

0/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 207/2004.....

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SECTION OFFICER (Judl.)

201

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 207/04

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: Bhagawan Singh

Respondents: U.O. I 90m

Advocate of the Applicants: - Adil Ahmed

Advocate for the Respondents: - CGSE. M. U. Ahmed

Notes of the Registry Date Order of the Tribunal

7.9.04.

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

Heard Mr. A. Ahmed learned
counsel for the applicant and Mr. A. Deb
Roy, Sr. C. G. S. C. for the Respondents.

Application is admitted.
Call for records. Returnable by four
weeks. List on 6.10.04 for orders.

K. V. Prahladan
Member

Dy. Registrar

Steps taken with
envelops.

lm

6.10.2004

present : The Hon'ble Mr. Justice R. K.
Batta, Vice-Chairman.

On the request of Mr. A. Deb Roy,
learned Advocate for respondents the
matter is adjourned for six weeks.
Stand over to 1.12.2004 for filing
written statement.

R. K. Batta
Vice-Chairman

Notice & order sent
to D/Section for
issuing to resp.
Nos. 1, 2 & 3, by regd.
A/D post.

mb

15/9/04 Notice duly
Served on R. No.
1, 2 & 3.

30/11/04

1) Notice duly served on
R. NO. 1, 2 and 3.

2) Service completed.

3) NO W/S has been filed
on behalf of the
respondents.

30/11/04


17-2-05

No W/S has been filed

mb

18.2.2005

List on 25.3.2005 for orders.


Vice-Chairman

28-3-05

No W/S has been

mb

29.3.2005

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


Member (A)

Mr. A. Ahmed, learned counsel for
the applicant is ~~absent~~ absent. Mr. M.U.
Ahmed, learned counsel for the respondents
seeks time for filing written statement.
List on 27.4.2005.

26-4-05

No W/S has been

Filed.


Vice-Chairman

mb

27.4.2005


Mr. M.U. Ahmed, learned ~~counsel~~
Addl. C.G.S.C. for the respondents seeks
time for filing written statement. Post
on 27.5.2005. No further adjournment
shall be granted ~~in~~ for that purpose.

9.5.05

W/S filed by
the respondent No. 1 to 3
at page 20-21.



26-5-05


Vice-Chairman

mb

W/S has been filed.
(without annexes)



Office Notes	Date	Order of the Tribunal
<p>W/s has been filed by C.G.S.C. on behalf of the respondents No. 1 to 3 and page 20 to 29. 1/6/05.</p>	27.5.05.	<p>Post the matter for hearing on 29.6.05. The applicant may file rejoinder if, any.</p> <p><i>K. S. Kumar</i> Member</p>
<p>① W/s has been filed. ② Rejoinder not yet filed.</p> <p><i>25</i> <i>28.6.05</i> <i>HK</i> <i>1/7/05</i></p> <p><i>M. H. Singh</i> <i>Addl. Secy</i> <i>1/7/05</i></p> <p><i>15/7/05</i> Copy of the order has been sent to the Office for issuing the same to the applicant by post. H</p>	1m	<p>Heard learned counsel for the parties. Judgment delivered in open Court, kept in separate sheets. The O.A. is disposed of in terms of the order.</p> <p><i>Q. S. Kumar</i> Vice-Chairman</p>
	29.6.2005	

bb

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A. No. 207 of 2004.

DATE OF DECISION: 29.06.2005

Shri Bhagawan Singh

APPLICANT(S)

Mr. A. Ahmed

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

Mr. M. U. Ahmed, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

1. Whether Reporters of local papers may be allowed to see the judgments?
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 Vice-Chairman.

G. Sivarajan

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 207 of 2004.

Date of Order: This, the 29th Day of June, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

Shri Bhagawan Singh
Son of Shri Baidyanath Singh
Casual Worker in the office
of the Accountant General (A&E)
Meghalaya, Shillong
Resident of Pynthorumkhrah, Shillong-1.

... Applicant.

By Advocate Mr. A. Ahmed.

- Versus -

1. The Union of India represented by the
Comptroller General & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi - 110 003.

2. The Accountant General (A&E)
Meghalaya, Shillong-1.

3. The Deputy Accountant General (Admn.)
Office of the Accountant General (A&E)
Meghalaya, Shillong-1.

... Respondents.

By Mr. M. U. AHMED, Addl. C.G.S.C.

