

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 308/2004
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet.....OA 308.....Pg. 1.....to 3.....
2. Judgment/Order dtd 22.08.2005.....Pg. 1.....to 4.....
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....OA 308/2004.....Pg. 1.....to 31.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
- ✓ 7. W.S. R.N.O. 4.42.6.....Pg. 1.....to 42.....
- ✓ Addl No/s R.N.O-3Pg. 1.....to 3.....
8. Rejoinder.....Pg. 1.....to 7.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Bakht
14.11.07

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

ORDER SHEET

308/04

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

Name of the Applicant(s) In O.A.
Sourbar Das 903

Name of the Respondent(s)
H. C. S. 903

Advocate for the Applicant
A. Ahmed

Counsel for the Railway/CGSC

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

This application is in form
No. 200/110361
Dated 22.11.04

29.11.2004

Dy. Registrar

Steps taken

Notice & order sent
to D/Section for
issuing to resp.
Nos. 1 to 6, by regd.
A/D post.

D/NO = 1957 to 1962

Dt. 9/12/04

13/12/04

Heard Mr. A. Ahmed, learned counsel
for the applicants as well as Mr. A.K.
Chaudhuri, learned Addl. C.G.S.C. for the
respondents.

O.A. is admitted, call for the
records, returnable within four weeks.

Status quo as on today regarding
the service of the applicants shall
be maintained till 7.1.2005.

List on 7.1.2005 for orders.

In the meantime, respondents may
dispose of the representations of the
applicants taking a sympathetic view
considering the ~~applicants~~ poor back-
ground of the applicants.

bb

07.01.2005

Four weeks time is given to
the respondents to file written
statement. List on 11.2.2005 for
orders. Interim order dated ~~29.11.2004~~
29.11.2004 shall continue till
11.02.2005.

Member

Member (A)

mb

11.2.05. At the request of learned counsel for the applicant, case is adjourned to

16.12.04

19.3.05.

Member(J)

Maximally be seen at flag 'A' which is received from the respondent's Central plantation

Crops Research Institute, Karikinchi, G.D. - 17 signed

O.A. 308/04.

kindly before the Bench Court for further order.

11.3.05. Present: Hon'ble Mr. K.V. Prahladan, Member(A).

On the plea of learned counsel for the respondents four weeks time is granted to file written statement. List on 29.4.05 for filing written statement and further orders.

Interim order dated 29.11.04 stands vacated.

Member(A)

29.4.2005

Mr. A. Ahmed, learned counsel for the applicant is present. Counsel for the Respondents No. 4, 5 and 6 submits that written statement has been filed on ~~their~~ their behalf. Post on 27.5.2005 for hearing.

Vice-Chairman

27.5.05.

~~The Respondents No. 1, 2 & 3 were time to file written statement.~~

27.5.05.

List the matter for hearing on 27.7.05. In the meantime, the Respondents No. 1, 2 & 3 may file written statement.

Member

Pl. comply order dated 11.3.05.

11/3/05

order dt. 11/3/05 issuing to both the parties.

Notice duly served on resp. Nos. 3, 4 & 5.

16.4.05

W/S filed by the Respond. Nos. 4, 5 & 6.

17/4

6-1-05

1/10-05-15-18-20-22-24-26-28-30-32-34-36-38-40-42-44-46-48-50-52-54-56-58-60-62-64-66-68-70-72-74-76-78-80-82-84-86-88-90-92-94-96-98-100

10-3-05

1/10-05-15-18-20-22-24-26-28-30-32-34-36-38-40-42-44-46-48-50-52-54-56-58-60-62-64-66-68-70-72-74-76-78-80-82-84-86-88-90-92-94-96-98-100

(3)

O.A 308/04

Notes of the Registry

Date

Orders of the Tribunal

29.6.05

27.7.05.

Additional Wfs
Submitted by the Respondent
No. 3.

Pro

XXX

Mr. A. Ahmed learned counsel
for the applicant is present.

Mr. A.K. Choudhuri, learned Addl.
C.G.S.C. on behalf of Mr. B.C.
Pathak, learned Addl. C.G.S.C.
seeks for adjournment.

Post the matter on 17.8.05.

K. B. Choudhuri
Member

Q. J. Singh
Vice-Chairman

26.7.05

lm

17.8.05

Rejoinder Submitted
by the Applicant.

Pro

lm

Post the matter on 23.8.05
before Single Bench.

K. B. Choudhuri
Member

Q. J. Singh
Vice-Chairman

22.8.2005

The case is ready
for hearing.

By

16.8.05

XXX

Heard Mr A. Ahmed, learned
counsel for the applicants and
Mr B.C. Pathak, learned
counsel for the respondents.
Hearing concluded. Judgment
delivered in open court, kept in
separate sheets. The application
is disposed. No order as to
costs.

Q. J. Singh
Vice-Chairman

9.9.05

nkm

Copy of the order
has been sent to
the office for filing
the same to the
applicant by post.
H.B.

Notes of the Registry

Date

Orders of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION NO. 308 OF 2004

DATE OF DECISION: 22-08-2005.

Sri Sonabar Das & 14 others

APPLICANT(S)

Mr. A. Ahmed

ADVOCATE(S) FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr B.C. Pathak

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 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 Vice-Chairman.

.....

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.308 of 2004

Date of Order: This the 22nd of August 2005.

The Hon'ble Justice Shri G. Sivarajan, Vice-Chairman

1. Shri Sonabar Das
S/o Bipin Chandra Das
Vill. & P.O.- Azara (Kootpara),
District- Kamrup.
2. Shri Kan Das,
C/o Shri Hiren Das,
Kahikuchi, P.O.- Azara,
District- Kamrup (Assam)
Pin-781017.
3. Md. Farid Ali,
S/o Md. Khariat Ali,
Vill.- Lower Mizapur, P.O.- Azara,
District- Kamrup, Assam,
Pin-781017.
4. Shri Jiten Chandra Das,
Vill.- Matia, P.O.- Azara,
District- Kamrup, Guwahati-17.
5. Md. Nizam Ali,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
6. Shri Bishnu Ram Medhi,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
7. Shri Brajen Sarmah,
Vill. & P.O.- Azara,
District-Kamrup, Guwahati-17.
8. Shri Nagendra Medhi,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
9. Shri Bipul Baruah,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.

10. Shri Shushil Kalita,
Vill. & P.O.- Azara (Kalitapara),
District- Kamrup, Guwahati-17.
11. Shri Tuku Baishya,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
12. Shri Tapan Baishya,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
13. Shri Ranjit Ch. Das,
S/o Late Keshab Ch. Das,
Vill.- Mirzapur (Medhipara),
P.O.- Azara, District- Kamrup,
Guwahati-17.
14. Shri Bijoy Ch. Das,
C/o Chandradhar Das,
Village- Mirzapur, P.O.- Azara,
District- Kamrup, Guwahati-17.
15. Shri Diganta Medhi,
Vill & P.O.- Azara (Medhipara),
District- Kamrup, Guwahati-17.

.....Applicants

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Agriculture, New Delhi.
2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi.
3. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi.
4. The Director,
Central Plantation Crops Research Institute,
Indian Council of Agricultural Research,
Kasaragod-671124, Kerala.
5. The Director,
Central Plantation Crops Research Institute,
(RC) (Indian Council of Agricultural Research),
Kahikuchi, Guwahati-781017.

6. The Co-Principal Investigator,
Mini Mission-1,
Central Plantation Crops Research Institute,
(RC) (Indian Council of Agricultural
Research), Kahikuchi,
Guwahati-781017.

.....Respondents

By Advocate Mr B.C. Pathak.

.....

ORDER (ORAL)

SIVARAJAN. J. (V.C.)

The applicants have filed this O.A. seeking for direction to the respondents for grant of temporary status and regularization of their services and also for payment of appropriate pay scale of skilled labourer with effect from their date of joining in the said post. The applicants had earlier approached this Tribunal by filing O.A.No.236 of 2003, which was later withdrawn by order dated 29.9.2004 with liberty to file representation for the said purpose before the appropriate authorities. The applicants thereafter have filed a representation in October 2004 (Annexure-F). Since no action was taken on the said representation the applicants have filed this O.A. on 29.11.2004.

