARY	3109
		Assan Prof. Tax	29

Annexure - V
(Series)

MA

(Space for communication)

PAY & ALLOWANCES FOR THE MONTH OF April			
Basic Pay.....	2553	D.A.....	488
H.R.A.....	128	Transport Allow	75
EPF Cont.	0	DEDUCTIONS(Dep)	0
NET SALARY Rs.	3152	A.Comp.Allow...	28
		GROSS SALARY	3181
		Assan Prof. Tax	29

(Space for communication)

PAY & ALLOWANCES FOR THE MONTH OF May			
Basic Pay.....	2553	D.A.....	488
H.R.A.....	128	Transport Allow	75
EPF Cont.	0	DEDUCTIONS(Dep)	0
NET SALARY Rs.	3152	A.Comp.Allow...	28
		GROSS SALARY	3181
		Assan Prof. Tax	29

Attested
Sd/-
Advocate
2/6

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SILCHAR
PAY SLIP FOR THE MONTH OF June 1998

NAME & DESIG:- SRI AZIZUR RAHMAN, TSM
GPF.A/C NO. PLI.NO.

PAY & ALLOWANCES:-

Basic Pay./... 2550 D.A..... 400 A.Comp.Allow.. 20
H.R.A..... 191 Transport Allow 75

GROSS SALARY Rs. 3244

DEDUCTIONS (Departmental):-

GPF Cont. 0

TOTAL DEDUCTIONS (Departmental) RS. 0

OTHER DEDUCTIONS (Out Of Account):-

Assam Prof. Tax 29

TOTAL OTHER DEDUCTIONS (Out Of Account):- Rs. 29

NET SALARY ie Take Home Pay:- Rs. 3215

2999

Accounts Officer

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SILCHAR
PAY SLIP FOR THE MONTH OF MAY 1998

NAME & DESIG:- SRI AZIZUR RAHMAN, TSM
GPF.A/C NO. PLI.NO.

PAY & ALLOWANCES:-

Basic Pay./... 2550 D.A..... 400 A.Comp.Allow.. 20
H.R.A..... 191 Transport Allow 75

GROSS SALARY Rs. 3244

DEDUCTIONS (Departmental):-

GPF Cont. 0

TOTAL DEDUCTIONS (Departmental) RS. 0

OTHER DEDUCTIONS (Out Of Account):-

Assam Prof. Tax 29

TOTAL OTHER DEDUCTIONS (Out Of Account):- Rs. 29

NET SALARY ie Home Pay:- Rs. 3215

Accounts Officer

Handwritten signature and notes:
M...
S...
M...
9/6

- 30 -

Annexure - VII
Annexure - VI

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.H. 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.112/1998

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.

3. O.A.No.114/1998

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.

4. O.A.No.118/1998

Shri Bhupam Kalita and 4 others

.....Applicants

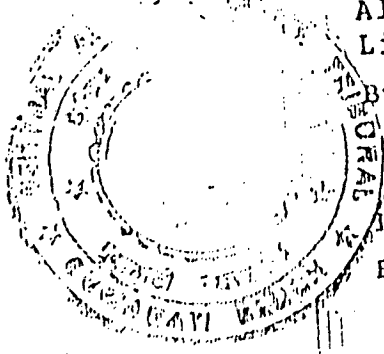
By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

-versus-

The Union of India and others

.....Respondents

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



*Attested
By
Advocate
3/6*

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

-versus-

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

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

-versus-

The Union of India and othersRespondents
 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 othersApplicants
 By Advocates Mr B.K. Sharma, Mr S. Sarma
 and Mr U.K. Nair.

-versus-

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

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

-versus-

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

9. O.A.No.141/1998
 All India Telecom Employees Union,
 Line Staff and Group 'D' and anotherApplicants
 By Advocates Mr B.K. Sharma, Mr S. Sarma
 and Mr U.K. Nair.

-versus-

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

*Advocate
 J.L. Sarkar
 2/11*

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

11. O.A.No.145/1998

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

-versus-

The Union of India and othersRespondents
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 anotherApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

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

13. O.A.No.223/1998

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

-versus-

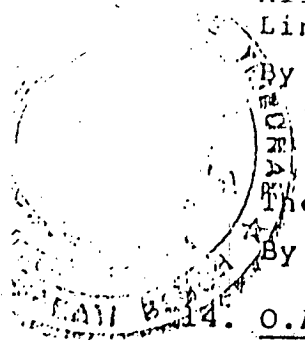
The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.
....

14. O.A.No.269/1998

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

-versus-

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



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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.

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-versus-

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

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O R D E R

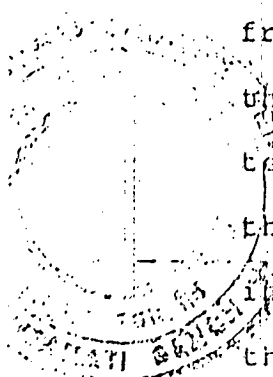
BARUAH.J. (V.C.)