ORDER (ORAL)

SIVARAJAN, J.(V.C.) :

The applicant is engaged as casual worker, according to the applicant since the year 1995, but according to the respondents in the year 1996. The applicant states that he has put in eleven years continuous service under the respondents but the respondents in their written statement have stated that the applicant did not have any continuous service as alleged. The details of his employment as casual

Mr

labourer was also furnished. The applicant wants regularisation of his service as casual labourer by absorbing him as Group D employee. The applicant has not filed this application against any particular order denying the benefit of regularisation either under any scheme or under law. A general direction is sought for regularisation of the applicant's service from the date of engagement.

2. I have heard Mr. A. Ahmed, learned counsel for the applicant and Mr. M. U. Ahmed, learned Addl.C.G.S.C. appearing for the respondents. The applicant has not so far approached the respondents for the reliefs sought for in this application. Disputed question of facts as discernible from the averments made in the application and in the written statement are involved. In the circumstances, appropriate course for the applicant is to file proper representation before the concerned authority seeking for the reliefs sought for herein by referring to any scheme or law. Since this has not been done I direct the applicant to make a proper representation with all details both factual and legal before the competent authority within a period of one month from today. If any such representation is filed, certainly the said authority will consider the same and pass orders in accordance with law after affording an opportunity of

haz

being heard to the applicant within a period of four months thereafter.

The application is disposed of as above. The applicant will produce this order along with representation for compliance.


(G. SIVARAJAN)
VICE CHAIRMAN

BB

6 SEP 2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

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

ORIGINAL APPLICATION NO. 207 OF 2004.

BETWEEN

Shri Bhagawan Singh

...Applicant

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES AND SYNOPSIS

Annexure-A to A are some of the photocopies of Pay-Slip of the Applicant.

Annexure-B is the photocopy of such Certificate dated 11-05-2001.

This application is not made any particular order but the Applicant seeks a direction from this Hon'ble Tribunal to the Respondents for regularisation of the service of the applicant in any Group-D post under the Respondents as he has worked 11(eleven) years as Casual Workers.

RELIEF SOUGHT FOR:

That the Respondents may be directed by the Hon'ble Tribunal to regularize the service of the applicant in the Group-D posts with effect from the date of his joining and also the Hon'ble Tribunal may be pleased to direct the Respondents to release the regular pay scale of the applicant in the Group-D post with retrospective effect with all consequential service benefits including seniority etc.

Cost of the application.

Bhagawan Singh

INTERIM ORDER PRAYED FOR:

Pending final decision of this application the applicants seek issue of the interim order:

That the Respondents may be directed by this Hon'ble Tribunal not to terminate the services of the applicant till final disposal of this Original Application.

Bhagwan Singh

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

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

ORIGINAL APPLICATION NO. 207 OF 2004.

Filed by
Shri Bhagawan Singh
Applicant
Himangshi Singh
(Advocate)

BETWEEN

Shri Bhagawan Singh
Son of Shri Baidyanath Singh
Casual Worker in the Office
of the Accountant General (A&E),
Meghalaya, Shillong
Resident of Pynthorumkhrah, Shillong-1.
... Applicant

-AND-

1. The Union of India represented by the
Comptroller General & Auditor General Of India,
10 Bahadur Shah Zafar Marg, New Delhi-110003.
2. The Accountant General (A&E), Meghalaya,
Shillong-1.
3. The Deputy Accountant General (Admn.),
Office of the Accountant General (A&E),
Meghalaya, Shillong-1.

... Respondents

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

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

Bhagwan Singh

Group-D post under the Respondents as he has worked 11(eleven) years as Casual Workers.

2) JURISDICTION OF THE TRIBUNAL

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

3) LIMITATION

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

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1) That your humble Applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India.

4.2) That your Applicant begs to state that he was appointed as Casual worker in daily wage basis under the Respondents in the year 1995. Till date he is working as Casual Worker under the Office of the Respondent No.3.

Annexure-A to A₅ are some of the photocopies of Pay-Slip of the Applicant.

4.3) That your Applicant begs to state that he is working continuously for more than 11(eleven) years as Casual worker but he has been deprived from regular pay scale, service benefits, dearness allowance, house rent, medical allowance and not even minimum pay scale was granted to him. He had already served a considerable long period under the Respondent and he is over aged for other government or semi government jobs. The Respondents have sometime given artificial break in his service during the above-mentioned period.

Bhagwan Singh

3

12

4.4) That your Applicant begs to state that the Accounts Officer of the Office of the Respondent No.2 has issued a Certificate on 11-05-2001 regarding his service as Casual Worker under the Respondents.