2. Heard Mr A. Ahmed, learned counsel for the applicants and Mr B.C. Pathak, learned counsel for the respondents. Mr B.C. Pathak submits that the applicants have filed this O.A. without giving breathing time for the respondents to consider the representation, which is received by them. Mr B.C. Pathak, in the above circumstances, notwithstanding the filing of the written statement and additional affidavits, submits that the respondents will dispose of the

gnt

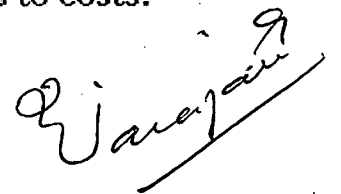
representation (Annexure-F) filed by the applicant within a reasonable time.

3. Mr A. Ahmed, learned counsel for the applicants, submits that the representation is pending for the last about a year and the respondents must be directed to pass appropriate orders in the above representation untrammelled by the stand taken in the written statement.

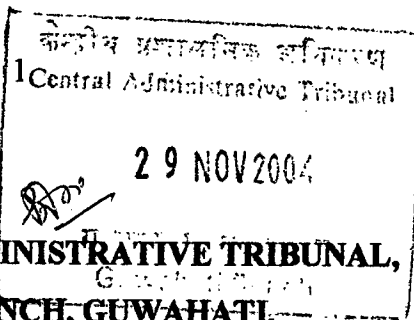
4. I have considered the rival submissions. Since it is admitted the representation (Annexure-F) is pending before the respondents, it is only appropriate that a direction is issued to the respondents to take a decision on the Annexure-F representation after affording an opportunity to the applicants. If such a request is made there for by the applicants they would have to be heard. In the circumstances, this O.A. is disposed of by directing the 4th respondent to consider the representation (Annexure-F) submitted by the applicants and pass appropriate orders in accordance with law and the relevant Government Orders within a period of four months from the date of receipt of this order.

5. The interim order passed on 29.11.2004 will continue to be in force till orders are passed on the representation as directed.

The O.A. is disposed of as above. No order as to costs.



(G. SIVARAJAN)
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

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

ORIGINAL APPLICATION NO. 308 OF 2004.

BETWEEN

Shri Sonabar Das & Others

... Applicants

-Versus-

The Union of India & Others

... Respondents

LIST OF DATES AND SYNOPSIS:

Annexure-A to A1 are the photocopies of some of the Office Memorandum No. F No.-1(39)/2001-Esstt. Dated 27-09-2001.

Annexure-B to B1 are the photocopies of some of Office Memorandum F No.1(39)/2001-Esstt. Dated 06-12-2001.

Annexure-C is the photocopy of the Office Memorandums F No.1(39)/2001-Estt. Dated 07-02-2001.

Annexure-D is the photocopy of order dated 18-11-2003 passed in Original Application No.236 of 2003 passed by the Hon'ble Tribunal.

Annexure-E is the photocopy of order dated 29-09-2004 passed in Original Application No.236 of 2003 passed by the Hon'ble Tribunal.

Annexure-F is the photocopy of Representation filed by the Applicants before the Respondents.

Shri Sonabar Das

Annexure-G and G1 are the photocopies of some of Roster Duty of Applicants for Day and Night Watch and Ward Duty.

This application is not made against any particular order but the Applicant seeks a direction from this Hon'ble Tribunal to the Respondents to give Temporary Status to the Applicants and also for regularization of their posts as Skilled Labour as per regular pay scale with effect from the date of their joining under the office of the Respondents.

RELIEF SOUGHT FOR:

That the Hon'ble Tribunal may be directed by the Hon'ble Tribunal to give temporary status to the Applicants and also to regularize the services of the Applicants in the post of Skilled Labour with effect from the date of their joining in the posts and also this Hon'ble Tribunal may be pleased to direct the Respondents to release the regular pay scale of the Applicants in the post of Skilled Labour with effect from the date of their joining in the posts, and also to release the regular pay scale of the Applicants in the post of Skilled Labour with retrospective effect, i.e. from joining date of the Applicants at the posts of Skilled Labour with all consequential service benefits etc.

To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

To pay the cost of the application.

INTERIM ORDER PRAYED FOR:

Pending final decision of this application the Applicant seeks issue of the interim order from the Hon'ble Tribunal:

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

Shri. Anbar Day

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

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

ORIGINAL APPLICATION NO. OF 2004.

BETWEEN

- 1) Shri Sonabar Das
S/o Bipin Chandra Das
Vill. & P.O.-Azara, (Kootpara)
District-Kamrup,
- 2) Shri Kan Das,
C/o Shri Hiren Das
Kahikuchi,
P.O.-Azara,
District-Kamrup (Assam)
Pin-781017.
- 3) Md. Farid Ali,
S/o Md. Khariat Ali,
Vill.-Lower Mizapur,
P.O.-Azara,
District-Kamrup, Assam,
Pin-781017.
- 4) Shri Jiten Chandra Das,
Vill.-Matia,
P.O.-Azara,
Dist.-Kamrup,
Guwahati-17.
- 5) Md. Nizam Ali,
Vill. & P.O.-Azara,
District-Kamrup, Guwahati-17.

Filed by
Shri Sonabar Das
Applicant No. 1
Through Shri Jiten Chandra Das
(Adv. Ahmed)
Advocate

Shri Sonabar Das

- 6) Shri Bishnu Ram Medhi,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 7) Shri Brajen Sarmah,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 8) Shri Nagendra Medhi,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 9) Shri Bipul Baruah,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 10) Shri Shushil Kalita,
Vill. & P.O.-Azara (Kalitapara)
District-Kamrup,
Guwahati-17.
- 11) Shri Tuku Baishya,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 12) Shri Tapan Baishya,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 13) Shri Ranjit Ch.Das,
S/o Late Keshab Ch.Das,
Vill. - Mirzapur, (Medhipara)

Shri Senabass Das

P.O.-Azara,
District-Kamrup,
Guwahati-17.

- 14) Shir Bijoy Ch. Das,
C/o Chandradhar Das,
Village-Mirzapur,
P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 15) Shri Diganta Medhi
Vill. & P.O.-Azara, (Medhipara)
District-Kamrup,
Guwahati-17.

... Applicants

-VERSUS-

1. The Union of India represented by the
Secretary to the Government of India,
Ministry of Agriculture, New Delhi.
2. The Director General,
Indian Council of Agricultural
Research Krishi Bhawan, New Delhi.
3. The Secretary,
Indian Council of Agricultural
Research Krishi Bhawan, New Delhi.
4. The Director,
Central Plantation Crops Research
Institute Indian Council of Agricultural
Research, Kasaragod-671124, Kerala.

Shri Sanabasa Das

5. The Director, Central Plantation Crops Research Institute, (RC) (Indian Council of Agricultural Research) Kahikuchi, Guwhati-781017.
6. The Co-Principal Investigator,
Mini Mission-1,
Central Plantation Crops Research Institute, (RC) (Indian Council of Agricultural Research) Kahikuchi, Guwhati-781017.

... Respondents

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

This application is not made against any particular order but the Applicant seeks a direction from this Hon'ble Tribunal to the Respondents to give Temporary Status to the Applicants and also for regularization of their posts as Skilled Labour as per regular pay scale with effect from the date of their joining under the office of the Respondents.

2) JURISDICTION OF THE TRIBUNAL:

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

3) LIMITATION:

The Applicants 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:

Sub. Enabale dey

4.1) That the Applicants are citizen of India and as such they are entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2) That your Applicants beg to state that they are all Local Unemployed Educated Youth. The Applicant No.1, 2, 4, 6, 11, 12 and 13 are belongs to Schedule Caste and other backward Community.

4.3) That your Applicants beg to state that as the grievances and relief prayed in this application are common, therefore, they pray for grant of permission under Section 4 (5) (a) of the Central Administrative Tribunal (Procedure) rules, 1987 to move this application jointly.

4.4) That your Applicant begs to state that the Respondent No.5 vide his Memorandum No.F No.-1(39)/2001-Esstt dated 27-09-2001 call the Applicants for their interview for temporary post of Skill Labour under the Respondent No.6 at the Consolidated pay amount of Rs.1500/- (Rupees One Thousand Five Hundred) only p.m. under Mini Mission-1. The Applicants names were sponsored by the Employment Officer, Employment Exchange, Guwahati-3. Accordingly they appeared in the said interview and appointed as Skilled Labour by the Respondents vide Office Memorandum F No.1(39)/2001-Esstt. Dated 06-12-2001. The offer of engagement made by the Respondents expires on 31st March 2002 and after that the Respondents without renewing the said offer of engagement engaging the Applicants continuously without any notice. As the Respondents have not terminated Applicants service on 31st March 2002, the Applicants also presuming that their engagement will be regularized by the Respondents and they did not tried for any other jobs. Now all the Applicants are over aged for Government, Semi Government or Private jobs. The Applicants are still working since 14-12-2001 vide Office Order F No.1(39)/2001-Esstt. Dated 07-02-2001.

