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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

↑ O.A./T.A No. 198/2004

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SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

Orig. App/Misc. Petn/Cont. Petn/Rev. Appl. 198/2004

In O.A.

Name of the Applicant(s) Shri Uttam Kumar Mezuondan

Name of the Respondent(s) WOL & ONS -

Advocate for the Applicant Mr. A. Dasgupta & S. Bhuyan.

Counsel for the Railway/C.G.S.C. CGSC.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

2.9.2004

On the prayer made by Mr. M. Chanda, learned proxy counsel on behalf of Mr. A. Dasgupta, learned counsel for the applicant, let the case be listed on 7.9.2004 for admission.

K. V. Prahladan
Member (A)

bb

7.9.04

Present: Hon'ble Mr. K. V. Prahladan,
Administrative Member.

Heard Mr. A. Dasgupta, learned counsel for the applicant and Mr. A. K. Choudhury, Addl. C.G.S.C. for the Respondents.

Application is admitted. Call for Records. Returnable by four weeks.

List on 8.10.04 for orders.

K. V. Prahladan
Member

lm

Notice & order
sent to D/Section
for issuing to
resp. Nos. 1 to 5, by
regd. A/D post.

Cus
21/9/04

22-11-04

O.A. 198/2004

S/R. another.

23.11.04

On the prayer of Mr A.K.Choudhury, learned Addl.C.G.S.C six weeks time is allowed to file written statement.

List on 21.1.2005 for order.

11.1.05

W/s filed by the Respondent Nos. 1, 2, 3, 4 & 5.

pg

02.02.2005

None appears for the parties. Adjourned to 15.2.2005 as the issue raised, in my prima facie view covered by the Judgment in Union of India Vs. Mohan Pal.

Member

Member (J)

mb

16.2.2005 present: The Hon'ble Mr.M.K.Gupta, Member (J).

The Hon'ble Mr.K.V.Prabaladan, Member (A).

8-2-05

Notice duly served on resp. Nos. 2 to 5. W/s. for sec. filed

16.2.2005

present: The Hon'ble Mr.M.K.Gupta, Member (J).

Heard Mr.S.Bhuyan, learned counsel for the applicant. Order passed, kept in separate sheets.

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

Member (J)

bb

Received for Applicant Subscribed - 3/3/05

Received

for Mr. 3/3/05

for CE(NEZ)

AIR TV

Gurubhati

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXXX~~No. 198 of 2004.

DATE OF DECISION 16th, Feb., 2005.

Sri Uttam Kumar Mazumdar.....APPLICANT(S)

Mr. S. Bhuyan.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

U.O.I. & Ors.....RESPONDENT(S)

None present.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. M.K.GUPTA, JUDICIAL MEMBER.

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether the judgment is to be circulated to the other benches ?
- Judgment delivered by Hon'ble Judicial Member.

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CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

Original Application No. 198 of 2004.

Date of Order: This, the 16th day of February, 2005

THE HON'BLE MR. M. K. GUPTA, JUDICIAL MEMBER.

Sri Uttam Kumar Mazumdar
S/O Sri Ram Chandra Mazumdar
Resident of Lower Babupatty
Near Railway Quarter No.841 (A)
Dist: Nagaon, Assam.

.... Applicant.

By Advocates S/Shri A.Dasgupta & S.Bhuyan.

- Versus -

1. Union of India
Represented by the Secretary to the
Government of India, Ministry of
Information and Broadcasting
New Delhi.
2. The Chief Engineer (North Eastern Zone)
All India Radio and Doordarshan
Ganeshguri Chariali
Survey of India
Guwahati-6.
3. Deputy Director Engineer (North Eastern Zone)
Survey of India, Ganeshguri Chariali
Guwahati.
4. Station Engineer
Doordarshan Maintenance Centre.
Dimapur.
5. Asstt. Engineer
Doordarshan Maintenance Centre
Dimapur.

..... Respondents.

By Advocate Mr.A.Deb Roy.

- Not present.

ORDER(ORAL)

M.K.GUPTA, MEMBER(J):

By the present application applicant seeks direction to reinstate him with full back wages and confer temporary status and regularization in terms of the Scheme

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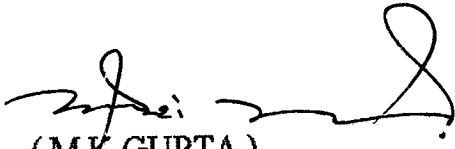
notified by the DOP&T vide O.M. dated 10.9.1993 besides seeking quashing of order passed on 8.4.2004. It is the contention of the applicant's ^{own} case that ~~he~~ ^{his} was appointed only from January, 1996 and since he has served for four years thereafter on regular basis, he is entitled to the benefits of the aforesaid Scheme.

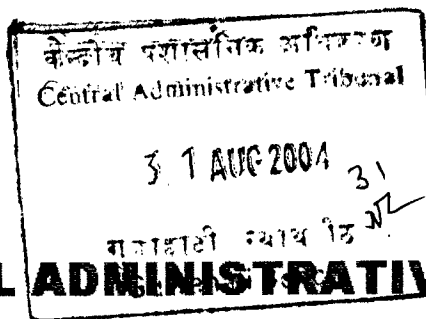
2. The respondents in their reply filed have disputed the applicant's claim and stated that in terms of the law declared by the Hon'ble Supreme Court in Union of India & another. Vs. Mohanpal and Others decided on 29.4.2002, the aforesaid Scheme has been held to be "not an ongoing Scheme" but was a one time measure only and the persons who worked in employment as on the date of commencement of the scheme i.e. 1.9.1993 alone were entitled to the benefits of the said Scheme. Since the applicant, in the present case, was engaged from 1.1.1996 only, he is not entitled for grant of temporary status.

3. I have heard Mr. S. Bhuyan, learned counsel for the applicant and perused the pleadings.

4. On bestowing careful consideration, since it is admitted case of the applicant that he was not in employment as on 1.9.1993, which is mandatory for conferment for temporary status as per the aforesaid Scheme as also held by the Hon'ble Supreme Court in its judgment dated 29.4.2002 in Union of India & Another vs. Mohanpal etc., I am of the opinion that the applicant is not entitled for the benefits of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993. Accordingly, I do not find any merit in the present application and hence the same is dismissed.

5. No costs.


(M.K. GUPTA)
JUDICIAL MEMBER



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

O.A. NO. 198 /2004

SRI UTTAM KUMAR MAZUNDAR

--VS--

UNION OF INDIA & OTHERS

Synopsis / List of Dates.

SL. No.	Particulars	Annexure	Page
1.	The application was engaged as casual worker at Lumding Low Power T.V. Transmitter on 01.01.1996. He worked as Technician to operate the low Power transmitter at Lumding For television Broadcasting under Doordarshan Maintenance Centre, Dimapur. Which has two more such L.P.T. (T.V.) Transmitter, namely at Hojai and Diphu.		
2.	The applicant in course of his employment at LPT (TV), Lumding has acquired the exercise required for maintenance. In the absence of installation officer, the applicant was entrusted with the job of operating the low power (TV) transmitter. This fact is evident from an order dated 22.06.96 passed by the installation officer.	(Annexure: - A) Order dated 22.6.96 passed by the installation officer	13
3.	That the applicant worked from Jan 1996 and acquired good knowledge of technical work which is evident from the certificates issued by the concerned officer from time to time.	(Annexure: - B & B1) copies of the certificates issued on 18.6.96 & 15.10.99.	14 15
4.	According to the rule in force a casual labour on completion of 240 days of service in a year is entitled to grant of temporary status, which is a pre-requisite of regularization. But nothing done by the respondent in this regard.		