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

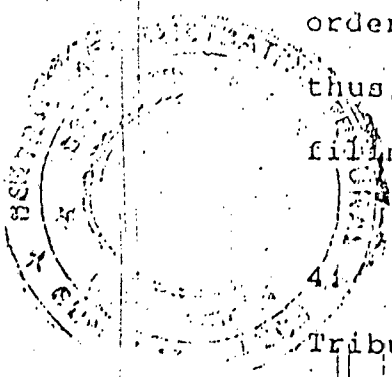
benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.141/1998, the prayer is against the 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.

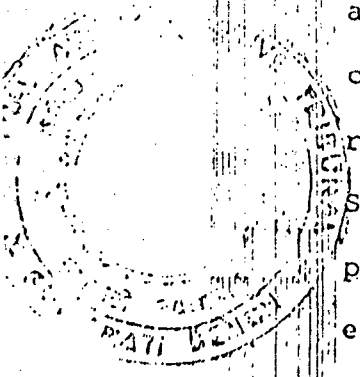


4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders 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

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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 also 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



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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



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.

SV/- VICE-CHAIRMAN
SO/- MEMBER (A)

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प्रमाणित प्रतिलिपि

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Deputy Registrar (U)
Central Administrative Tribunal
Guwahati Bench

[Handwritten Signature]
6/10/13



12/11/13

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 332 of 2000.

Date of Order : This is the 5th Day of September, 2001.

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

1. Dharendra Sarkar
S/O Late Roy Chand Sarkar
Village: Shyam Nagar
District :- Karimganj
P.O :- Karimganj
Assam.

2. Sri Birendra Das
S/O Sri Kiran Chandra Das
P.O :- Srigowri
Village :- Dakshingram
P.S :- Badarpur
District :- Karimganj
Assam.

3. Md. Lutfur Rahman
S/O Md. Akaddas Ali
Village:- Hafania
P.O:- Hafania (Maina)
District:- Karimganj
Assam.

4. Sri Nihar Dey
S/O Sri Nripendra Dey
Village:- patharkandi
District:- Karimganj
Assam.

. . . Applicants.

By Mr.M.Chanda, Mr.S.Sarma, Mrs.N.D.Goswami

- Vs -



1. Union of India
Through the Secretary to the
Govt. of India
Ministry of Communication
New Delhi.

2. The Chief General Manager
Assam Circle
Govt. of India
Department of Telecommunication
Ulubari, Guwahati.

3. The Garrison Manager
Telecom, Silchar SSA
Government of India
Department of Telecommunications
Silchar, Assam.

4. Sub-Divisional Engineer (Group)
Department of Telecommunications
Patharkandi-788724.

. . . Respondents.

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

*Accepted
J.K.
Advocate*

K.K.Sharma

O R D E R

K.K.SHARMA, (ADMN. MEMBER) :

Four applicants have joined together to file this application under section 19 of the Administrative Tribunals Act, 1985. The main issue in this application pertains to the grant of temporary status under the Casual Labourers (Grant of Temporary Status and Regularisation Scheme of the Department of Telecommunications, 1989.

2. The four applicants came before this Tribunal against the cancellation of temporary status granted to them. The applicants were engaged as Casual Labourers by the S.D.O,T, Silchar, S.D.O., S.D.E, Patharkandi from 1.6.1988, 1.3.1987, 23.1.1988 and 2.1.1988 respectively. The applicants have placed on records the letters of engagement. Two applicants were conferred temporary status with effect from 16.12.1987 and the remaining two applicants with effect from 22.12.1997. However, by the impugned orders dated 29.6.1998 (Annexure - 3 & 4) the temporary status of the applicants have been cancelled. The reason for cancellation for temporary status are as below :



"The provisional temporary status conferred on you vide TDM Silchar letter No.E-20/Grp -D/Rectt/98 datd. at Silchar 9.12.97 has been cancelled by TDM Silchar vide his letter No.X-11/TDM-SC/GM-Rectt/98-99/205 dtd.27.6.98 as you have not qualified for TSM as per your previous engagement record.

The Under signed has been directed not to engage you anymore and as such your services are no longer required with effect from the Fore-noon of 29.6.98."

3. Mr.M.Chanda, learned counsel appearing for the applicants, submits that the temporary status have been conferred after holding high level meetings, wherein Official side was represented by the Officers and the staff side was represented by the members of the Union. Mr.Chanda referred

K. K. Sharma

to the interim order passed in O.A. No.141 of 1998 dated 2.7.1998 by this Tribunal, whereby direction was given to the respondents not to disengage the applicants. The applicant alongwith others have approached this Tribunal by filing O.A.No.141/98 which was finally disposed of on 31.8.1999 as under :

" 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."

After the said order the applicants filed individual representations before the C.G.M. Assam Telecom Circle and requested for re-instatement. The representations of the applicants were rejected by order dated 26.9.2000 (Annexure-

15) for the following reasons :

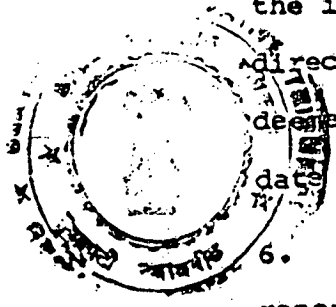
- "1. You did not complete 240 days work in Department of Telecom in any calender year preceding 01.08.1998.
2. You were not in engagement as on 01.08.1998. The committee did not recommend your name for conferment of Temporary Status Mazdoor."