Annexure-B is the photocopy of such Certificate dated 11-05-2001.

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

4.6) That your Applicant begs to state that the similarly situated persons has already been regularized by the Respondents in their service. But the case of the Applicant was not considered by the Respondents in spite of his long service as Casual Worker.

4.7) That your Applicant begs to state that the Respondents have acted in an unfair manner in discriminating the Applicant in the matter of employment and subsequent regularization. As per the procedure prescribed the Respondents ought to have maintained a Master Seniority List of all Casual Workers through out the country and thereafter their services should be rergularised in order of seniority without discriminating or without any super session.

4.8) That your Applicant begs to state that apart from the illegality of the Respondents regarding non regularisation of the service of the Applicant, the Respondents have denied the benefit of equal pay to equal work to the present Applicant. The work performed by the Applicant is similar to the work performed by the regular Group-D employees but those Group-D employees are in receipt of higher pay than that of the present Applicant.

Bhugwan Singh

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

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

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

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

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

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

5.4) For that fresh recruitment of Group-D post in super session of the claim of the applicants are hostile discrimination and violative of Articles 14, 16 & 21 of the Constitution of India.

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

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

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

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

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

Bhagwan Singh

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

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

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

6) DETAILS OF REMEDIES EXHAUSTED:

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

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

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

8) RELIEF SOUGHT FOR:

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

8.1). That the Respondents may be directed by the Hon'ble Tribunal to regularize the service of the applicant in the Group-D posts with

Bhagwan Singh

effect from the date of his joining/and also, the Hon'ble Tribunal may be pleased to direct the Respondents to release the regular pay scale of the applicant in the Group-D post with retrospective effect with all consequential service benefits including seniority etc.

8.2) Cost of the application.

9) INTERIM ORDER PRAYED FOR:

Pending final decision of this application the applicants seek issue of the interim order:

That the Respondents may be directed by this Hon'ble Tribunal not to terminate the services of the applicant till final disposal of this Original Application.

10) THIS APPLICATION IS FILED THROUGH ADVOCATE.

11) PARTICULARS OF I.P.O.

I.P.O. No. : 206-114158
 Date of Issue : 2-9-04
 Issued from :
 Payable at : Gwalior

12) LIST OF ENCLOSURES:

As stated above.

Verification

Bhagwan Singh

-VERIFICATION-

I, Shri Bhagawan Singh, Son of Shri Baidyanath Singh, Casual Worker in the Office, of the Accountant General (A&E), Meghalaya, Shillong, Resident of Pynthorumkhrah, Shillong-1.

do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.3, 4.5, 4.6 to 4.8 _____ are true to my knowledge, those made in paragraph nos. 4.2, 4.4, _____ are being matter of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

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

Bhagawan Singh

- 8 -

ANNEXURE - A

Feb 77. June 77.

18

1. Rupa K. Kumar	19x35	=	R. 665
2. Mahesh Babu	13x35	=	R. 455
3. Mahesh K. Ray	8x35	=	R. 280
4. Pankaj Dey	12x35	=	R. 420
5. Sanjay K. Singh	10x35	=	R. 350
6. Anand Kishore	19x35	=	R. 665
7. Bhupendra Singh	15x35	=	R. 525
8. Mahesh S. Das	15x35	=	R. 525
9. Nirmal Dey	19x35	=	R. 665
10. Mithun Choudhary	19x35	=	R. 665
11. Mahesh Choudhary	19x35	=	R. 665
12. Ajay Choudhary	13x35	=	R. 455
13. Sachin Choudhary	15x35	=	R. 525
14. Anand Ray	13x35	=	R. 455
15. Sanjay Choudhary	18x35	=	R. 630
16. Mahesh K. Ray	8x35	=	R. 280

R. 7870/-

PAYED FOR PAYMENT FOR Rs 7870/-
 RECEIVED BY
 S. K. Choudhary

SANCTION EXIST AT PAGE 224/2414
 CHARGE NO. Rec. 14/4-6/98-99

Asst. Accounts Officer
 O/o The Assistant General (A&E)
 Meghalaya, Shillong.

Asst. Accounts Officer
 Office of the A.G. (A&E)
 Meghalaya Etc. Shillong.

Attended
 S. K. Choudhary
 1.1.1977

-9-

ANNEXURE -

Nw 98- Dec '98.