5.	The station engineer, Doordarshan Maintenance Centre, Dimapur, notified a post of technician. Name of the candidates for the said post were sponsored by the respective employment exchange. The applicant was sponsored by the Hojai Employment Exchange and called for interview along with 11 other vide order dated 29.3.2000. The interview was held on 13.4.2000 at Dimapur and the application appeared in the interview.	(Annexure: - C) Call letter dated 29.3.2000 issued by station engineer, Doordarshan Maintenance Centre, Dimapur	5 16-17
6.	The applicant finding no other alternative approached this Hon'ble Tribunal for a direction to reinstate him with full back wages in the post of technician at Lumding Low Power (TV) Transmitter and to confer Temporary Status. The case was registered as OA 358 / 2000. The Hon'ble Tribunal disposed of the application on 17.8.2001 and directed the authority to take appropriate measure for consideration of the case of the applicant along with similarly situated person for conferment of temporary status.	(Annexure: - D) order dated 17.8.01 passed in OA 358 / 2000 by this Hon'ble Tribunal.	5 18-23
7.	The authority without considering the applicant case for conferring temporary status requisite candidate through employment exchange for the post of Technician. Written test and interview was held on 11.2.03. The applicant was not call for the written test.	(Annexure: - E) Requisition order for the post of technician vide letter dated 3.11.03.	6 24
8.	Thereafter the applicant preferred an application challenging the action of the respondent authority and for grant of temporary status as per scheme framed there under. The application was registered as OA No. 42 of 2004. The Hon'ble Tribunal on 25 th Feb' 2004 disposed of the application with a direction to the respondent to consider the case of the applicant in the light of decision of Tribunal in OA No. 358 of 2000 dated 17.8.01.	(Annexure: - F) Order dated 25.2.04 passed in OA No. 42/ 04 by this Hon'ble Tribunal.	5 25-26
9.	The respondent No. 2 i.e. Chief Engineer (NEZ) passed an order vide Memo No. CE (NEZ) /TVM / DMC/Dimapur/120 stating that the applicant does not fulfill the essential criteria for grant of temporary status and therefore it cannot be granted. It was further stated that applicant was engaged an contract on a month to month basis depending upon the exigencies of service.	(Annexure: - G) Order dated 8.4.04 passed by the Chief Engineer (NEZ) i.e. respondent No. 2	27

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

OA. NO 198 /2004

Filed by
the applicant
Uttam Kumar Mazumdar
through
Subrat Bhuyan
Advocate

PARTICULARS OF APPLICANT: -

Sri Uttam Kumar Mazumdar
S/O Sri Ram Chandra Mazumdar
Resident of Lower BabuPatty,
Near Railway Quarter No. 841 (A)
District: - Nagaon, Assam.

PARTICULARS OF RESPONDENTS: -

1. Union of India
Represented by the Secretary to the
Government of India, Ministry of
Information and Broadcasting,
New Delhi.
2. The Chief Engineer (North Eastern Zone)
All India Radio and Doordarshan
Ganeshguri Chariali,
Survey of India,
Guwahati: - 6
3. Deputy Director Engineer (North Eastern zone)
Survey of India, Ganeshguri Chariali
Guwahati.
4. Station Engineer
Doordarshan Maintenance Centre
Dimapur.
5. Asstt. Engineer
Doordarshan Maintenance Centre
Dimapur.

Uttam Kumar Majumdar

1. Particulars of the order for which this

Application is made: -

The Applicant worked as a Technician at Lumding L.P.T (T.V) continuously for a period of 4 years commencing from January 1996. He approached this Hon'ble Tribunal for conferment of temporary status. The case was registered as OA No. 358 / 2000. The Hon'ble Tribunal on 17.8.2001 disposed of the application directing the respondent authority to consider the case of the applicant for grant of temporary status. The applicant had submitted several representations. As the respondent authority has taken no action, the applicant again approached this Hon'ble Tribunal. The case was registered as OA No. 42 of 2004. On 25 Feb' 2004 this Hon'ble Tribunal disposed of the application directing the respondent authorities to consider the representation of the applicant for grant of temporary status. But the Chief Engineer (NEZ) i.e. respondent No. 2 on 08.04.2004 passed an order whereby it was stated that the applicant was not entitled for temporary status as he did not fulfill the essential criteria for grant of temporary status.

2. **JURISDICTION OF THE TRIBUNAL: -**

This application is within the jurisdiction of this Hon'ble Tribunal.

3. **LIMITATION: -**

This application is within the period of limitation.

4. **FACTS OF THE CASE: -**

- (I) That the applicant is a citizen of India and a permanent resident of Lower Babu Patty, Near Railway Quarter No. 841 (A), Lumding, District - Nagaon, Assam. He is a member of Scheduled Caste community of Namasudra.

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Bittam
Kumar Majumdar

- (II) That applicant is a matriculate. After his H.S.L.C, the applicant took admission in Industrial Training Institute, Diphu and passed the prescribed trade test in the trade Mechanic (Radio & T.V).
- (III) That the applicant was engaged as casual worker at Lumding Low power T.V. Transmitter on 1.1.96. He was engaged to operate the Low power Transmitter at Lumding for Television Broadcasting under Doordarshan Maintenance Centre, Dimapur. Which has two more such L.P.T (T.V.) transmitter namely at Hojai and Diphu.
- (IV) That the applicant worked as technician at Lumding L.P. (T.V.) Transmitter continuously for a period of 4 years commencing from January 1996. The applicant had to perform all kind of operational jobs at the L.P. (T.V) transmitter for smooth broadcasting of T.V. programs in and around Lumding.
- (V) That the applicant in course of his employment at L.P. T (T.V.), Lumding has acquired the expertise required for maintenance of this Centre and his knowledge over the various equipments at the Centre was such that he was entrusted with the duties of over all in charge of transmission on certain exigencies. In absence of installation officer, the applicant was entrusted with the job of operating the Low Power (TV) Transmitter. This fact is evident from an order dated 22.6.96 passed by the Installation Officer wherein the applicant along with another worker was asked to operate the Low Power TV Transmitter daily in shift in the absence of the Installation Officer.

A copy of the order dated 22.6.96 passed by the Installation Officer is annexed as Annexure – 'A'.

Uttam Kumar Majumdar

- (VI) That as stated earlier that the applicant worked continuously as casual worker at Lumding L.P. (T.V) Transmitter from January 96 and acquired good knowledge of technical work as evident from the certificates issued by the concerned officer from time to time.

Copies of the Certificates issued on 18.6.96 & 15.10.99 are annexed as Annexure – B & B₁ respectively.

- (VII) That the applicant states that he continuously served at Lumding Low Power (T.V) Transmitter for four years. He acquired good knowledge of technical work by virtue of his continuous service. According to the rule in force a casual Labour on completion of 240 days of service in a year is entitled to the grant of temporary status, which is a pre-requisite of regularization. During that period the casual worker is entitled to the scale of pay as paid to other employees. Grant of temporary status brings a casual worker within the zone of regularization and regularization takes place in a phased manner according to availability of post. But nothing was done in the case of the applicant and he was deprived of this right of regularization in spite of serving 240 days in a year continuously for 4 years.

- (VIII) That a post of technician was notified by the station engineer, Doordarshan Maintenance Centre, Dimapur to be filled up by way of recruitment. Name of candidates for the said post were to be sponsored by the respective employment Exchange within the jurisdiction of the Doordarshan Maintenance Centre, Dimapur. The applicant's name was sponsored by the Hojai Employment Exchange and he was called for an interview vide order-dated 29.3.2000 along with 11 other candidates. The interview was held on 13.4.2000 at Dimapur. The applicant

Utum
Kues Maymud

appeared before the interview board. He was not selected. The applicant thereafter submitted representation before the concerned authority but authority did not pay any heed.

A copy of the call letter dated 29.3.2000 issued by station engineer, Doordarshan Maintenance Centre, Dimapur is annexed as Annexure – C.

- (IX) That the applicant finding no other alternative approached before this Hon'ble Tribunal. For a direction to reinstate him with full back wages in the post of Technician at Lumding Low Power (T.V) Transmitter and to confer Temporary status and regularization. He also challenged the selection process. The case was registered as OA 358 / 2000. The Hon'ble Tribunal disposed of the application on 17.8.2001 by an order where by it was directed that the respondent authority should take appropriate measure for consideration of the case of the applicant along with the person similarly situated for conferment of temporary status as per the scheme.