Annexure-A to A1 are the photocopies of some of the Office Memorandum No. F No.-1(39)/2001-Esstt. Dated 27-09-2001.

Annexure-B to B1 are the photocopies of some of Office Memorandum F No.1(39)/2001-Esstt. Dated 06-12-2001.

Shri Sampat Singh

Annexure-C is the photocopy of the Office Memorandums F No.1(39)/2001-Estt. Dated 07-02-2001.

4.5) That your Applicants beg to state that being aggrieved by the action of the Respondents for non-regularization and non-payment of equal pay for equal work they have approached this Hon'ble Tribunal by filing Original Application No.236 of 2003. The Hon'ble Tribunal admitted the said Original Application and was pleased to pass an interim order by protecting the interest of the Applicants. The said case was came up for hearing on 29-09-2004. During the course of hearing the Applicants seek permission from the Hon'ble Tribunal to withdraw the said Original Application No.236 of 2003 to enable them to file representation before the Respondents for regularization of their service. The Hon'ble Tribunal granted the permission. Accordingly the said case was dismissed on withdrawn. After that the Applicants immediately filed a Representation before the Respondents praying for regularization of their service and also for payment of appropriate pay scale of Skilled Labour. They also prayed in their Representation that the Respondents may pass an appropriate order within a reasonable time preferably within two months. But till today the Respondents have not filed any reply to their Representation. Now the Applicants apprehend that the Respondents at any time may terminate their service. Hence finding no other alternative the Applicants are compelled to approach this Hon'ble Tribunal again for seeking justice in this matter and prayed before this Hon'ble Tribunal for an interim order to protect the interest of the Applicants by giving direction to the Respondents not to terminate the services of the Applicants till disposal of this Original Application. If the Hon'ble Tribunal does not interfere immediately in this matter then irreparable loss will be caused to all Applicants.

Annexure-D is the photocopy of order dated 18-11-2003 passed in Original Application No.236 of 2003 passed by the Hon'ble Tribunal.

Annexure-E is the photocopy of order dated 29-09-2004 passed in Original Application No.236 of 2003 passed by the Hon'ble Tribunal.

Sanabhar Desai

Annexure-F is the photocopy of Representation filed by the Applicants before the Respondents.

4.6) That your Applicants beg to state that they are entrusted with the work of Agricultural Helper Field Duty. They are Skilled Labour. They are looking after 90 (Ninety) Bighas Agricultural Land under Central Plantation Crops Research Institute, Research Center Kahikuchi Azara, Guwahati-17. The said Agriculture Land Cultivated Coconut trees, Betel-nut trees, Cashew-nut trees, Peppers and varieties of Vegetables etc. The said food and vegetables products are use for research work and also for selling it to the local public by the Respondents. Apart from normal work of Agriculture Helper the Applicants are also entrusted to work as Day and Night Watch and Ward duty at Central Plantation Crops Research Institution (RC) Kahikuchi, Guwahati-17.

Annexure-G and G1 are the photocopies of some of Roster Duty of Applicants for Day and Night Watch and Ward Duty.

4.7) That your Applicants beg to state that they have already served for a considerable long period under the Respondents and they are now going to be over aged for other Government jobs. They have acquired a legal right for temporary status and regularization of their above posts. They have been deprived from regular service benefits, pay scale, Dearness allowances and even minimum pay scale are not granted to the Applicants. The Respondents have deprived the Applicants the maximum wages for Skilled Labour as fixed by the Ministry of Labour, Government of India. The Applicants were selected and appointed by the Respondents through regular interview and selection. Moreover they were sponsored by the Local Employment Exchange. There are large number of permanent vacancies of Skilled Agricultural Labour under the Respondents. But the Respondents have not yet regularized their posts. They made several requests to the Authority concerned but the Respondents have not taken any interest in this matter.

4.8) That your Applicant begs to state that they are entitled for some privilege which the regular employees are enjoying. In the instant case the Applicants are subjected to hostile discrimination. India is a socialist republic; it implies the existence of certain important obligations, which

Dr. Sanabaz Sar

the state has to discharge. The right to work, the right of every one to just and favourable remuneration assuring a decent living for himself and his family, the right of every one without discrimination of any kind to equal pay for equal work, the right of rest, leisure, reasonable limitation of working hours and periodic holidays with pay, the right to security of works are some of the rights which have to be ensured by appropriate Legislative and Executive measure.

4.9) That your Applicant submits that the Hon'ble Supreme Court in Daily rated casual labour employed P & T. Department through Bharatiya DAK TAR MAZDOOR MANCH -Vs- Union of India and another (1988 (1) S.C.C. 122) held that Government cannot take advantage of its dominant position and further held that Daily rated casual labourers are entitled to minimum pay in the pay scale of the regular workers plus D.A. but without increment and further directed to prepare a scheme for absorbing the casual labourers on rational basis who rendered one year casual service in the posts and telegraph Departments. Similar direction for regularization of services of casual labourers passed by the Hon'ble Supreme Court in the case of Dhirendra Chamoli and others -Vs- State of U.P. (1986 (1) S.C.C.637) wherein it is held as follows: -

But we hope and trust that posts will be sanctioned by the Central Government in the different Nehru Yuvo Kendra, so that these persons can be regularized. It is not at all desirable that any Management and particularly the Central Government should continue to employ persons on Casual basis in organizations, which have been in existence over 12 years. The salary and allowance of Class-IV employed in Nehru Yuvo Kendra with effect from the date when they were respectively employed. The Government of India will pay to the petitioner costs of the Writ Petition fixed at lump sum of Rs.1000/-.

The Hon'ble Supreme Court passed similar direction in the cases of Surinder Singh & another -Versus- Engineer-in-Chief, C.P.W.D. & OTHERS (1986 (1) S.C.C. 639) and also in the case of U.P. Income Tax Department contingents paid Staff Welfare Association - Vs- Union of India & Others, the Hon'ble Supreme Court directed as follows: -

Shri Sarna basu sar

"We accordingly allow this Writ Petition and direct the Respondents to pay wages to the workmen who are employed as the contingent paid staff of the Income Tax Department throughout India, doing the work of Class IV employees at the rates equivalent to the Minimum pay in the pay scale of the regularly employed workers in the corresponding cadres without any increments with effect December 1, 1986, such workers are also entitled to corresponding Dearness allowance and additional dearness allowance payable thereon. Whatever other benefits, which are now being enjoyed by the said workmen, shall continue to be extended to them. We further direct the Respondents to prepare a scheme on a rational basis for absorbing as far as possible the contingent who have been continuously working in the Income Tax Department.

In view of the aforesaid position and law laid down by the Hon'ble Supreme Court the Applicants are entitled for temporary status, regularization of pay scale of Skilled workers also be regularized with effect from date of their respective engagement.

4.10) That your Applicants beg to state that the Respondents are exploiting the man power of the Applicants by giving them a very lower fixed pay of Skilled Labour @ Rs.1500/-p.m. which is illegal, arbitrary and non sustainable in the eye of law. The Central Government being a model employer cannot deprive the Applicants from their legitimate pay of a skilled labour. The Applicants are drawing a fixed pay, which is also lower than unskilled labour working under any Government, Semi-government or Private Organization. Moreover jobs of the Applicants are permanent in nature and the Respondents needs the works of the Applicants for smooth running of the Central Plantation Corps Research Institute, Kahikuchi, Guwahati. The Applicants being local unemployed youth, as such they should be given priority by the Respondents to engage them in a permanent manner. There are many Group-D post are lying under the Respondents. Recently in the year of 1999, 2002 and 2003 namely Sri Biman Das, Sri Purna Das and Sri Upen Ch. Das were retired from their service as Group-D staff under the Respondents. Apart from this also one Sri Jamir Ali, Sri Puna Ram Das and many other permanent Group-D staff will also retire from service in the year 2005

Sri Sanabaz Singh

and 2006 respectively. In the said posts the instant Applicants can be absorbed by the Respondents.