(1)	Sambas	Khyap	- 18x35 -	R.
(2)	Teel	Nongba	18x35 -	R.
(3)	Nirmul	DAS	18x35 -	R.
(4)	Mingstun	Mawlang	18x35 -	R.
(5)	Mohan	Rai	18x35 -	R.
(6)	Bhayanun	Singh	11x35 =	R.
(7)	Kalita		16x35 =	R.
(8)	Mahindan	DAS	12x35 =	R.
(9)	Suraj	Singh	12x35 =	R.
(10)	Neval		4x35 =	R.
(11)	Rupesh		18x35 =	R.
(12)	Ashok		4x35 =	R.
(13)	Mahesh		8x35 =	R.
(14)	Amol		13x35 =	R.
(15)	Manoj	Rai	7x35 =	R.
(16)	Bishen	Dagge	6x35 =	R.
(17)	Santosh		3x35 =	R.

R. 7

7000/-
PAID FOR PAYMENT FOR NO. 7000/-
DATE 21/12/98

AMOUNT ON EXIST AT PAGE
CASH 89

Asstt. Accounts Officer
O/o The Accountant General (A&E)
Naghalaya, Etc, Shillong.

Dr. Accounts Officer
Office of the A.C. (A&E)
Naghalaya Etc, Shillong.

Attested
S. L. Advarte

-10-
July 99 - Aug 99

ANNEAURE - A 2

1. Nirmal Das	Rs 35/-	16 days	- R. 560/-
2. Narend Lal Das	- do -	16 days	- R. 560/-
3. Sankar Klybly	- do -	16 days	- R. 560/-
4. Tael Nongbi	- do -	16 days	- R. 560/-
5. Sankar Singh	- do -	16 days	- R. 560/-
6. J. Paul Shamply	- do -	09 days	- R. 315/-
7. Peter Shamply	- do -	10 days	- R. 350/-
8. Anand Ray	- do -	12 days	- R. 420/-
9. Bhagawan Singh	- do -	08 days	- R. 280/-
10. Pankaj Ray	- do -	09 days	- R. 315/-
11. Mathur Laloo	- do -	12 days	- R. 420/-
12. Pratasius Rapsang	- do -	09 days	- R. 315/-
13. Lung Dekha	- do -	03 days	- R. 105/-
14. Balaram Diji	- do -	10 days	- R. 350/-
15. Mickey Shamply	- do -	09 days	- R. 315/-
16. Rakesh Kumar	- do -	16 days	- R. 560/-
17. Rajesh Kumar	- do -	1 day	- R. 35/-
18. Mahendra Kalita	- do -	16 days	- R. 560/-
19. Mahendra Das	- do -	12 days	- R. 420/-
20. Mahesh Kumar Ray	- do -	10 days	- R. 350/-
21. Saroj K. Singh	- do -	16 days	- R. 560/-
22. Henry Bell Das	- do -	16 days	- R. 560/-
23. Bisilal	- do -	03 days	- R. 105/-
24. Bernhard Khomih	- do -	16 days	- R. 560/-
25. Eratus Dimpleh	- do -	16 days	- R. 560/-
Rs 35/-		293 days	R. 10,255/-

PAID FOR PAYMENT FOR Rs 10,255/-

Two hundred and five

Asst. Accounts Officer
Office of the Accountant General (A&E)
Meghalaya, Etc, Shillong.

Asst. Accounts General
Office of the Accountant General (A&E)
Meghalaya, Mizoram and
Assam Pradesh, Shillong.

Attended
J. T. T. T.

-11-

ANNEXURE A3a

DECEMBER 2000

1. Sanjay Khyap 16x50 = Rs 800/-
2. Manishan Panta 16x50 = Rs 800/-
3. Manishan Panta 16x50 = Rs 800/-
4. Joel Khyap 16x50 = Rs 800/-
5. Bhagwati Singh 1x50 = Rs 50/-
6. Bishwan Singh 15x50 = Rs 750/-
7. Tannu Singh (Bhumi) 25x54 = Rs 1350/-
8. Nitya Kumar 22x50 = Rs 1100/-
9. Kanchan Ekn. Numa 10x50 = Rs 500/-
10. Santosh Khyap 13x50 = Rs 650/-
11. M.K. Manishan 1x50 = Rs 50/-
12. Ram Parvath Sharma 13x50 = Rs 650/-
13. Rakesh Kumar 16x50 = Rs 800/-
14. Anand Rai 2x50 = Rs 100/-
15. Santosh Singh 1x50 = Rs 50/-

Total → 9250/-

SANCTION LIST AT PAGE 19

AMOUNT BY BANK OF INDIA 9250/-

RECEIPT NO. 1446

DATE 14/12/2000

Asstt. Accounts Officer
C/o The Accountant General (AGS)
Meghalaya, Etc; Shillong.