A copy of the order-dated 17.8.2001 passed in OA 358 / 2000 by this Hon'ble Tribunal is annexed hereto and marked as Annexure – D.

- (X) That the applicant submitted several representations to the respondent's authority to grant him temporary status as per Hon'ble Tribunal's order. But the authority concerned did not pay any heed.

- (XI) That the authority concerned without considering the applicant's case for conferring temporary status, initiated the process of filling up of the post of Technician. The employment

Uttam Kumar Majumdar

exchange was requested to sponsor candidates for the post of Technician by their letter No. DDMC / DMR / 14 (4) 2002 - 03 - S / Admn / 6617 dated 03.11.03. The written test and interview was held on 11.2.03. The applicant was not called for the written test and interview, which was held for the post of Technician.

Copy of the order for requisition of candidates for the post of technician as enclosed in letter dated 3.11.03 is annexed hereto and marked as

Annexure - E.

(XII) That the applicant preferred an application challenging the action of the respondent authority and for grant of temporary status as per scheme framed there under. The application was registered as OA No. 42 of 2004. The Hon'ble Tribunal on 25th Feb' 2004 disposed of the application with a direction to the respondents to consider the representation of the applicant and dispose of the same by considering the case of the applicant for grant of temporary status in the light of decision of tribunal in OA No. 358 of 2000 dated 17.08.2001. The applicant submitted representations along with the certified copy of the order dated 25th February 2004 before the respondent authority.

A copy of the order dated 25th Feb' 2004 is annexed hereto and marked as

Annexure: - F.

(XIII) That the respondent No. 2 i.e. Chief Engineer (NEZ) passed an order vide memo No. CE (NEZ)/TVM/DMC/Dimapur/120 stating that the applicant does not fulfill the essential criteria for grant of temporary status and therefore it cannot be granted. In this order it was further stated that temporary status can be conferred only on casual labourers who has been engaged

through employment exchange and who have rendered a continuous service of at least 240 days in a year and the applicant was engaged on contract on a month-to-month basis depending upon the exigencies of service.

A copy of the order dated 08.04.2004 passed by the Chief Engineer (NEZ) is annexed hereto and marked as

Annexure : - G.

5. GROUND WITH LEGAL PROVISIONS: -

Being aggrieved by action of the respondents the applicant begs to prefer this application on the following amongst other grounds -

- (A) For that according to the rules in force a casual worker on rendering 240 days of continuous service in a year is entitled to the grant of temporary status, which is a prerequisite for regularization of service of casual work. This is a scheme framed by the Respondent Authority. The grant of Temporary status brings a casual worker within the zone of regularization and regularization takes place in a phase manner. Till regularization of the worker certain rights are conferred to him. The applicant was in continuous service from 1.1.96 and rendered more than 240 days of service in a year. Thus the applicant was entitled to the grant of temporary status and subsequent regularization. But the same was not done and he was illegally disengaged from his service:
- (B) For that the aforesaid scheme provides that a casual worker conferred with temporary status cannot be dismissed or disengaged otherwise by virtue of his long continuous service acquires the right for grant of

Uttam Kumar Majumdar

William Kumar Majumdar

temporary status and as such he should not have been disengaged from his service in the manner he was disengaged. The action of the respondents is absolutely illegal and against the procedure established by law.

(C) For that there are vacancies under the DDMC, Dimapur, but the applicant was not considered for regularization in those vacant posts. On the contrary, the respondent authority called for a selection test for the post as mentioned above and the applicant was not called for the written test and interview. The whole action of the respondent is illegal against the direction given by the Hon'ble Tribunal vide order dated 17/8/2001.

(D) For that the order dated 08.04.2004 passed by the Chief Engineer (NEZ) rejecting the grant of temporary status to the applicant without verifying the record and non application of mind is apparent from the impugned order in as much as no finding as to the number of days worked by the applicant has been recorded in the order although the applicant has categorically stated that he had work more than 240 days in year. Thus the impugned order is liable to set aside and quashed.

(E) For that the scheme for grant of temporary status to casual employees, the number of days worked in a year by a particular casual employee is the relevant consideration to be taken into account while granting temporary status and not the mode of his engagement. Thus the reasoning of the respondent authority that the applicant was engaged on month-to-month contract basis and as such he could not be considered for grant of

temporary status is totally perverse and deserves interference by this Hon'ble Tribunal.

(F) For that impugned order was pass whimsically and capriciously as based on some extraneous consideration. There is no denial of the fact that the applicant was given certificates certifying his period of his continuous engagement but the respondent authority rejected those on the ground that the same were issued by incompetent persons without verifying the contents mentioned therein. The certificates should not have been rejected without verifying the same with the records. The contents of the certificate has not been negated with sufficient reason based on the material on record and as such impugned order is liable to be set aside and quashed.

(G) For that the respondent authority rejected the temporary status without considering the applicant case under the scheme for Grant of Temporary Status and regularization, Government of India 1993, and as such liable to be set aside and quashed.

(H) For that the applicant had worked continuously for several years with a legitimate expectation that he would be regularized in due course. But his legitimate expectation has been frustrated by the arbitrary action of the respondent authority.

(I) For that the action of the respondent authority caused great hardship to the applicant's livelihood against the procedure established by law and the same is violative of Article 21 of the constitution of India and as such liable to be set aside and quashed.

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Kunwar Magendra
William

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Kucos Maigne
William

6. DETAILS OF REMEDY EXHAUSTED: -

The applicant begs to state that he preferred several representations before the respondent authority to consider his entitlement for grant of temporary status. But the respondent authority rejected his prayer for grant of temporary status

7. MATTER NOT PENDING BEFORE ANY COURT / TRIBUNAL: -

The applicant declares that he has not filed any application before any Court or Tribunal for adjudication of this case.

8. RELIEF SOUGHT: -

(I) To set aside and quash the order vide No. CE(NEZ)/TVM/DMC/Dimapur/ 120 dated 08.4.2004 passed by the Chief Engineer (NEZ) i.e. respondent No. 2.

(II) To direct the respondent to reinstate the applicant with full back wages in the post of technician at Lunding, Low Power (T.V.) Transmitter & to confer temporary status and regularization of his services.

(III) To pass any further or other order or orders as this Hon'ble Tribunal may deem fit and proper.

9. INTERIM RELIEF PRAYED FOR

The applicant does not pray for any interim relief.

10 PARTICULARS OF I.P.O: -

I.P.O. Number :- 209 114103
Date of Issue :- 26-8-04
To whom payable :- H.P.O.
Payable at :- H.P.O.

11. DOCUMENTS: -

Detailed particulars of the documents are indicated in the index of this application.

.... Verification.

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Uttam Kumar Majumdar

VERIFICATION

I, Sri Uttam Kumar Mazumdar, Son of Sri Ram Chandra Mazumdar, aged about 31 years, resident of Lower BabuPatty, Near Railway Quarter No. 841 (A), Lumding District – Nagaon, Assam do hereby declare and verify that the statements made in paragraphs 4 (I, II, III) are true to my knowledge and that made in paragraphs 4 (IV, V, VI, VIII, IX, X, XII, XIII) are true to my information derived from the records and rest are humble submissions before this Hon'ble Tribunal.

I sign this verification on this the 21 day of August 2004 at Guwahati.

Uttam Kumar Mazumdar

ANNEXURE - A

This is for kind information that Shri Raju Choudhury & Shri Uttam Kr. Mazumdar will operate the Low Power T.V. Transmitter (100 W) daily as per Shift in absence of myself.

Sd/- Illegible

(For Installation Officer)

Date 22.6.96

Attested
Bhujam

ANNEXURE – B

TO WHOM IT MAY CONCERN.

This is to certified that SHRI UTTAM KUMAR MAZUMDAR Son of SHRI RAM CHANDRA MAZUMDAR of Loco Colony, Lumding, Dist. Nagaon : Assam had been working under me as Casual Labour for technical work from January / 96 to May / 96. He has been honest hard worker and Industrious man. He has very good knowledge of the technical work.

Dated : - 18.8.1996

Sd/- Illegible

Installation Officer,
L.P.T. (T.V) Lumding,
Nagaon Assam.