4.11) That your Applicants beg to state that they are being a poor persons and they are working under the Respondents very sincerely without any blemish in their services. They are entitled for regularization of their services and regular pay. Hence, the Hon'ble Tribunal may be pleased to protect the interest of the Applicants by giving a direction to the Respondents for regularization of their services and release their regular pay scale with retrospective effect.

4.12) That your Applicants beg to state that the action of the Respondents is illegal, mala fide with a motive behind.

4.13) That your Applicants beg to state that the Respondents have violated the fundamental rights of the Applicant.

4.14) That your Applicants beg to state that the Respondents have acted in an arbitrary manner by depriving the Applicants for not giving them regular pay scale and also not regularizing their services.

4.15) That this application is filed bona fide and for the interest of justice.

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

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, malafide, arbitrary and without jurisdiction.

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

5.3) For that, the Applicants having worked for a considerable long period, i.e., from 2001 to till date, they are entitled to be regularized in their posts with regular pay scale with retrospective effect.

Dr. Sanabhar Das

23

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

5.5) For that, they gathered experience of different works in this establishment.

5.6) For that, the nature of work entrusted to the Applicants are of permanent nature and therefore they are entitled to be regularized.

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

5.8) For that, the Central Government being a model employer cannot be allowed to adopt a different treatment as regard payment of wages to the Applicants.

5.9) For that, the Respondents have violated the Article 14, 16 & 21 of the Constitution of India.

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

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the Applicants except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

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

Shri Sanabhar Dhar

8) RELIEF SOUGHT FOR:

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

8.1) That the Hon'ble Tribunal may be directed by the Hon'ble Tribunal to give temporary status to the Applicants and also to regularize the services of the Applicants in the post of Skilled Labour with effect from the date of their joining in the posts and also this Hon'ble Tribunal may be pleased to direct the Respondents to release the regular pay scale of the Applicants in the post of Skilled Labour with effect from the date of their joining in the posts, and also to release the regular pay scale of the Applicants in the post of Skilled Labour with retrospective effect, i.e. from joining date of the Applicants at the posts of Skilled Labour with all consequential service benefits etc. ✓

8.2) To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

Pending final decision of this application the Applicant seeks issue of the interim order from the Hon'ble Tribunal:

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

See Sanction order

25

10) Application is filed through Advocate.

11) Particulars of L.P.O.:

L.P.O. No. : 209 110361

Date of Issue : 28.11.2009

Issued from : Guwahati C.P.O.

Payable at : Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification...

Sd/- Sanabaz das

-VERIFICATION-

I, Shri Sonabar Das, Son of Bipin Chandra Das, Vill. P.O.-Azara, (Kootpara), District-Kamrup, Guwahati-17 I am the Applicant No.1 of the instant application and as such I am authorized by other Applicants to sign this Verification and do hereby solemnly verify the statements made in accompanying application and in paragraph nos. 4.1, 4.2, 4.3, 4.7, 4.8, 4.10, 4.11 — are true to my knowledge, those made in paragraph nos. 4.4, 4.5, 4.6, 4.9, — are being matters 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 24 day of November 2004 at Guwahati.

Soni Sonabar Das

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE

(Indian Council of Agricultural Research)

Research Centre, Kahikuchi-781 017, Guwahati, Assam

F.No. 1(39)/2001-Estt.

Dated 27-09-2001


MEMORANDUM

To: Shri Sonabhar Ch. Das whose name has been sponsored by the Employment Officer, Employment Exchange, Pub-Saranla Mandap Road, Chandmari, Guwahati-3 for a temporary post of 'Skilled Labour' (for the period upto 31-03-2002) at a consolidated amount of Rs. 1500/- pm under an adhoc scheme entitled to "Mini Mission I" is hereby directed to present himself for an interview at CPCRI Research Centre, Kahikuchi, Guwahati-17 on 10-10-2001 (WEDNESDAY) at 10.00 am.

He should bring with him the following documents in original

- i) Certificate in proof of date of birth and educational qualifications.
- ii) Certificate in proof experience, if any
- iii) Caste certificate issued by the competent authority (for SC, ST, OBC candidates)

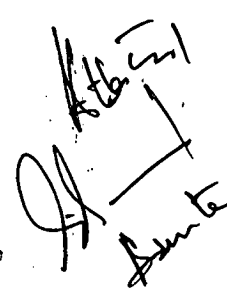
No TA or other allowances will be paid for the journey in connection with the interview.


Principal Investigator
Mini Mission I

To

Sri Sonabhar Ch. Das
C/o Bipin Ch. Das
Vill. & PO. Azara (Kootpara)
Guwahati-17

131 CPCRI Kahikuchi is located about 22 km away from Guwahati Railway Station and on the NH 37 towards Guwahati Airport (Opposite to Kendriya Vidyalaya Azara) Enam Gate (Bus stoppage).



- 18 -

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Research Centre, Kahikuchi-781 017, Guwahati, Assam

F.No. 1(39)/2001-Estt.
F.No. 1(39)/2001-Estt.

Dated 27-09-2001

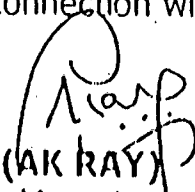
MEMORANDUM

The undersigned is pleased to offer a temporary post to Mr. Shri Kan Das whose name has been sponsored by the Employment Officer, Employment Exchange, Puh-Sarania, Mandap Road, Chandmail, Guwahati-3 for a temporary post of 'Skilled Labour' (for the period upto 31-03-2002) at a consolidated amount of Rs. 1500/- pm under an adhoc scheme entitled to "Mini Mission I". Is hereby directed to present himself for an Interview at "CPCRI" Research Centre, Kahikuchi, Guwahati-17 on **11-10-2001(THURSDAY) at 10.00 am**

He should bring with him the following documents in original

- i) Certificate in proof of date of birth and educational qualifications.
- ii) Certificate in proof experience, if any
- iii) Caste certificate issued by the competent authority (for SC, ST, OBC candidates)

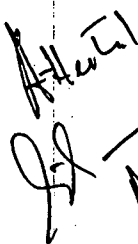
No TA or other allowances will be paid for the journey in connection with the interview.


(AK RAY)
Co-Principal Investigator
Mini Mission I

To

Shri Kan Das
c/o. Hiren Das
Kahikuchi, PO. Azara
Kamrup

NOTE: CPCRI, Kahikuchi is situated about 22 km away from Guwahati Railway Station and on the NH 37 towards Guwahati Airport (Opposite to Kendriya Vidyalaya, Azara) Farm Gate (Bus stoppage)


Adm. C

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
RESEARCH CENTRE, KATHKUCHI-781017, ASSAM

F.No. 1(39)/2001-Estt.

Date: 06-12-2001

MEMORANDUM

The undersigned is pleased to offer a temporary assignment of "Skilled Labour" under the ad-hoc time bound Scheme entitled "Technology Mission for Integrated development of horticulture in North Eastern States including Sikkim (MINI- MISSION-1)" to Sh. Kan Das on the following terms and conditions:-

- 01 The offer is purely on temporary basis for a period upto 31st March, 2002 from the date of his/her joining the post and are liable to be terminated on completion of the term of engagement, or on the date, the sanction of the scheme expires, whichever is earlier.
- 02 He/She will be paid a fixed fellowship of Rs. 1,500/- pm without any allowances.
- 03 Grant of traveling allowances for journeys if required to be undertaken for the work connected with the Scheme will be regulated by the relevant rules in force at this Institute.
- 04 The assignment shall be terminated without notice at any time, if he/she is found to be negligent in his /her work or is guilty of unbecoming conduct.
- 05 If he/she leaves his/ her assignment without permission of the Co-Principal Investigator of the scheme, he/she will not be paid any amount due to him/her by the Institute.
- 06 He/She will be under the administrative / Technical control of the Co-Principal Investigator of the Scheme.
- 07 He/She should devote his/her whole time to the assignment given to him/her, and he/she will not be allowed to accept nor hold another appointment during the term of assignment.
- 08 He/She will not be entitled to any other benefits as are applicable to regular ICAR employees.
- 09 He/She should give an undertaking in the attached proforma to the effect that patent rights in respect of the discoveries and inventions that he/she may make and the technical and engineering know-how of processes that he/she may develop during the course of his/her assignments with the ICAR shall vest with the ICAR.

Attested
[Signature]
[Signature]

20

30

10. The ICAR/ CPCRI will have no responsibility for his/her absorption in the Institute against regular posts, after his/her termination from the ad-hoc Scheme. An agreement to this effect in the prescribed form is to be executed by him/her before taking up the assignment.