Asstt. Accounts Officer
Office of C. & G. (AGS)
Meghalaya Etc, Shillong.

9/11/01

AGS
1
AGS

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ANNEXURE - A²

A²

Page No.

"11/10/03"

Page No.

Sl. No.

Name, Date, Days & Amount (Rs.)

Name, Date

01.	Shri. Ram. Ram. Sharma - 17x50 = Rs. 850/-	183 days.
02.	Shri. Vijai. Kumar - 17x50 = Rs. 850/-	183 days.
03.	Shri. Gaur. Singh - 17x50 = Rs. 850/-	19 days.
04.	Shri. Bal. Singh - 17x50 = Rs. 850/-	17 days.
05.	Shri. Gaur. Singh - 05x50 = Rs. 250/-	45 days.
06.	Shri. Raj. Singh - 20x50 = Rs. 1000/-	80 days.
07.	Shri. Ram. Singh - 08x50 = Rs. 400/-	20 days.
08.	Shri. Gaur. Singh - 02x50 = Rs. 100/-	78 days.
09.	Shri. Gaur. Singh - 02x50 = Rs. 100/-	02 days.
10.	Shri. Raj. Singh - 05x50 = Rs. 250/-	19 days.
11.	Shri. Raj. Singh - 02x50 = Rs. 100/-	64 days.
12.	Shri. Raj. Singh - 10x50 = Rs. 500/-	11.9 days.
13.	Shri. Raj. Singh - 18x50 = Rs. 900/-	13.8 days.
14.	Shri. Raj. Singh - 06x50 = Rs. 300/-	06 days.
15.	Shri. Raj. Singh - 06x50 = Rs. 300/-	27 days.
16.	Shri. Raj. Singh - 06x50 = Rs. 300/-	17.7 days.
17.	Shri. Raj. Singh - 10x50 = Rs. 500/-	23 days.

Total = Rs. 8,472/-

(Rupees eight thousand four hundred seventy two only)

"20/10/03" - "Raj. Singh"

PAYMENT FOR PAYMENT FOR Rs. 8,472/-
Rupees Eight thousand four hundred seventy two only

10/10/03

Signature

Signature

10/10/03

10/10/03

Attal
J. J. J.

< 13 -

ANNEXURE

15²³

2023-04

February 2024

Sl. No.	Description	Amount	Remarks
1.	Sundara Kalita - 20x50 = Rs. 1000/-	20	Payable
2.	Blagawan Singh - 06x50 = Rs. 300/-	6	Payable
3.	Dr. B. B. Sharma - 20x50 = Rs. 1000/-	20	"
4.	Jai Mani Kumar - 20x50 = Rs. 1000/-	20	"
5.	Ranjit Kumar - 18x50 = Rs. 900/-	18	"
6.	Sanjay Kumar - 20x50 = Rs. 1000/-	20	"
7.	Mr. K. K. Pandey - 16x50 = Rs. 800/-	16	"

Total = Rs. 6,000/-
(Rupees Six Thousand) only

20.16 (A) - "Kajal"

PAYED FOR PAYMENT FOR NO. 6000/-

RUPEES SIX THOUSAND

AMOUNT PAID AT PAGE 24

DATE 14-4-2024

2023-24

14/4

House 82104

14/4

Accounts Officer

Accounts Officer

Online of the Government of India (Accounts)

Online of the Government of India (Accounts)

14/4

Online

Attn: 1
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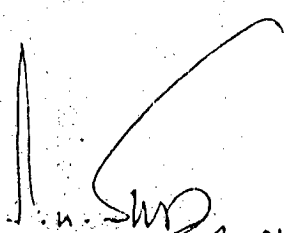
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ANNEXURE-B

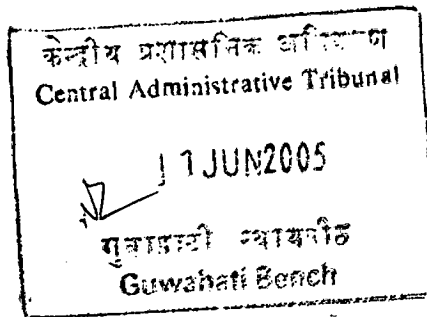
TO WHOM IT MAY CONCERN

This is to certify that Shri. Bhagwan Singh son of Baidyanath Singh, a permanent resident of Pynthorumkhrach, Shillong-1 has been working as a Casual worker in the Office of the A.G. (A&E) Meghalaya etc, Shillong for the last 7 years. He is personally known to me since his boyhood days. He is found to be energetic and devoted worker. He bears a good moral character.