Attested
Bhupen

ANNEXURE - B 1

TO WHOM IT MY CONCERN.

It is to certify that SRI UTTAM KUMAR MAZUMDAR, Son of Sri Ram Chandra Mazumdar, Loco Colony, Lumding is working at Lumding L.P.T (T.V) Realy Centre as Casual Worker. He has good knowledge of T.V. T.V. Operator and bears a good moral character.

I wish to see him suitably employed.

Dated, Lumding

Sd/- (SAMIRAM DAS)

The 15th Oct / 99

Assistant Engineer

L.P.T.V., Lumding.

Attested
S. Bhattacharya

ANNEXURE: - C

PRASAR BHARATI

Broadcasting Corporation of India

Doordarshan Maintenance Centre

Dimapur.

No. DDMC/DIM - 14 (4)/ 2000 - s/ ADMN/2199

Dated 29.3.2000

1. Shri Ashim Roy, Vill, Sitalabari, P.O. Diphu, P.S. Diphu, K/A
2. Shri Ashim Kr. Roy, C/o Sri Arun Dutta, Near Giniing Mill Opp.
Asstt. Director of Industries, Diphu, K/A.
3. Shri Hemanta Kr. Bordoloi, Vill: Nowgaon Bosti, P.O.
Rongapahar P.S. Diphu, Karbi Anglong.
4. Shri Hemanta Sharma, Vill: Rukasen, P.O. Diphu, Karbi Anglong.
5. Shri Mohen Bharna, Vill: Rongmilli, Near I.T.I Diphu, P.O.
Diphu, Karbi Anglong.
6. Shri Jiblal Joisee, M/S - Appan Electronics, M.G. Road, P.O.
Diphu, K/A.
7. Shri Sarbamon Taron, Vill: Rongkhelon Diphu, P.O. Diphu, K/A.

Subject: - Interview for the post of Technician.

Sir,

Your name has been sponsored by the Regional Employment Officer, Hojai for the interview for the post of Technician at Doordarshan Maintenance Centre, Dimapur.

Therefore, you are requested to appear before the Interview Board for the interview on 13.4.2000 at 10 AM with all of your certificates / documents etc., relating to your age, educational qualification, technician qualification, caste / tribe etc., In original. You should report to the station Engineer, Doordarshan Maintenance Centre, Dimapur. It may be noted that no Traveling allowances will be admissible in this respect.

Yours faithfully,

Sd/- (K. Moranj)

Station Engineer.

Attested
Sd/-

8. Shri Uttam Kr. Mazumdar, Vill: Loco Colony, P.O. Lumding Qr. No. EL/7, Dist, Nagaon / Assam.
9. Shri Mrinal Bora, Vill: Hathigarh, P.O. Baligaon, Nagaon / Assam.
10. Shri Jagannath Das, C/O Tankeswar Das, Vill Dhanuhar Basti, P.O. Padump ukhui, Nagaon / Assam.
11. Ramijul Islam Saikia, C/o Kabir Uddin Choudhury, P.E. Hojai, P.O. Hojai, Nagaon/ Assam.
12. Shri Ashim Mazumdar, Near Public School, Lanka, P.O. Lanka, Nagaon.

Attested
Bhupen

ANNEXURE – D

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 358 of 2000.

Date of Order: This the 17th Day of August, 2001.

The Hon'ble Mr. Justice D.N. Choudhury, Vice – Chairman.

The Hon'ble Mr. K.K. Sharma, Administrative Member.

Sri Uttam Kumar Mazumdar,
Son of Sri Ram Chandra Mazumdar,
Resident of Loco Colony, Lumding,
Dist. Nagaon (Assam).

..... Applicant.

By Advocate Sri A. Dasgupta.

- Versus -

1. Union of India,
represented by the Secretary to
the Govt. of India,
Ministry of Information & Broadcasting,
New Delhi.
2. Station Engineer,
Doordarshan Maintenance Centre,
Dimapur.
3. The Chief Engineer (Eastern Zone)
All India Radio and Doordarshan,
Golf Green,
Calcutta – 49.
4. Sri Ashim Kr. Dey,
Son of Sri Anil Ch. Dey,
Technician, Low power T.V. Transmission
Centre, Lumding.

..... Respondents.

Attested
Bhuyan

By Advocate Sri P.N. Choudhury for respondent No. 2 & 3 and
Sri S. Sarma, for respondent No. 4.

O R D E R

CHOWDHURY J. (V.C)

The appointment vis-à-vis regularization in service is the subject matter controversy in this application under Section 19 of the Administrative Tribunals Act 1985. The applicant passed the H.S.L.C examination and also qualified in the prescribed trade test in the trade of Mechanic (Radio & T.V) in Industrial Training Institute. It was pleaded inter alia that he was engaged in the Lumding Low power T.V. Transmitter with effect from 1.1.96 where he was to operate Low power Transmitter for television broadcasting under Doordarshan Maintenance Centre, Dimapur. According to the applicant he worked as a Technician in Lumding transmitter for a period of 4 years commencing from January 1996. He was to perform there all kind of operational jobs at the L.P. (T.V) transmitter. Prasar Bharati Broadcasting Corporation of India, Doordarshan Maintenance Centre, Dimapur notified for a post of Technician. The name of the applicant was sponsored by the concerned Employment Exchange. By a notice the applicant along with others were advised to appear before the Interview Board on 13.4.2000 with all certificates and documents. The applicant appeared in the written test though there was no indication in the call letter about any such written test, he appeared both on written test and oral test and according to him he performed well. The respondents in a most illegal fashion appointed respondent No. 4 overlooking the genuine claim of the applicant. The applicant contended that the respondent No. 4 lacked the basic eligibility criteria and the appointment of the respondent No. 4 was made on extraneous consideration other than merit. The respondent No. 4 was allowed to sit in isolation, whereas all other candidates were sitting together

Attested
8/1/2001

in one room. According to applicant the said respondent No. 4 has been a son of Senior Engineering Assistant who was working at Guwahati Doordarshan (PPC) at the relevant time. The applicant pleaded that since he worked for more than 4 years continuously he was entitled for conferment of temporary status and regularization as per the scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme" of Government of India. The respondent's authority in a most arbitrary fashion instead terminated his service.

2. The respondents No. 2 and 4 entered appearance and filed their respective affidavit in Opposition / written statements opposing the claim of the applicant. The respondent No. 2 in its written statement stated that the applicant was engaged to work at Low Power Transmitter (for short LPT), Lumding on a month to month contract basis to meet the exigencies of shortage of manpower. The respondent also stated in the written statement that a 30 minute written test was held and not 15 minute as claimed by the applicant. The test was of objective nature which did not require any elaborate preparations. The said test was held only to assess the basic knowledge and ability of the technical skill for the job. The practical test was also held to identify basic electrical / electronic components and faulty transistors / diodes. That assessment was conducted by the Station Engineer as the Chairman, Assistant Engineer, DDMC, Dimapur as Member and the Sub Divisional Officer (E). Power department, Sub-Division - II, Dimapur, Government of Nagaland as the outside Member as required by the Recruitment Rules. The Board assessed the suitability of the candidates on the basis of their performance. The respondent's authority denied the allegation of favouritism or nepotism as well as the allegation of irregularity in conducting the examination. The relevant averment made by the respondent on this issue are reproduced below:

"That it is most respectfully submitted that the applicant along with the other candidates being tested in the Open Category, were seated by the Member Interview Board

Attested
Bhupen

i.e. Asst. Engineer, DDMC, Dimapur. That the venue of the Examination Centre for the Interview & Test was the DDMC itself. That the same is a small building consisting of 5 rooms consisting of the Transmitter Room, Asst. Engineer's Room, Account Section's Room, Station Engineer's (Answering Respondent No. 2 herein) Room & P.A. to Station Engineer's Room.