In case Sd/- Kan Das

accepts the above terms and conditions of assignment he/she should communicate his/her acceptance to the undersigned immediately and report for duty on or before 26th December, 2001 failing which this offer will stand withdrawn/ cancelled automatically and no further correspondence in this regard will be entertained. **HUK**


(Co-Principal Investigator)
Mini Mission I

The undersigned is pleased to offer a temporary assignment to Sd/- Kan Das for the "Technical development of horticulture in the North Eastern States including to Sd/- Kan Das on the following terms and conditions:

1. Sd/- Kan Das

01. The offer is made on a temporary basis for a period of

02. 1 year

03. 1 year

04. 1 year

05. Grant of travelling allowance connected with the Scheme

Copy to:

01. The assignment shall be assigned to his/her without

02. The Director, CPCRI, Kasaragod

03. If 02/ The Principal Investigator, Mini Mission I, NRC for Orchids, Pakyang-737 106 (Sikkim)

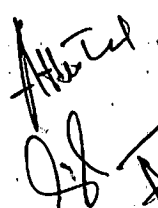
04. of this scheme, he/she will not be paid any amount due to him/her

05. he/she will be under the control of the Scheme

06. He/She should devote his/her time to the assignment and will not be allowed to accept any other appointment during

07. He/She will not be paid any other or house

08. He/She


Adm

21

ANNEXURE - B. D.

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
RESEARCH CENTRE, KAHIRUCHI-781017, ASSAM

F.No. 1(39)/2001-Estt.

Date: 06-12-2001

MEMORANDUM

The undersigned is pleased to offer a temporary assignment of "Skilled Labour" under the ad-hoc time bound Scheme entitled "Technology Mission for Integrated development of horticulture in North Eastern States including Sikkim (MINI- MISSION-I)" to Sri. Ranjit Chandra Das on the following terms and conditions:-

01 The offer is purely on temporary basis for a period upto 31st March, 2002 from the date of his/her joining the post and are liable to be terminated on completion of the term of engagement or on the date, the sanction of the scheme expires, whichever is earlier.

02 He/She will be paid a fixed fellowship of Rs.1,500/- pm without any allowances.

03 Grant of traveling allowances for journeys if required to be undertaken for the work connected with the Scheme will be regulated by the relevant rules in force at this Institute.

04 The assignment shall be terminated without notice at any time, if he/she is found to be negligent in his/her work or is guilty of unbecoming conduct.

05 If he/she leaves his/her assignment without permission of the Co-Principal Investigator of the scheme, he/she will not be paid any amount due to him/her by the Institute.

06 He/She will be under the administrative / Technical control of the Co-Principal Investigator of the Scheme.

07 He/She should devote his/her whole time to the assignment given to him/her, and he/she will not be allowed to accept nor hold another appointment during the term of assignment.

08 He/She will not be entitled to any other benefits as are applicable to regular ICAR employees.

09 He/She should give an undertaking in the attached proforma to the effect that patent rights in respect of the discoveries and inventions that he/she may make and the technical and engineering know-how of processes that he/she may develop during the course of his/her assignments with the ICAR shall vest with the ICAR.

Amal
J. S. Das


22

82

1: 2 :-

10 The ICAR/ CPCRI will have no responsibility for his/her absorption in the Institute against regular posts, after his/her termination from the ad-hoc Scheme. An agreement to this effect in the prescribed form is to be executed by him/her before taking up the assignment.

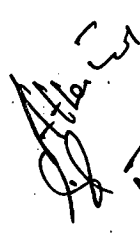
In case Sri Ranjith Chandra Das accepts the above terms and conditions of assignment he/she should communicated his/her acceptance to the undersigned immediately and report for duty on or before 25th December, 2001 failing which this offer will stand withdrawn/ cancelled automatically and no further correspondence in this regard will be entertained.


(Co-Principal Investigator)
Mini Mission I

To
✓
Sri Ranjith Chandra Das
Vill. N. D. 23/10/01 (A. 23/10/01)
PO. Azara
Gudabati - 17

Copy to:

- 01 The Director, CPCRI, Kasaragod
- 02 The Principal Investigator, Mini Mission I, NRC for Orchids, Pakyong-737 106 (Sikkim)


Amit

ANNEXURE - C

23

Office : 'RESEARCH' Guwahati-78
Fax : 0361-841785

Phone : 0361-840251



CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Research Centre, Kahikuchi-781 017, Guwahati, Assam



E.No.1(32)-2001-Estt.

Date : 07-02-2002

OFFICE ORDER

The Under signed is pleased to assign the temporary post of Skilled Labour to the following persons under the project entitled "Technology Mission for Integrated division of Horticulture in North Eastern States including Sikkim (Mini Mission II)" of CPCRI, Research Centre, Kahikuchi on a consolidated pay of Rs. 1,50,000 p.m with effect from the dates mentioned against each, on the terms and conditions stipulated in this Office Memorandum of even No. dated 06-12-2001, and accepted by them.

Sl.No	Name	Date of Joining
01	Md. Farid Ali	14-12-2001 (FN)
02	Mr. Juku Balaia	14-12-2001 (FN)
03	Mr. Ranjith Ch. Das	14-12-2001 (FN)
04	Mr. Kon Das	14-12-2001 (FN)
05	Mr. Bijoy Ch. Das	14-12-2001 (FN)
06	Mr. Bipul Baruah	14-12-2001 (FN)
07	Mr. Sanabai Ch. Das	14-12-2001 (FN)
08	Mr. Nagendra Medhi	14-12-2001 (FN)
09	Mr. Diganta Medhi	15-12-2001 (FN)
10	Mr. Sanil Kalita	15-12-2001 (FN)
11	Mr. Brijendra Kumar	15-12-2001 (FN)
12	Mr. Mahanta Rami Medhi	16-12-2001 (FN)
13	Mr. Jagan Balaia	16-12-2001 (FN)
14	Md. Nizum Ali	19-12-2001 (FN)
15	Mr. Jitendra Ch. Das	24-12-2001 (FN)

Their assignment is for a period upto 31-3-2002 or till the expiry of the sanction of the scheme whichever is earlier and their services shall be terminated on that date without further notice

(Signature)
(K. Ray)

Co-Principal Investigator

- Copy to:
- 01 The Individuals concerned by name
 - 02 The Director, CPCRI, Kaziranga
 - 03 The Co-Principal Investigator, Mini Mission II, NRC for Orchid, Pokyong, 737 106 (Sikkim)
 - 04 The St. Fin. & Accts. Officer, CPCRI, Kaziranga
 - 05 The Drawing & Disbursing Officer, CPCRI, RC, Kahikuchi

(Signature)
Lt. Banta

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

24
ANNEXURE - B4

ORDER SHEET

Original Application No: 236/03

Misc. Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: S. Das & ORS

Respondents: Not & ORS

Advocate for the Applicants: Mr. Asad Ahmed

Advocate for the Respondents: Case

Place of the Registry Date

Order of the Tribunal

18.11.2003

Present:

The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman
The Hon'ble Shri S.K.Naik Administrative Member.



Mr. S. Path, learned counsel on behalf of Mr. A. Ahmed, learned counsel for the applicant.

Mr. A. Deb Roy, learned Sr.C.O.S.C. on behalf of Mr. B.C. Pathak, learned Addl.C.O.S.C.

Memo No: _____

Dated: _____

Mr. A. Deb Roy, learned Sr.C.O.S.C. seeks on behalf of Mr. B.C. Pathak, learned Addl.C.O.S.C. and is allowed four weeks time to file reply. Two weeks time is allowed to the applicant thereafter for filing of rejoinder.

List the case on 13.1.2004 for further orders. Interim orders shall continue until further orders.

Copy for information and necessary action to: SD/VICE CHAIRMAN

SD/ MEMBER (A)

- (1) Mr. A. Ahmed, Advocate, CAT, Guwahati.
(2) Mr. A. Deb Roy, Sr. C.O.S.C., CAT, Guwahati.

19/11/03
Central Administrative Tribunal
Guwahati Bench, Guwahati

Attorney
for
S. Das

25

ANNEXURE - B

05

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 236/03

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: Das 2 ors

Respondants: Das 2 ors

Advocate for the Applicants: Mr. Asad Ahmed

Advocate for the Respondants: Asce

Order of the Tribunal



Present: The Hon'ble Mr. Justice R.K. Das
Vice-Chairman.