I wish him every success in life.


(S.K. Sharma) 11/05/2001
Accounts Officer
Office of the A.G. (A&E)
Meghalaya Etc, Shillong

Attested
by
Adv. G.



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f. l. d. y
Ud-Din Ahmed, M.A.B.Sc., LL.B.
Adv. Central Govt. Standing Counsel
Guwahati Bench.

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

IN THE MATTER OF

OA No. 207 of 2004

SHRI BHAGWAN SINGH

-VERSUS-

1. The Union of India represented by the Comptroller & Auditor General of India, New Delhi.

2. The Accountant General (A&E) Meghalaya, Shillong.

3. The Senior Deputy Accountant General (Admn) O/o the Accountant General (A&E) Meghalaya Shillong.

-AND-

IN THE MATTER OF

Written Statement submitted by the
Respondent No.1 to 3

WRITTEN STATEMENTS

The respondents submits as follows :

1. With regard to Para 1 the claims of the applicant that he worked continuously for 11(eleven) years is not correct and is denied. He has worked as Casual Labour in different spells on no work no pay basis between years 96 and 2004. With regard to para 2 & 3 we have no comments to offer.
2. That with regard to the statement made in para 4.1 of the application the respondents – humbly submit that they have no comments to offer.
3. That with regard to the statement made in para 4.2 of the application, the respondents humbly submit that Casual workers are engaged on a day to day basis for casual and intermittent nature of work depending on availability of work and

no orders are issued while employing them. Casual labourers are not appointed to regular posts. The contention of the applicant that he was appointed is not correct and a misrepresentation of facts. The Annexures A to A5 are not pay slips as claimed by the applicant but only extracts of the wage bills prepared for Casual workers in the office of the Respondent. Further the Applicant was engaged as a Casual labourer in the Respondent's office only from 1996 and not from 1995 as claimed by him.

4. That with regard to the statement made in para 4.3 of the application the respondents humbly submit that the claim of the applicant is a misrepresentation of facts and thus false. The applicant's claim that he worked continuously for 11(eleven) years is not correct as can be seen below. The details of his employment as a Casual labourer are as follows:

Year	Total Number of days of applicant's Employment
1996	41
1997	97
1998	78
1999	89
2000	41
2001	26
2002	31
2003	53
2004	69

(Upto July 2004)

The applicant has worked for an average of 48(forty-eight) days only per year during the period from 1996 upto July 2004 and during these years, as can be seen from the Table above, he was not employed continuously. This was because there was not enough work of a casual and intermittent nature to allow his employment as a Casual worker. His claim that he was deprived from regular pay scales, service benefits, Dearness Allowance, House rent Allowance, Medical allowance

and minimum pay scale is not substantiated and as a Casual worker he was not entitled to these benefits claimed by him.

The applicant's contention of artificial break in service is not correct because in the absence of any Casual work, Casual workers are not engaged. The applicant was free to look for any other job and it is categorically submitted to the Hon'ble tribunal that no assurance was ever given to the applicant concerning his regularization. Further the Respondent humbly state that at no point in time was the applicant ever debarred from applying for any job and thus his claim that he is over aged for government or semi government job is not relevant but only a ploy to mislead the Hon'ble Tribunal.

5. That with regard to the statement made in para 4.4 of the application, the respondents submit that they have no comments to offer.
6. That with regard to the statement made in para 4.5 of the application, the respondents humbly submit that the statements made by the applicant are false. It is once again reiterated that the applicant was employed as a Casual worker and for the periods shown in paragraph 3 above. The applicant's contention that the respondents terminated his services are false, because since there was no casual and intermittent work in the respondent's office, the employment of the applicant did not arise. The applicant has no legal right to claim for appointment or regularization of service as at no point of time was he informed that his services would be regularized. He worked as a Casual labourer of his own volition and was free to apply for any job he wanted during the period 1996 to July 2004. The question of terminating his service does not arise because the applicant was employed as a Casual Labourer and not appointed to any regular post which attracts termination as per laid down Rules.
7. That with regard to the statement made in para 4.6 of the application, the Respondents humbly submit that the claim of the applicant is false and thus malafide. As a matter of fact, it is brought to the attention of the Hon'ble Tribunal

that there are Casuals working in this office for longer periods than the Applicant and who continue to work as Casual labourers depending on availability of casual/intermittent work.