That the same are built strictly to Govt. Specifications for the said purpose solely leaving no unwanted or extra space. That in order to ensure separation of the candidates being tested so as to ensure independence of test papers being answered, all the Candidates were evenly distributed in the said 5 rooms. That at best not more than 2 candidates could be accommodated in 3 rooms & the 5 rooms or P.A.'S Room being little better than a functional cubby hole with the P.A.'S desk, Chair & cupboard taking up the majority of the space. That the Accounts section Room being the largest could accommodate 5 candidates including the applicant. The members of the Interview Board along with 4 more staff of the DDMC were also pressed into service at this stage due to the spreading out of the Candidates among the 5 rooms. That thus having divided themselves up for Invigilation Duties & the Answering Respondent No. 2 kept an eye on his own Room & the P.A.'S Room, where two candidates & Respondent No. 4 were seated. That the P.A.'S Room is not a separate room but a part of the entrance to the Answering Respondent No. 2's Room. That the 3 candidates faced each other in a L - Shaped manner at a distance of 8 to 10 feet apart from each other, being seated at the Respondent No. 2's Desk & the sofa near

Attested
P. Singh

the entrance to his room on entry from the P.A.'S Room & one candidate sat at the P.A.'S desk for the examination. The Applicant was placed in the Accounts Section Room with 4 other candidates, as seated herein before & elsewhere. The Invigilators therefore were spread out evenly to keep an eye as required on the 12 candidates that were taking the examination spread over 5 rooms as aforesaid.

That as such no under favour was shown to any candidate as can be demonstrated from the seating arrangements & the spread out duties of the Invigilators themselves.

That it is therefore entirely baseless to say that the selected candidate was seated in one room & all other candidates were put in one room. That further as is well known, the sponsoring of any candidate is well within the purview solely of the Employment Exchange & the Answering Respondent has nothing to do with such sponsoring except to the extent of issue of requirement of suitable candidates who may be eligible for the post & registered with the Employment Exchange.

That the selection of the successful Candidate has been strictly on the basis of merit based on the correct answer scripts Practical Test & Interview. That this is well within the law to select the best person solely on merit for the Selection Grade post. That it is further stated that the Interview Board at the time of the Interview did not have any inkling that the successful candidate was the son of an employee of the Answering Respondent's Corporation as his results itself showed a

Attested
8/11/50

far superior Technical knowledge needed for the requirement of the job. That the Test Paper itself had been set independently & apart from the paper setter, hence no one else could be said to have had any knowledge of the subject of the Test Paper, which it-self was well within the purview of the guidelines on the Technical nature of the subject.

3. We have heard Mr. A. Dasgupta, learned counsel for the applicant as well as Mr. P.N. Choudhury and Mr. S. Sarma, learned counsel for respondents No. 2 and 4 respectively. The respondent No. 2 also placed before us all the papers relating to recruitment of Technician including the assessment sheets. On perusal of papers relating to recruitment of Technician we could not discern any illegality in the process of selection. The materials on record in its entirety also did not indicate any infirmity in the selection of the respondent No. 4. In the affidavit the respondents clearly stated that applicant was never disengaged from the job. The plea of illegality in the process of selection thus filed. In the circumstances, we however, feel that it is a case in which the respondents authority need to take appropriate measure for consideration of the case of the applicant along with the persons similarly situated for conferment of temporary status as per the scheme.

Subject to the observation made above, the application stands disposed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Attested
[Signature]

NO. DDMC / DMR / 14 (4) 2002 - 03 - s / Admn / 6617, Dated 03-11-03

REQUISITION OF CANDIDATES FOR THE POST OF TECHNICIAN

1. Name of the office / Department : Doordarshan Maintenance Centre
and address : Dimapur, Post Box - 109,
PIN 797112.
2. Telephone No. : 03862 - 242708
3. Name and address of the employee : Station Engineer, DDMC
Dimapur, Nagaland.
4. Name of the Post : Technician.
5. Number of post to be filled : Five, under DDMC, Dimapur.
[UR - 3, ST - 1, OBC - 1]
6. Scale of pay : Rs. 4000 - 100 - 6000/-
7. Place of Work : LPT, Hojai/Lumding/Diphu, Assam.
8. Whether permanent or temporary : Temporary, likely to be permanent.
9. Age : 18 - 27 years. Maximum age limit
relaxable by 5 years and 3 years for
SC / ST and OBC candidates
respectively.
10. Qualification : Matriculation or equivalent and a
two years trade certificate from an
ITI in Radio / TV or Electronics or
Electrical with one year practical
Experience after obtaining
certificate.
11. Date, time and place of interview : Will be intimated directly to the
sponsored candidates.
12. Whether women eligible : Yes.

Sd/-

Assistant Engineer
For Station Engineer.

Attested
Signature

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.42 of 2004

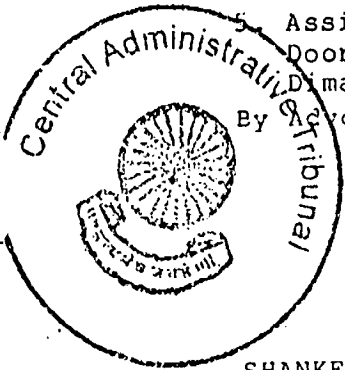
Date of decision: This the 25th day of February 2004

The Hon'ble Shri Shanker Raju, Judicial Member

Shri Uttam Kumar Mazumdar
S/o Shri Ram Chandra Mazumdar
Resident of Lower Babupatty,
Near Railway Quarter No.841(A),
District- Nagaon, Assam.Applicant
By Advocate Mr A. Dasgupta and Mr S. Bhuyan.

- versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Information and Broadcasting,
New Delhi.
2. The Chief Engineer (North Eastern Zone)
All India Radio and Doordarshan,
Guwahati.
3. Deputy Director Engineer (North Eastern Zone)
Survey of India, Ganeshguri,
Guwahati.
4. Station Director
Doordarshan Maintenance Centre
Dimapur.
5. Assistant Engineer
Doordarshan Maintenance Centre
Dimapur.Respondents
By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.



O R D E R (ORAL)

SHANKER RAJU, MEMBER (J)

Heard the learned counsel for the parties.

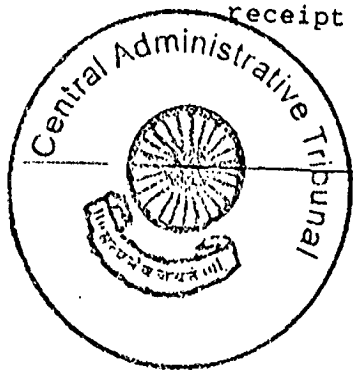
2. After hearing the learned counsel for the parties
I dispose of the application with direction to the
respondents to consider the representation of the applicant
and dispose of the same by considering the case of the
applicant for grant of temporary status in the light of

Attested
Bhuyan

the decision of the Tribunal in O.A.358 of 2000 dated 17.8.2001 within a period of two months from the date of receipt of a copy of this order.

The O.A. accordingly stands disposed of.

Sd/MEMBER (J)



TRUE COPY
प्रतिलिपि

Section Officer (J)

C.A.T. GUWAHATI BANCH
Guwahati-781005

Guwahati-781005

Attested
Singh

② 36 x
③ 980 910
④ 750 750

- 27 - Annexure-6 REGISTERED Post
PRASAR BHARATI
OFFICE OF THE CHIEF ENGINEER (NORTH EAST ZONE)
ALL INDIA RADIO & DOORDARSHAN
Building of Dr. P. Kakati, Ganeshguri Flyover
Near Kar Bhavan, Dispur, GUWAHATI-781006

CE (NEZ)/TVM/DMC/Dimapur /120

Date: 08.04.2004

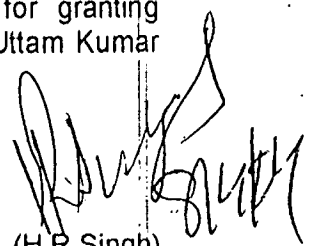
ORDER

Sub: OA no. 42 of 2004 and 358 of 2000 filed by Shri Uttam Kumar Mazumdar
In the Honourable Central Administrative Tribunal, Guwahati

In pursuance with the directives of Honourable Central Administrative Tribunal, Guwahati in the Judgement in the OA no. 42 of 2004 dated 25.02.2004 and OA no. 358 of 2000 dated 17.08.2001 in , case of Shri Uttam Kumar Mazumdar for grant of temporary status as per the guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993, has carefully been considered in the light of the extent rules on the subject.