Mr.Chanda referring to the order of this Tribunal in O.A. No.28 of 2001 dated 24.8.2001, has submitted that the applicants' case is squarely covered by the said order of this Tribunal. Like the applicant in O.A.28/2001, the applicants were appointed on different dates and were conferred temporary status on 15.12.1997 and 16.12.1997. Temporary status of the applicants was also cancelled like the applicant in the said O.A. by order dated 27.6.98. The learned counsel pointed out that the grant of temporary status to the

Applicants was cancelled on the basis of letter No. M-11/TDM-SC/CM-Rocet/98-99/205 dated 27-1-98.

A. The reference to the said letter shows that the temporary status of the applicants was cancelled on the ground that the applicants were absent for more than 365 days from 17.12.1993. The learned counsel has disputed this observation by referring to the Annexure-"C" filed with the written statement, which shows that all of the applicants had worked in the year 1994. He argued that the reasons for cancellation of temporary status are not correct.

5. Mr.B.C.Pathak, learned Addl.C.G.S.C appearing on behalf of the respondents, argued that as per the direction given by this Tribunal in O.A.No.141/98 dated 31.8.99 the respondents appointed high level committee, which verified the records of each of the applicants. The committee found that none of the applicants have worked for more than 365 days in a calendar year and none of these applicants was in engagement as on 01.08.1998. He disputed the claim of the applicants that the applicant's case was covered under the scheme for granting of temporary status to the Casual Workers relying on the order in O.A.No.28 of 2001. Mr.Chanda, on the other side, submitted that by virtue of the interim order dated 2.7.98, by which the respondents were directed not to disengage the applicants, the applicants were deemed to be in service at least from 2.7.98 to 26.9.2000, the date on which the individual representations were rejected.



6. After carefully considering the materials on records and submissions made on behalf of the parties, I am of the view that the facts of this application are squarely covered by the judgment of this Tribunal in O.A. No.28/2001 disposed of on 24.8.2001. Like the applicant in the said O.A. the temporary status granted to the applicants was cancelled. Like the applicant in the said O.A., the

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applicants approached this Tribunal in O.A.141/1998 and like the applicant in the said O.A. the applicants made representations individually, which were rejected in like manner. Mr.M.Chanda, learned counsel for the applicants has also referred to Annexure-A (Series) to the additional rejoinder to show that the applicants also worked for more than 240 days in some of the years. Referring to the order in O.A.28/2001 dated 24.8.2001, the orders dated 26.9.2000 are accordingly set aside and the respondents are directed to consider the case of the applicants in the light of the observations made in O.A.28/2001.

The application is allowed to the extent indicated above. The respondents are ordered to complete the exercise with utmost expedition and in any case within three months from the receipt of this order.

There shall, however, be no order as to costs.



Sd/-MEMBER (Adm)

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6/9/2007

Section Officer (J)
आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गुवाहाटी न्यायपीठ, गुवाहाटी

BHARAT SANCHAR NIGAM LTD. (BSNL)

(A Govt. of India Enterprise)

**Office of the Sub-Divisional Engineer (Group)
Patherkandi**

No. E-34/TSM/PTKN/02-03/4

Dated at Patherkandi, the 12-03-2003.

As per the directions contained in General Manager Telecom, BSNL, Silchar Memo No. CAT/GH-OA 332/2000/SC/29 dated 11-03-2003 (1) Md. Lutfur Rahman, S/o Md. Akaddas Ali, Vill-Hafania, P.O.-Hafania (Maina), Dist-Karimganj, Assam and (2) Sri Nihar Dey, S/o Sri Nripendra Dey, P.O.-Patherkandi, Dist-Karimganj, Assam, the applicants in OA No. 332/2000, are approved by the competent authority for conferment of Temporary Status Mazdoor with immediate effect.

Md. Lutfur Rahman, S/o Md. Akaddas Ali and Sri Nihar Dey, S/o Sri Nripendra Dey are hereby conferred Temporary Status Mazdoor (TSM) with immediate effect and posted at Patherkandi Exchange. They will report for duty to the undersigned.

(B. Rahman)

SDE (Group) Telecom
BSNL, Patherkandi.

Copy to: -

1. The GM Telecom, BSNL, Silchar for information w.r.to above please.
2. The DE (P & A), O/O the GMT, BSNL/Silchar.
3. The DET/Karimganj for information.
4. The Sr. AO (Cash), O/O the GMT, BSNL/Silchar.
- ✓ 5. Md. Lutfur Rahman, S/o Md. Akaddas Ali, Vill-Hafania, P.O.-Hafania (Maina), Dist-Karimganj, Assam.
6. Sri Nihar Dey, S/o Sri Nripendra Dey, P.O.-Patherkandi, Dist-Karimganj, Assam
- 7-8. The SDE(HRD)/Staff, O/O the GMT, BSNL/Silchar.

*Witnessed
me
Shrocali*

(B. Rahman)

SDE (Group) Telecom
BSNL, Patherkandi.