8. That, with regard to the statement made in para 4.7 of the application, the respondents humbly submit that there has not been any discrimination or unfair manner adopted in the employment of the applicant. It is submitted to the Hon'ble Tribunal that besides what has been stated in para 6 above, it is once again confirmed that the claim of the applicant is baseless, false and thus malafide. The applicant's claim that a procedure for maintenance of a Master Seniority List of all Casual Workers through out the country is not prescribed under any Rules or orders of the Government and thus is a misrepresentation of facts. The claim of the applicant is thus pure conjecture.
9. That with regard to the statement made in para 4.8 of the application, the respondents humbly submit that for casual and intermittent nature of work the applicant was engaged to work as a Casual labour depending on availability of work. The applicant was not entrusted with the regular work that a regularly appointed Group 'D' employee performs and thus the question of paying the applicant the pay of a Gr. D employee does not arise. As a matter of fact, all Casual employees in the Respondent's office are paid the wages as ordered by the Labour Commissioner, Government of Meghalaya. The claim of the applicant that he performs work of a regularly appointed Gr. D employee is baseless and false.
10. That with regard to the Statement made in para 4.9 of the application, the respondents submit that they have no comments to offer.
11. That with regard to the Statement made in para 5.1 of the application, the respondents humbly submit that no action of the respondent can be termed as

illegal and without jurisdiction because the Respondents have acted strictly under the Rules/orders laid down by the government.

12. That with regard to the statement made in para 5.2 of the application, the respondents humbly submit that the applicant has through false allegations tried to mislead the Hon'ble tribunal by claiming that the respondents have acted in a malafide and illegal manner with motives. It can be clearly seen from what has been stated by the respondents above that they have acted in accordance with Rules and judiciously without any ulterior motives.
13. That, with regard to the statement made in para 5.3 of the application, the respondents humbly submit that there are no Rules laid down that the applicant can be considered for appointment to a post of Gr. 'D' by virtue of his long span of work as a Casual labourer. All vacant posts of Group 'D' staff are filled up by calling for names from the Employment exchange and through open advertisement as per the provisions of the Recruitment Rules. If the applicant satisfies all conditions laid down for recruitment, then only can his case be considered for appointment subject to vacancies existing and clearance got for filling up such vacant post and fulfillment of the conditions of the Recruitment Rules.
14. That with regard to the statement made in para 5.4 of the application the respondents humbly submit that, the applicant cannot as a matter of right stake claim for appointment as a Group D staff. In the event of the respondent filling up posts of Group D staff, advertisement will be issued and the applicant is free then to apply for such post. It is well settled that engagement on daily wage is not an approval as per Rules(State of H.P Vs Suk Verma JT 1996(2)SC455). This policy is followed strictly and scrupulously as per orders of the Government. It is thus clear that the respondents have not in any way violated Articles 14,16 and 21 of the Constitution of India and the applicant has clearly tried to distort facts before the Hon'ble Tribunal.

*Annexures 'A', 'B' & 'C' are annexed herewith,
which are self-explanatory and may be treated as the
Part of the written Statement.*

15. That with regard to the statement made in para 5.5 of the application the respondents submit that they have no comments to offer.
16. That with regard to the statement made in Para 5.6 of the application the respondents humbly submit that Casual workers are engaged on day to day basis for doing the work of casual and intermittent nature depending on the availability of work and in the event of non-availability of work, no casual workers are employed by the respondents as this would be totally unjustified.
17. That with regard to the statement made in Para 5.7 of the application the respondents submit that they have no comments to offer.
18. That with regard to the statement made in para 5.8 of the application the respondents humbly submit that, the nature of the work done by the applicant is only of a casual nature and not of a regular nature. Such performance of casual and intermittent work by the applicant does in no way entitle him to be regularized to any post .
19. That with regard to the statement made in para 5.9 of the application the respondents submit that they have no comments to offer.
20. That with regard to the statement made in para 5.10 of the application the respondents humbly submit that the applicant was paid wages as per the rates prescribed by the Labour Department of the Government of Meghalaya and no differential treatment was meted out to him at any point in time.
21. That with regard to the statement made in Para 5.11 of the application the respondents humbly submit that they have no comments to offer.

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Relief(s) sought for

That with regard to the statement made in para 8.1 of the application the respondents humbly submit that the prayer of the applicant for regularising his service towards Group 'D' post with all consequential benefits is without merit not governed by any existing rules of appointment and thus may be quashed by the Hon'ble Tribunal. Further the applicant has brought out arguments which are not based on any existing Rules/Orders of the Government, placed facts in his application that are pure conjecture, tried to falsely represent his case and thus his intentions are malafide. Because of these reasons and what has been stated above, the respondent humbly submit that the present application be dismissed with cost in favour of the respondents.