1. The essential condition for grant of temporary status under the DOP&T guidelines is as follows: "Temporary status can be conferred only on casual labourers who have been engaged through employment exchange and who have rendered a continuous service of at least one year which means that they must have been engaged for a period of at least 240 days."
2. Shri Uttam Kumar Mazumdar, the applicant has been engaged on contract on a month to month basis depending upon the exigencies of service. This has also been brought forth in the judgement in OA no. 358 of 2000 dated 17.08.2001 at Sl. no. 2 of Page '3' which is reproduced: "The applicant was engaged to work at Low Power Transmitter (for short LPT), Lumding on a month to month contract basis to meet the exigencies of shortage of manpower."
3. The two certificates produced by the applicant have been examined and they have been found to be invalid as the same have not been issued by the competent authority. The competent authority to issue work certificate is an official of the rank not less than the rank of Station Engineer/ Deputy Director (Engineering).

From the perusal of the relevant documents it has been established that Shri Uttam Kumar Mazumdar does not fulfil the essential criteria for granting temporary status as quoted in Para '1' above and as such Shri Uttam Kumar Mazumdar cannot be granted temporary status.

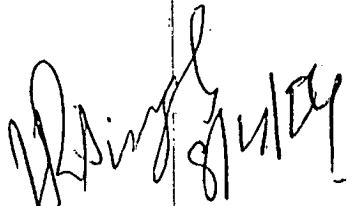

(H R Singh)
Chief Engineer (NEZ)

Shri Uttam Kumar Mazumdar
s/o Shri Ram Charan Mazumdar
Near Railway Quarter No. 841 (A)
Lower Babupatty P.O. Lumding
Dist: Nagaon Assam

Attested
Shyam

Copy to:

1. The Station Engineer
[Kind Attention: Shri J Gohain, Station Engineer]
Doordarshan Maintenance Centre
Dimapur, Nagaland
2. The Directorate General, Doordarshan
[Kind Attention: Shri D Ray, Chief Engineer]
Doordarshan Bhavan
Copernicus Marg
New Delhi-11 001


Chief Engineer (NEZ)

Attested
8/11/09

केन्द्रीय प्रशासनिक अपील निकाय
Central Administrative Tribunal
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
10 JAN 2005
GUWAHATI BENCH::GUWAHATI
गुवाहाटी बेंच
Guwahati Bench

In the matter of:

O.A. No. 198 of 2004

Shri Uttam Kr. Mazumdar

.....Applicant

- Versus -

Union of India & Others

..... Respondent

**WRITTEN STATEMENT FOR AND ON BEHALF
OF RESPONDENTS NO.1, 2, 3, 4 & 5.**

I, Mahadev Sarmah, Deputy Director (Admn.), Office of the Chief Engineer (NEZ), AIR & TV, Guwahati, do hereby solemnly affirm and say as follows:-

1. That I am the Deputy Director (Admn.), Office of the Chief Engineer (NEZ), AIR & TV, G.S.Road, Guwahati-781 006 and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statement may be deemed to have been denied. I am authorized to file the written statement on behalf of all the respondents.
2. That the respondents beg to state that in pursuance with the directives of Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.42 of 2004 and O.A. No.358 of 2000 on it's judgment dated 25/02/04 & 17/08/2001, the case of grant of temporary status to the applicant has been considered as per guidelines issued by the DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 and found that the applicant does not fulfill the essential

criteria for granting of temporary status. The same has already been communicated to the applicant vide speaking order No.CE(NEZ)/TVM/DMC/Dimapur dated 08/04/2004. The DOPT scheme for grant of Temporary status of 1993, has been held to be one time scheme and not on going scheme by the Supreme Court in the case of UOI V/s Mohanpal, vide judgement dated 29/04/2002. (copy enclosed as Annexure I) By this judgement, Apex Court has held that clause IV of the scheme is very clear that the conferment of temporary status is to be given to casual labourers who worked in employment as on the date of commencement of the scheme that is 01/09/93. Since in this present case the applicant was engaged on month to month contract basis from 01/01/96 (which has been admitted by him in para 4 (III) & (iv) of his OA) he is not eligible for grant of temporary status under the said scheme.

3. That the respondents have no comments to the statement made in paragraph 4(I), 4(II) of the application.
4. That with regard to the statements made in paragraph 4 (III) of the application, the respondents beg to state that the applicant was engaged to work at Low Power Transmitter (for short LPT) on a month to month contract basis to meet the exigencies of shortage of manpower.
5. That with regard to the statements made in paragraph 4 (IV) of the application, the respondents beg to state that the applicant was engaged to work at Low Power Transmitter on a month to month contract basis to meet the exigencies of shortage of manpower. He was never engaged as Technician on regular basis.
6. That with regard to the statements made in paragraph 4 (V) of the application, the respondents beg to state that the certificate produced by the applicant has been examined and they have been found to be invalid as the same has not been issued by the competent authority. The competent authority to issue such work certificate is an official of the rank not less than the rank of Station Engineer / Deputy Director (Engineering).

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7. That with regard to the statements made in paragraph 4 (VI) of the application, the respondents beg to state that the certificate produced by the applicant has been examined and they have been found to be invalid as the same has not been issued by the competent authority. The competent authority to issue such work certificate is an official of the rank not less than the rank of Station Engineer / Deputy Director (Engineering).
 8. That with regard to the statements made in paragraph 4 (VII) of the application, the respondents beg to state that the applicant was engaged to work at Low Power Transmitter on a month to month contract basis to meet the exigencies of shortage of manpower. Temporary status is granted only to Casual workers and not persons engaged on contract basis as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993. The applicant does not fulfill the essential criteria for granting of temporary status.
 9. That with regard to the statements made in paragraph 4 (VIII) of the application, the respondents beg to state that an interview cum test was held on 13/04/2000 for selection of candidate for the post of Technician but the applicant was not selected. The respondents further beg to state that as per directive of the Hon'ble Central Administrative Tribunal, Guwahati in O.A. No.42 of 2004 vide judgment dated 25/02/2004 and O.A. No.358 of 2000 vide judgment dated 17/08/2001 a speaking order has already been issued, explaining that the applicant does not fulfill the essential criteria for consideration of Temporary Status. The Hon'ble Central Administrative Tribunal, Guwahati has upheld the process of selection while delivering the judgment on 17/08/2001 in O.A. No.358 of 2000.
 10. That with regard to the statements made in paragraph 4 (IX) of the application, the respondents beg to state that in pursuance with the directives of Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.42 of 2004 vide order dated 25/02/2004 and O.A. No.358 of 2000 vide judgment delivered on 17/08/2001, the case of grant of temporary status to the applicant has been considered as per guidelines issued by

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DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 and found that the applicant does not fulfill the essential criteria for granting of temporary status. The same has already been communicated to the applicant vide speaking order No.CE(NEZ)/TVM/DMC/Dimapur dated 08/04/2004.

11. That with regard to the statements made in paragraph 4 (X) of the application, the respondents beg to state that the speaking order has been issued vide No.CE(NEZ)/TVM/DMC/Dimapur dated 08/04/2004 intimating the applicant that the essential criteria for grant of temporary status is not fulfilled.
12. That with regard to the statements made in paragraph 4 (XI) of the application, the respondents beg to state that this has already been considered by Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.358 of 2000 under judgment dated 17/08/2001 and the selection for the post of Technician has been upheld by the Hon'ble Central Administrative Tribunal, Guwahati.
13. That with regard to the statements made in paragraph 4 (XII) of the application, the respondents beg to state that in pursuance with the directives of Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.42 of 2004 vide judgment dated 25/02/2004, the case of grant of temporary status to the applicant has been considered as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 and found that the applicant does not fulfill the essential criteria for granting of temporary status.
14. That with regard to the statements made in paragraph 4 (XIII) of the application, the respondents beg to state that in pursuance with directives of Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.42 of 2004 vide judgment dated 25/02/2004 and O.A. No.358 of 2000 vide judgment dated 17/08/2001, the case of grant of temporary status to the applicant has been considered as per guidelines issued by

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DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 and found that the applicant does not fulfill the essential criteria for granting of temporary status.