Heard Mr A.Ahmed, learned counsel for the applicant and Mr B.C.Pathak, learned counsel for the respondents.

Learned counsel for the applicant seeks to withdraw this application in order to file a representation for regularisation of services of the applicants before the appropriate authority.

The application stands dismissed & withdrawn.

Sd/- VICE CHAIRMAN

30/9/04
Section Officer (Adm)

Central Administrative Tribunal
Guwahati Bench, Guwahati

Handwritten signatures and initials at the bottom of the page.

To

The Director,
Central Plantation Crops Research
Institute Indian Council of Agricultural Research,
Kasaragod-671124, Kerala.

Sub: - Prayer for Grant of Temporary Status & Regularisation of the service of the
Petitioners and also for payment of Appropriate pay scale of Skilled Labour
w.e.f. the date of our joining in the said post.

Sir,

Most respectfully and humbly we beg to state the following few lines for your
sympathetic and early consideration of our genuine grievances.

1) That we undersigned are all local unemployed educated & economically most
backward youth. The undersigned Petitioners namely Shri Sonabar Das, Shri Kan Das,
Shri Jatin Chandra Das, Shri Bishnu Ram Medhi, Shri Tuku Baishya, Shri Tapan
Baishya and Shri Ranjit Chandra Das are belongs to Schedule Caste and Other
Backward Community and rest of the Petitioners belongs to General Caste.

2) That the Director, Central Plantation Crops Research (RC) Institute (Indian
Council of Agricultural Research), Kahikuchi, Guwahati-781017, Assam vide his
Memorandum No.F No.-1(39)/2001-Esstt dated 27-09-2001 called the Petitioners for
the interview to the post of Skilled Labour Temporary under the Office of the Co-
Principal Investigator, Mini Mission-1, Central Plantation Crops Research Institute
(RC), (Indian Council of Agricultural Research), Kahikuchi, Guwahati-781017, Assam
at the consolidated pay of Rs.1500/-(Rupees Fifteen Hundred) only per month under
Mini Mission-1. The Employment Officer, Employment Exchange, Guwahati-3,
sponsored our names. Accordingly we appeared in the said interview and we were
selected and appointed as Skilled Labour by the Respondents vide Office Memorandum
No.F No.1 (39)/2001-Esstt. Dated 06-12-2001. Now we are still working since 14-12-
2001 vide Office Order F No.1 (39)/2001-Esstt. Dated 07-02-2001. It is a fact that offer
of Appointment is made for a period up to 31st March 2002 from the date of joining of
the post and liable to terminate on completion of the term of engagement or on the date
of sanction of Scheme expired. But till now our engagement are going on. Moreover the
work and nature of our duty are permanent in nature. We are looking after 90 (Ninety)
Bighas of Agricultural land under the Central Plantation Crops Research Institute (RC),
(Indian Council of Agricultural Research), Kahikuchi, Guwahati-781017, Assam. The

Atul
26/12/01

27

37

said Agricultural Land cultivated Coconut trees, Betal-Nut trees, Cashew trees, Peppers and varieties of Vegetables etc. The said food and Vegetables products are used for research work and also for selling it to the local people by the Office Authority. Apart from normal work of Skilled Labour we are also entrusted to work as day & night watch and ward duty at Central Plantation Crops Research Institute (RC), (Indian Council of Agricultural Research), Kahikuchi, Guwahati-781017, Assam.

- 3) That the offer of engagement of us made by the Competent Authority expires on 31st March 2002. But the Authority without renewing the said offer of engagement, engaging us continuously without any notice or renewal of our appointment. We are on presuming that the Concerned Authority will regularize our engagement because the Authority has not terminated our service on 31st March 2002. As such we have not tried any other job. Now we are over aged for Government or Semi-Government and Private jobs. Moreover we are also deprived from legitimate pay scale of Skilled Labour and we are working in a very low pay scale of Rs.1500/-(Fifteen Hundred) only, which is contrary to the pay scale fixed by the Government of India for the Skilled Labour.
- 4) That in the year 2003 i.e. after about two years continuous service we have filed an Original Application No.236 of 2003 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for regularization of our service and also to release the regular appropriate pay scale of Skilled Labour w.e.f. date of joining. The Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati admitted the said Original Application and granted interim stay of not to terminate our service by the Competent Authority. The case was finally fixed for hearing on 29-09-2004. The learned counsel for us seeks to withdraw the said Original Application No.236 of 2003 in order to file a Representation for regularization of service of the Applicant before the Appropriate Authority. Accordingly we have filed this Representation before you for taking necessary steps & actions for regularization and absorption of us in any Offices under you in the Group-D posts.
- 5) That we have already served for a considerable long period under this Office and are now over aged for any Government, Semi Government and Private jobs. We have acquired a legal right for granting temporary status and regularization of our above said posts. We have been deprived from regular service benefits; pay scale, Dearness Allowances and even minimum pay scale are not granted to us. The Competent Authority have deprived us the minimum wages for Skilled Labours as fixed by the Ministry of Labour, Government of India. We were selected and appointed by the Competent Authority through regular interview and selection process. We are being

Attorney
J. L. Datta

28

38

local unemployed educated & economically backward youth as such the Competent Authority should engage us in a permanent manner by giving appropriate pay scale of Skilled Labour. There are many Group-D post are lying vacant under the Competent Authority. Recently in the year of 1999, 2002 and 2003 namely Shri Biman Das, Shri Purna Das and Shri Upen Ch. Das were retired from their service as Group-D staff. Shri Jamir Ali, Shri Purna Ram Das and many other permanent Group-D staff will also retire from service in the year 2005 and 2006 respectively. In the said posts the under signed Petitioners can also be absorbed.

6) That we are being poor persons and working under your Department very sincerely and without any blemish in our service. In future also we assure that we will serve this Department with the same sincerity and devotion to our work.

It is therefore, respectfully prayed that your honour may be please to take necessary and sympathetic view in this matter for absorption of undersigned Petitioners in your Department with appropriate pay scale of Skilled Labour as fixed by the Government of India and also may be pleased to pass an appropriate order within a reasonable time preferably within two months from the receive of this Representation.

Thanking you in anticipation.

Copy for Information and necessary action:

1. The Secretary, Government of India,
Ministry of Agriculture, Krishi Bhawan, New Delhi-1.
2. The Director General,
Indian Council of Agriculture
Research Krishi Bhawan, New Delhi-1.
3. The Director, Central Plantation Corps Research Institute, (RC)
(Indian Council of Agricultural Research) Kahikuchi,
Guwahati-781017.
4. The Co-Principal Investigator, Mini Mission-1,
Central Plantation Corps Research Institute, (RC)
(Indian Council of Agricultural Research) Kahikuchi,
Guwahati-781017.

Attest
[Signature]

[Signature]

29
39
Yours Faithfully

Sd/-

- 1) Shri Sonabar Das
- 2) Shri Kan Das
- 3) Shri Farid Ali
- 4) Shri Jiten Chandra Das
- 5) Shri Nizam Ali
- 6) Shri Bishnu Ram Medhi
- 7) Shri Brajen Sarmah
- 8) Shri Nagendra Medhi
- 9) Shri Bipul Baruah
- 10) Shri Shushil Kalita
- 11) Shri Tuku Baishya
- 12) Shri Tapan Baishya
- 13) Shri Ranjit Ch. Das
- 14) Shri Bijoy Ch. Das
- 15) Shri Diganta Medhi

Ata El
Sd
Rm

20, watch and ward duty at C.P.C.R.I. (RC), Kahikuchi, for the month of August, 2003.

Date	TIMINGS		TIMINGS		11.00 pm to 5.30 A.m
	8.00 am To 12.00 Noon & 2.00 To 6.00 pm	12.00 noon To 2.00pm & 5.00 To 11.00 pm	8.00pm To 2.30am	1.30am To 8.00am	
1-8-03 to 3-8-03	Farid Ali	Tuku Baishya	Zamiruddin Seikh	Puna Ram Das	Rupn Thapa
4-8-03 to 10-8-03	Ranjit Das	Kan Das	Ram Bahadur	Kameleswar Deka	Shankar Ram
11-8-03 to 17-8-03	Bijoy Das	Bipul Baruah	Rameswar Kaivarta	Tikaram Sarma	Kesoprasad Sharma
18-8-03 to 24-8-03	Sonabar Ch. Das	Nagen Medhi	Deben Ch. Das	Biren Ch. Das	Zamiruddin Sheikh
25-8-03 to 31-8-03	Diganta Medhi	Sushil Kalita	Keso Prasad Sarma	Shankar Ram	Puna Ram Das

Forwarded to the SIC
for approval

[Signature]
31/7

Attended
1/ Aug

[Signature]
Scientist-in-charge,
CPCRI, Kahikuchi

Scientist Incharge
C.P.C.R.I. Research Centre
Kahikuchi Guwahati-781017
(ASSAM)

[Signature]
Technical Officer(T-5), Farm,
CPCRI, Kahikuchi

31-

Roster of day and night watch and ward duty at C.P.C.R.I. (RC), Kahikuchi, for the month of September, 2003.