VERIFICATION

I Shri S. A. BATHU Senior Deputy Accountant General (Admn.) Office of the Accountant General (A&E) Meghalaya, Arunachal Pradesh and Mizoram, Shillong do hereby solemnly declare that the statements are true to my knowledge, belief and information and I sign the verification on 1st June of June 2005 at Shillong.



Deponent

Identified by :- M. U. Sharma

Advocate

Solemnly affirmed and sworn before me this day of 1st June 2005 by the deponent above named on being identified by M. U. Sharma, Addl. C. A.

Advocate

OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA,
NEW DELHI - 110 002

CIRCULAR NO. 20/NGE/200
NO. 389/NGE (APP) /15-2000
Dated:- 11.04.2000

To

The Heads of offices in I.A. & A.D.,
(Except overseas offices).

Subject: Grant of Temporary Status and regularisation of casual labourer.

Sir,

I am directed to invite a reference to the Government of India, Department of Personnel & Training, New Delhi's O.M. No. 51016/2/90-Estt. (C) dated 10.9.1993 (circulated vide Headquarters circular No. 19/NGE/94, issued under No. 1024/NGE(App)/3-94-Vol. II dated 9.8.1994) on the subject cited above and to state that it has come to the notice of this office that some of the field offices are still granting Temporary Status to those casual labourers who were engaged as a casual labourer after the issue of Government of India's O.M. dated 10.9.1993.

In this connection, it is clarified that the grant of temporary status was a one time affair and covered only those casual employees who were in service on 10.9.1993 and had completed one year of continuous service with 240 or 206 days as the case may be on that date.

Cases of granting of temporary status to casual labourers may please be regulated accordingly.

Yours faithfully,

(A.K. SINHA)
ADMINISTRATIVE OFFICER (APP)

OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA
NEW DELHI - 110 002.

Circular No. 36/NGE/98

No. 728/NGE(App)/7-98

Dated : 10-07-1998.

23 जुलाई 1998

To

1. All Heads of Department in the I.A. & A.D.
(as per mailing list)
2. AC(C)\ AC(P)\ Director (P)
3. GE.I \ GE.II \ CA.I \ OE&Bills \ NGE(Entt.) \ NGE(JCM)
Audit (Rules)

Subject : Recruitment of Staff through Employment Exchanges.

Sir/Madam,

I am directed to forward herewith a copy of Department of
Personnel & Training O.M. No.-14024/2/96-Estt.(D) dated 18-05-1998 on
the above subject for information and necessary action.

Yours faithfully,

A.K. Sinha
10/7/98

Encl. : As above

(A.K.SINHA)
ADMINISTRATIVE OFFICER (APP)

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No. 14024/2/76-Estt(D).
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training

New Delhi-110001.
May 18, 1998

OFFICE MEMORANDUM

Subject:- Recruitment of staff through Employment Exchanges.

The undersigned is directed to invite a reference to this Department's Office Memorandum No. 14024/2/77-Estt(D) dt. 13.4.1977. These instructions, inter-alia, provide that all vacancies arising under Central Government offices/establishments (including quasi-Government institutions and statutory organisations) irrespective of the nature and duration (other than those filled through UPSC), are not only to be notified to, but also to be filled through the Employment Exchanges alone and other permissible sources of recruitment can be tapped only if the Employment Exchange concerned issues a Non-availability Certificate. There can be no departure from this recruitment procedure unless a different arrangement in this regard has been previously agreed to in consultation with this Department and the Ministry of Labour (Directorate General, Employment & Training). Similar instructions are also in force requiring vacancies against posts carrying a basic salary of less than Rs. 500/- per month in Central Public Sector Undertakings to be filled only through Employment Exchanges.

2. The Scheme of Employment Exchange Procedure came under the judicial scrutiny of the Supreme Court in the matter of Excise Superintendent, Malkapatnam, Krishan District, Andhra Pradesh v/s. K.B.N. Visweshwara Rao & Ors (1996 (6) SCALE 676). The Supreme Court, inter-alia, directed as follows:-

" It should be mandatory for the requisitioning authority/establishment to intimate the employment exchange and employment exchange should sponsor the names of the candidates to the requisitioning Departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate Department or undertaking or establishment, should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news bulletins.