15. That with regard to the statements made in paragraph 5 (A) of the application, the respondents beg to state that the grounds should not be accepted as the case for grant of temporary status to the applicant has been considered as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 and found that the applicant who was engaged on month to month contract basis does not fulfill the essential criteria for granting of temporary status.
16. That with regard to the statements made in paragraph 5 (B) of the application, the respondents beg to state that the grounds should not be accepted as the case for grant of temporary status to the applicant has been considered as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 and found that the applicant who was engaged on work contract does not fulfill the essential criteria for granting of temporary status for which he was disengaged.
17. That with regard to the statements made in paragraph 5 (C) of the application, the respondents beg to state that the grounds should not be accepted as this has already been considered by Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.358 of 2000 vide judgment dated 17/08/2001 and the selection for the post of Technician has been upheld by the Hon'ble Court.
18. That with regard to the statements made in paragraph 5 (D) of the application, the respondents beg to state that the grounds should not be accepted as the records of the case have been carefully considered in light of the extent rules on the subject and the speaking order passed based on the directives of the

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Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.358 of 2000 judgment on which was delivered on 17/08/2001.

19. That with regard to the statements made in paragraph 5 (E) of the application, the respondents beg to state that the grounds should not be accepted as the applicant does not fulfill the essential criteria as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993.
20. That with regard to the statements made in paragraph 5 (F) of the application, the respondents beg to state that the grounds should not be accepted as the certificates produced by the applicant have been examined and they have been found to be invalid as the same has not been issued by the competent authority. The competent authority to issue such work certificate is an official of the rank not less than the rank of Station Engineer / Deputy Director (Engineering).
21. That with regard to the statements made in paragraph 5 (G) of the application, the respondents beg to state that the grounds should not be accepted as the case of grant of temporary status to the applicant has been considered as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 in pursuance with the directives of Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.42 of 2004 (judgment dated 25/02/2004) and O.A. No.358 of 2000 (judgment dated 17/08/2001) and found that the applicant does not fulfill the essential criteria for granting of temporary status.
22. That with regard to the statements made in paragraph 5 (H) of the application, the respondents beg to state that the grounds should not be accepted as the applicant was engaged to work at Low Power Transmitter (for short LPT) on a month to month contract basis to meet the exigencies of shortage of manpower. The applicant does not fulfill the essential criteria for granting of temporary status.

23. That with regard to the statements made in paragraph 5 (I) of the application, the respondents beg to state that the grounds should not be accepted as the case of grant of temporary status to the applicant has been considered as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 in pursuance with the directives of Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.42 of 2004 vide judgment dated 25/02/2004 and O.A. No.358 of 2000 vide judgment dated 17/08/2001 and found that the applicant does not fulfill the essential criteria for granting of temporary status.

24. That with regard to the statements made in paragraph 6 of the application, the respondents beg to state that the case for grant of Temporary Status to the applicant has been considered and a speaking order has been issued in accordance with the directives of the Hon'ble Central Administrative Tribunal, Guwahati in O.A. No.42 of 2004 vide order dated 25/02/2004 and O.A. No.358 of 2000 vide judgment dated 17/08/2001.

25. That the respondents have no comments to the statement made in paragraph 7 of the application.

26. That with regard to the statements made in paragraph 8 (I) of the application, the respondents beg to state that the relief should not be granted to the applicant as the case of grant of temporary status to the applicant has been considered as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 in pursuance with the directives of Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.42 of 2004 vide judgment dated 25/02/2004 and O.A. No.358 of 2000 vide judgment dated 17/08/2001, and found that the applicant does not fulfill the essential criteria for granting of temporary status. Accordingly the speaking order No.CE(NEZ)/TVM/DMC/Dimapur dated 08/04/2004 has been issued after a careful application of mind and consideration in the light of the extent guidelines issued by DOP&T under the Department of Personnel and

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Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993.

27. That with regard to the statements made in paragraph 8 (II) of the application, the respondents beg to state that the relief should not be granted to the applicant as the case for grant of temporary status to the applicant has been considered as per guidelines issued by DOP&T under the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 in pursuance with the directives of Hon'ble Central Administrative Tribunal, Guwahati in the O.A. No.42 of 2004 vide judgment dated 25/02/2004 and O.A. No.358 of 2000 vide judgment dated 17/08/2001, and found that the applicant does not fulfill the essential criteria for granting of temporary status.

28. That the respondents have no comments to the statement made in paragraph 8 (III) of the application.

29. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed without costs.

Verification.....

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VERIFICATION

I, Mahadev Sarmah, presently working as Deputy Director (Admn.), Office of the Chief Engineer (NEZ), AIR & TV, G.S.Road, Guwahati-781 006 being duly authorized and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs _____ of the application are true to my knowledge and belief, those made in paragraphs _____ being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

AND I sign this verification on this the _____th day of _____


DEPONENT

Certified to be true copy

Assistant Registrar (Jud.)

Supreme Court of India

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

588471

CIVIL APPEAL NO. 3168 OF 2002
(Arising out of SLP(Civil) No. 2224/2000)

Union of India and Anr.

.....Appellants

Vs.

Mohan Pal. etc. etc.

.....Respondent

With 3182, 3179, 3176-3178 & 3169 of 2002, 3181/2002

CIVIL APPEAL NOS. OF 2002

(Arising out of SLP(Civil) No. 13024/2001, SLP(Civil) No. 1563/2001,
SLP(Civil) No. 17174-17176/2000, SLP(Civil) No. 2151/2000, SLP(Civil)
326/2001)

AND

CIVIL APPEAL NOS. 3170-71 OF 2002
(Arising out of SLP(Civil) Nos. 6738-6739/2000)

Lt. Governor (Admin.) & Ors.

.....Appellants

Vs.

Sadanadan Bhaskar & Ors. etc. etc.

..... Respondents

With 3172-3173 & 3174-3175 of 2002 and 3180/2002

CIVIL APPEAL NOS. OF 2002

(Arising out of SLP(Civil) Nos. 6740-41 and 6742-43/2000 and
970/2001)

JUDGMENT

K.G. Balakrishnan, J.

Leave granted.

In all these appeals, common questions of law arise for consideration and hence they are being disposed of by a common judgment. In one set of appeals, the Union of India is the appellant and in another set of appeals, Lt. Governor (Andaman & Nicobar Islands) is the appellant. The matter relates to the grant of 'temporary' status to the casual workers working in some of the departments of the appellants. The Department of Personnel & Training of the Government of India formulated a scheme for the grant of 'temporary' status and regularisation of the services of casual labourers working in the various departments under the Government of India. The Scheme came into effect from 1.9.1993. Clause 3 of the Scheme stated that it would apply to all casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinating offices, and that this Scheme may not apply to Railways and Telecommunications Departments. The Scheme envisaged conferring of 'Temporary' status on all casual labourers who had worked for at least 240 days in a year (206 days in the case of offices observing 5 days a week). The main features of the Scheme are as follows:-

- (1.) Conferment of 'temporary' status on casual labourers would not involve any change in their duties and responsibilities and the engagement will be on daily rates of pay on need basis.
- (2.) The casual labourers who acquire 'temporary' status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

- (3.) The wages and wage rate will be fixed at the minimum of the pay scale for a corresponding regular Group 'D' official including D.A., H.R.A. and any other welfare measures.
- (4.) Benefits of increments at the same rate applicable to a Group 'D' employee would be taken into account for calculating pro rata basis and the leave entitlement would also be on a pro rata basis, viz., one day for every 10 days of work.
- (5.) Maternity leave to lady casual labourer would be permissible on par with Group 'D' employees.
- (6.) It is also made clear that 50% of the service rendered under the 'temporary' status would be counted for the purpose of retirement benefits after regularisation.
- (7.) After rendering three years' continuous service after conferment of 'temporary' status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to General Provident Fund, and they would also be eligible for the grant of Festival Advance, Flood Advance on the same conditions as are applicable to Temporary Group 'D' employees.
- (8.) They would be entitled to Productivity Linked Bonus/Ad hoc Bonus only at the rates applicable to casual labourers.