Date	TIMINGS		TIMINGS		
	8 am To 12 Noon & 2 To 6 pm	12 Noon To 2 pm & 5 To 11 pm	8 pm To 2.30 am	11 pm To 5.30 am	1.30 am To 8 am
1-9-03 to 7-9-03	Brojen Sharma	Bishnu R. Medhi	Tika Ram Sharma	Gopal Thapa	Kamaleswar Deka
8-9-03 to 14-9-03	Tapan Baishya	Nizam Ali	Rameswar Kaivorta	Zamiruddin Sheik	Puna Ram Das
15-9-03 to 21-9-03	Jiten Ch. Das	Farid Ali	Biren Ch. Das	Shankar Ram	Kesoprasad Sharma
22-9-03 to 28-9-03	Tuku Baishya	Ranjit Ch. Das	Rambahadur	Kamaleswar Deka	Gopal Thapa
29-9-03 to 5-10-03	Kan Das	Bijoy Ch. Das	Puna Ram Das	Zamiruddin Sheik	Shankar Ram

Forwarded to the SIC
for approval

Scientist in-charge

Technical Officer (T-5), Farm
CPCRI, Kahikuchi

1 1 APR 2005

गुवाहाटी बेंच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO.308/2004

Shri Sonabar Das & Others ... Applicants

-Vs-

Union of India & Others ... Respondents.

(Written statements filed by the Respondents No. 4, 5 and 6).

The written statements of the respondents are as follows:

1. That a copy of the O.A. No. 308/2004 (referred to as the "application") has been served in the respondents. The respondents have gone through the same and understood the contents thereof.
2. That the statements made in the application, which are not specifically admitted are hereby denied by the respondents.
3. That before traversing the various paragraphs of the application, the answering respondents gives a brief background of the facts and circumstances of the case as under:
 - (a) That the answering respondents, Indian Council of Agricultural Research, submitted a "Project Proposal" under the name of "Technology Mission for Integrated Horticulture Development in North East India-Mini Mission-I-Research". This project/

42
Filed by:
The Respondents
No. 4, 5 & 6
through -
Juli Gogoi
Advocate
Date: 11.4.2005

Scheme was a centrally sponsored Scheme. The Objectives of the Mini Mission-I were:

1. Production of nucleus /basic seed and planting material of horticultural crops.
2. Standardization of improved production technologies for horticultural crops.
3. Technology refinement and imparting of training to extension functionaries.

(b) That in the project proposal the programme Schedule was also drawn up and the duration of the Scheme/project was for 5 years starting from the year 2001-02. The respondent No.5 was included as one of the implementing authorities amongst others for implementation of the project. The sponsoring Ministry/ Department is the Ministry of Agriculture, Department of Agriculture and Co-operation. The Govt. of India, Ministry of Agriculture, Department of Agriculture and Co-operation (Horticulture Division) vide their letter No.40-2/2001-Hort.(iv) dated 10.5.2001 accorded the sanction to the project and the ICAR approved the Scheme vide letter F.No.15(27)/99-IA-V dated 1.11.2002 and 20.11.2002. This was conveyed by the Office Memo. No.NRCO/MM-I/2002-03 dated 12.12.2002. The Scheme has been accordingly sanctioned for a period of 1 year for the year 2002-2003 of the Xth Plan (2002-03) at a total cost of Rs.47.27 lakhs.

(c) By the said project proposal and the Office Memo dated 12.12.2002, the other terms and conditions including the staff (skilled labourers) was laid down. There were 15 Nos. of skilled labourers engaged at the rate of Rs.1,500/- per month. The applicants' names were sponsored by the Employment Exchange. The applicants have been called for interview along with other candidates sponsored by the employment exchange. In the call letters issued to them it was specifically stated that post of skilled labourer is temporary and having a consolidated pay of Rs.1,500/- per month. The applicants accepted the

terms and conditions stipulated in the offer of assignment and reported for duty as skilled labourers.

- (d) That in the offer of appointment it has been clearly indicated among others conditions that:
- (i) The offer is purely on temporary basis for a period upto 31st March, 2002 from the date of his/her joining the post and are liable to be terminated on completion of the term of engagement or on the date the sanction of the Scheme expires, whichever is earlier.
 - (ii) The skilled labourer will be paid a fixed fellowship of Rs.1,500/-per month without any allowance.
 - (iii) The skilled labourer will be under the administrative/technical control of the Co-Principal Investigator of the scheme,
 - (iv) The skilled labourer will not be entitled to any other benefits as are applicable to regular ICAR employees.
 - (v) The ICAR/CPCRC will have no responsibility for his /her absorption in the Institute against regular posts, after his/her termination from the adhoc scheme. The applicants accepted all the terms and conditions and accordingly they were engaged in the time bound scheme/project with effect from the dates as indicated in Annexure-C of the application.
- (e) That accordingly, the applicants were engaged as the project workers against the said project for the limited purpose and for the stipulated time bound scheme. The very same applicants apprehending termination, approached this Hon'ble Tribunal by filing an OA No.236/2003 raising the same issues that has been raised in this fresh OA No. 308/2004 between the same parties in this same Tribunal. The respondents filed their

written statements and contested the case. The matter was heard by this Hon'ble Tribunal on 29.9.2004 at length, when the counsel of the applicant made a prayer to allow him to withdraw the application so that the applicant may make some representation to the authorities concerned instead of dismissal of their application. This Hon'ble Tribunal was pleased to consider the prayer and allowed the application to be withdrawn and accordingly dismissed the same (as in Annexure- D & E in the application).

Now the applicants have filed the instant application once again raising the same issue between the same parties before this very same Hon'ble Tribunal.

4. That with regard to the statements made in **para 1** of the application, the answering respondents state that there is no cause of action to justify filing of the instant application as no accrued right has been violated by any action of the answering respondents.
5. That with regard to the statements made in **para 2 and 3** of the application, the answering respondents have no comment to offer.
6. That with regard to the statements made in **para 4.1 and 4.2**, the respondents state that in view of the facts of the case and the law regulating the adhoc temporary time bound posts in a project scheme, there is no cause of action that may justify any right for conferment of temporary status or regularization of the applicant in the scheme.
7. That with regard to the statements made in **para 4.3** of the application, the respondents have no comments to offer.
8. That with regard to the statements made in **para 4.4**, the respondents state that these being matter of records, nothing is

admitted which are not borne by such records. However, so far as the allegations that the applicants were allowed to continue beyond the stipulated period without any notice is baseless and it does not confer any right to the applicants being project workers at a fixed rate. In this connection it is pertinent to state that while the steps were being taken to disengagement the applicants on the completion of the project works, the applicant approached this Hon'ble Court and got the interim stay order and continued in engagement.

9. That with regard to the statements made in **para 4.6**, the respondents state that the applicants were given their assignments in the Mini Mission project at CPCRI Research Centre, Kahikuchi. The duties assigned to them were to assist the Research Associates, who are conducting research in field as well as laboratory. As the stray animals are often destroying the planting of experimental plots, the applicants were also assigned the watch and ward duties on rotation basis in the experimental plots which forms part and parcel of their assigned duties under the scheme.
10. That the statements made in **para 4.7** the respondents state that the applicants assignments were under a consolidated fixed amount and not on a time scale of pay. I reiterate and reassert the foregoing statements made in this affidavit and deny the correctness of the statements made in this para. The applicants are not entitled to any other service benefit other the terms and condition that were fixed in the offer of engagement. In this connection an agreement was entered into between the individual applicant and the department by which the condition of service is being regulated along with the terms and conditions laid down in the offer of engagement letter and not by any other service rules or conditions of service.

A copy of such agreement is annexed as **ANNEXURE-R1(series)**.

11. That with regard to the statements made in **para 4.8**, the respondents state that there is nothing to show as to how the respondents have meted out discriminatory treatment against the applicants. I reiterate the foregoing statements made in this affidavit and say that the applicants have no legal or any other right to claim equal pay for equal work doctrine.