It was also made clear that apart from these benefits, that may accrue to the employees on conferment of 'temporary' status, the casual workers

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working in the Industrial Establishment may be entitled to any additional benefits that may be admissible to them under the provisions of the Industrial Disputes Act. Clause 7 specifically states that despite the conferment of 'temporary' status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing and the casual labourer with 'temporary' status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work. While filling up the vacancies in group 'D' post, some preference is given to the casual labourers who have been conferred 'temporary' status. Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant Recruitment Rules and in accordance with the instructions issued by the Department of Personnel and Training, from amongst casual workers with 'temporary' status.

In these appeals, the question that arises for consideration is whether the conferment of 'temporary' status is a one time programme as per the Scheme or is this an ongoing Scheme to be followed by the Department and whether the casual labourers are to be given 'temporary' status as and when they complete 240 days of work in a year (205 days for the offices observing 5 days a week). Another question that came up for consideration is whether the services of casual labourers who had been given 'temporary' status could be dispensed with as per clause 7 as if they were regular casual labourers.

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The first question is to be decided on the basis of the interpretation of clause 4 of the Scheme. As already noticed, the scheme came into effect from 1.9.1993. Clause 4(1) of the Scheme reads as follows:-

'temporary' status. - (1) 'temporary' status would be conferred on all casual labourers who are in employment on the date of issue of this CM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days/week). "

Clause 4 of the Scheme is very clear that the conferment of 'temporary' status is to be given to the casual labourers who were in employment as on the date of commencement of the Scheme. Some of the Central Administrative Tribunals took the view that this is an ongoing Scheme and as and when casual labourers complete 240 days of work in a year or 206 days (in case of offices observing 5 days a week), they are entitled to get 'temporary' status. We do not think that clause 4 of the Scheme envisages it as an ongoing Scheme. In order to acquire 'temporary' status, the casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service of at least one year which means that he should have been engaged for a period of at least 240 days in a year or 206 days in case of offices observing 5 days a week. From clause 4 of the Scheme, it does not appear to be a general guideline to be applied for the purpose of giving 'temporary' status to all the casual workers, as and when they complete one year's continuous service. Of course, it is up to the Union Government to formulate any scheme

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as and when it is found necessary that the casual labourers are to be given 'temporary' status and later they are to be absorbed in Group 'D' posts.

The second question that arises for consideration is whether the casual labourers who have been given 'temporary' status can be removed from service by giving notice as per clause 7 of the Scheme. It is true that by conferment of 'temporary' status, the casual labourers acquire certain rights. Their daily rates of wages will be on the pro rata basis of salary and allowances payable to the employees working under the Group 'D' posts. They are also eligible for the casual and other kinds of leave. On completion of 3 years' continuous service after conferment of 'temporary' status, they would be admitted to the General Provident Fund. They are entitled to get Festival Advance and Flood Advance and other welfare measures applicable to the Group 'D' employees. Clause 7 of the Scheme makes it clear that despite the conferment of 'temporary' status, the services of a casual labourer may be dispensed with by giving one month notice in writing. This clause would certainly give the employer the right to terminate the services of casual labourers who have been given 'temporary' status.

The Division Bench of Calcutta High Court in *Writ Petition (CT) No. 23/29 (T. Rajakuli & Ors. Vs. Union of India & Ors. etc. etc.)* held that Clause 7 must be read in a manner in which it does not render it unconstitutional. The employers cannot at their whims dispense with the

services of the casual labourers who have acquired 'temporary' status. The entire object of 1993 Scheme was to regularise all casual workers. To allow such uncatalised power of termination would also defeat the object of the Scheme. Dispensing with the services of a casual labourer under clause 7 in our view, could be for mis-conduct etc.

Having regard to the general scheme of 1993, we are also of the view that the casual labourers who acquire 'temporary' status cannot be removed merely on the whims and fancies of the employer. If there is sufficient work and other casual labourers are still to be employed by the employer for carrying out the work, the casual labourers who have acquired 'temporary' status shall not be removed from service as per clause 7 of the Scheme. If there is serious misconduct or violation of service rules, it would be open to the employer to dispense with the services of a casual labourer who had acquired the 'temporary' status.

Nos. 3170-71, 3172-73, 3174-75 & 3180/2000

In Civil Appeals arising out of SLP(Civil) No. 6738-6739/2000, SLP (Civil) Nos. 6740-41 and 6742-43/2000 and SLP(Civil) No. 970/200, the Division Bench of the High Court of Calcutta held that the termination of the services of the employees was not legal and was based on various extraneous grounds. We do not propose to interfere with the same.

Nos. 3188, 3189, 3170, 3171-73, 3175 of 2000

In Civil Appeals arising out of SLP(Civil) No. 2224/2000, SLP(Civil) No. 13024/2001, SLP(Civil) No. 1563/2001, SLP(Civil) No. 17174-17176/2000.

SLP(Civil) No. 2151/2000, the respondents have been given 'temporary' status, even though, they did not specifically fulfil the condition in clause 4 of the Scheme. Some of them were engaged by the Department even after the commencement of the Scheme. But these casual labourers had also rendered service for more than one year and they were not given 'temporary' status pursuant to the directions issued by the Court. We do not propose to interfere with the same at this distance of time. However, we make it clear that the Scheme of 1.9.1993 is not an ongoing Scheme and the 'temporary' status can be conferred on the casual labourers under that Scheme only on fulfilling the conditions incorporated in Clause 4 of the Scheme, namely, they should have been casual labourers in employment as on the date of the commencement of the Scheme and they should have rendered continuous service of at least one year, i.e., at least 240 days in a year or 206 days (in case of offices having 5 days a week). We also make it clear that those who have already been given 'temporary' status on the assumption that it is an ongoing Scheme shall not be stripped of the 'temporary' status pursuant to our decision.

The appeals are disposed of accordingly.

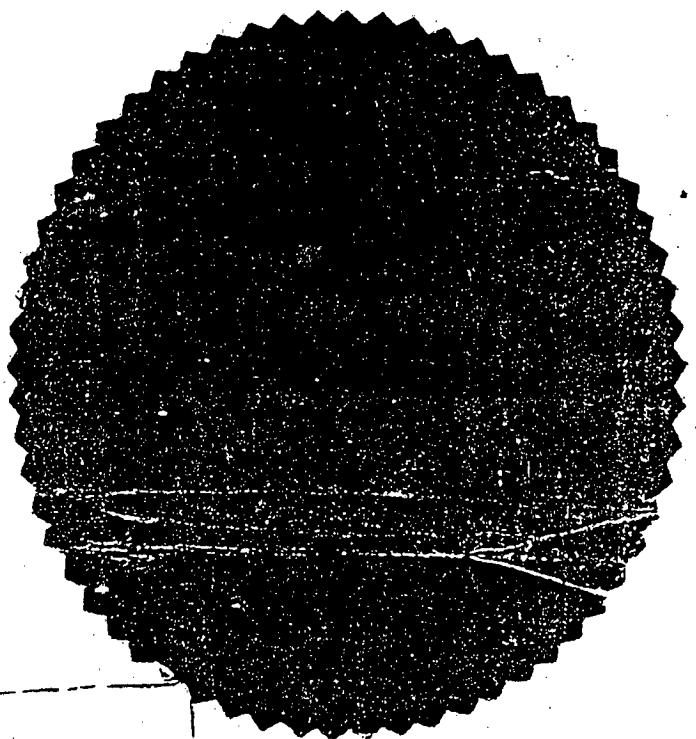
Sd/L
.....J.
(D.P. MCHAPATRA)

Sd/L
.....J.
(K.G. BALAKRISHNAN)

New Delhi
April 29, 2002.

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