12. That with regard to the statements made in **para 4.9**, the respondents state that the cases referred to by the applicants are different cases under different facts and circumstances. Those cases relates to casual/ daily labourers where as the applicants are skilled labourers engaged against a time bound project with the condition/ agreement that they may be terminated from engagement on certain fulfillment of condition or they may terminated with the closure of the project which ever is earlier. In this connection, the law is well settled in a plethora of decisions rendered by the Hon'ble Supreme Court. The Hon'ble Court has held that when the scheme of the project is specific and it is not of permanent nature, the employee cannot ask for regularization in service. It is also held that the persons engaged against the post created under a sponsored scheme can not be regularized in that service These cases are reported in **AIR 1992 SC 713 (Sandip Kumar -vs- State of Uttar Pradesh)** and **(1997)5 SCC 86 (Jawaharlal Nehru Krishi Viswa Vidyalaya-vs- Bal Kishan Soni)**. In similar situation, this Hon'ble Tribunal in OA No.298/2002, OA No.1591/98 (Ernakulam Bench), Industrial Tribunal in C.R No.91/1999 have held that employees engaged in project/scheme are not entitled to regularization in service. Hence, the contention of the applicants cannot sustain in law and the cases referred to have no application in the instant case. Therefore the application is liable to be dismissed.

The copies of the judgment in O.A No.298/02, OA No.1591/98 and CR No. 91/1999 are annexed as **ANNEXURE- R2, R3 and R4** respectively.

13. That with regard to the statements made in para 4.10, the answering respondents state that the averments are not correct and as stated above, the applicants have not acquired any right to claim regularization in any post in Group D. There are separate Recruitment Rules and Scheme for appointment /regularization in Group D post and these are not applicable to the applicants as stated hereinabove.
14. That with regard to the statements made in **para 4.11, 4.12, 4.13, 4.14 and 4.15**, the respondents state that the respondents have not done anything as illegal, malafide or in violation of any fundamental rights of the applicants or arbitrarily as alleged by the applicants. In this connection, I say that the application has been filed by mis-conception of the provisions of law and the service conditions by which the applicants are regulated. There is absolutely no legally valid reason for filing this application and therefore the same is liable to be dismissed with costs.
15. That with regard to the statements made in **para 5.1 to 5.8** showing the grounds the respondents state that the grounds shown by the applicants are not at all tenable in law and therefore the application is liable to be dismissed with cost as devoid of any merit.
16. That with regard to the statements made in **para 6 and 7** the respondents have no comment to offer with regard to the statements made in para 6. But the respondents state that the applicants have suppressed the facts that they approached this Hon'ble Tribunal by filing the OA NO. 236/2003 which was dismissed on withdrawal. This does not mean that the applicant did not file any application previously. This application is liable to be dismissed on this count alone for suppression of material fact and for making a deliberate false statement on declaration.

17. That with regard to the statements made in **para 8.1, 8.2, 8.3 and 9.1** the respondents state that under the facts and circumstances of the case, provisions of law as discussed above, the applicants are not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost as devoid of any merit.

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

VERIFICATION

I, Shri **A. K. Ray**, at present working as **CO.PI (Minimission -1) Scheme, CPRI (Re) Kohibuchi**, who is taking steps in the case and being competent and duly authorized, do hereby solemnly affirm and state that the statements made in para 9, 11, 13, 14, 15 and 16 are true to my knowledge and belief, those made in para 10 and 12 - being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this **11th** day of **April**, 2005 at **Guwahati**.

DEPONENT

Co-Principal Investigator (Minimission -1)
CPRI, Kohibuchi
Guwahati - 781017

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Shri. Jintendra Ch. Das, Vill. - Maba,
P.O. - Azaka, Gunawati - J.F.
who has been offered the temporary assignment of Skilled
Labour..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated develop-
ment of horticulture in North Eastern States including Sikkim
at C.P.C.R.I., Kohikuchi..... (ICAR) vide memorandum
No. F. 1(39)/2001-Ext. dated 06-12-2001 do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kohikuchi this 24..... (date),
12..... (month), 2001..... (year)

Signature : Shri Jintendra Das

Name : Jintendra Ch. Das

Designation : Skilled Labour

--000--

Pnn/041199

Certified to be true Copy.
Juli Gogoi
Advocate

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Mohd. Nizam Ali, Vill + P.O. :- Azara,
... Guntur Dist. 17.

who has been offered the temporary assignment of Skilled
labour

under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated Development
of Horticulture in North-Eastern States including Sikkim ...

at C.P.C.R.I., Karikechi (ICAR) vide memorandum
No. F.1 (39) / 2001-Estt. dated 06.12.2001.. do hereby

undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Karikechi
Dated at Kasaragod this 19 (date),
12 (month), 2001 (year)

Signature : Md. Nizam Ali

Name : Mohd. Nizam Ali

Designation : Skilled labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Bishnu Ram Medhi, vill + P.O. Azara,
... Gauratali-17...

who, has been offered the temporary assignment of Skilled
labour..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated development
of horticulture in North-Eastern including Sikkim.....
at C.P.C.R.I., Kohikuchi..... (ICAR) vide memorandum
No. F.1(39)/2001-Estt...... dated 06.12.2001... do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at ^{Kohikuchi} Kasaragod this 18..... (date),
12..... (month), 2001..... (year)

Signature : Bishnu Ram Medhi
Name : Bishnu Ram Medhi
Designation : Skilled labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Tapan Barishya, c/o. Vmr. Kt. Barishya
Villt P.O. Ageliga, P.S. Azwa, Kamrup
who has been offered the temporary assignment of Skilled
labour..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated Development
of horticulture in North-Eastern States including Sikkim..
at C.P.C.R.I, Kabikuchi..... (ICAR) vide memorandum
No. F. 1(39)/2001-Estt..... dated 26.12.2001.. do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kabikuchi this 18..... (date),
12..... (month), 2001..... (year)

Signature : Tapan Barishya

Name : Tapan Barishya

Designation : Skilled labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Brayan Sarma, Vill+P.O. Mainguan
via:- Palashbari, Dist:- Kamrup, Assam
who has been offered the temporary assignment of Skilled
Labour..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated Development
of Horticulture in North-Eastern States including Sikkim..
at C.P.C.R.I, Kalyanpur..... (ICAR) vide memorandum
No.F.1(33)/2001-Estt:..... dated 06-12-2001 do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at ^{Kalyanpur} ~~Kasaragod~~ this 15.....(date),
12.....(month), 2001.....(year)

Signature : Brayan Sarma

Name : Brayan Sarma

Designation : Skilled Labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Sushil Kalita, Vill. Post. Azara
(Kalitapana), Guwahati-17
who has been offered the temporary assignment of Skilled
Labour under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated development
of horticulture in North Eastern States including Sikkim...
at C.P.C.R.I., Kohikuchi.....(ICAR) vide memorandum
No. F.1(39)/2001-Estt...... dated 26.12.2001... do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kasaragod this 15.....(date),
12.....(month), 2001.....(year)

Signature : Sushil Kalita

Name : Sushil Kalita

Designation : Skilled Labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE(ICAR)

01 I, Diganta Medhi, Vill- Azara, Medhigam
P.O- AZARA, Guwahati-17.....
who has been offered the temporary assignment of Skilled
Labour..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated development
of horticulture in North-Eastern states including Sikkim..
at C.P.C.R., Kohikuchi.....(ICAR) vide memorandum
No.F.1(39)/2001-Estt..... dated 06-12-2001... do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at ^{Kohikuchi} Kasaragod this 15.....(date),
12.....(month), 2001.....(year)

Signature : Sri Diganta Medhi
Name : Diganta Medhi
Designation : Skilled labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Nagendra Medhi, Vill. + P.O. Azaka...
Gummati-17.....

who has been offered the temporary assignment of Skilled Labour
..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated development
of horticulture in North Eastern States including Sikkim.....
at C.P.C.R.I., R.R., Kalimnagar..... (ICAR) vide memorandum
No. F.1(39)/2001-Estt...... dated 06-12-2001.... do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kasaragod this 11..... (date),
12..... (month), 2001..... (year)

Signature : Smt Nagendra Medhi
Name : Nagendra Medhi
Designation : Skilled Labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE(ICAR)

01 I, .. Shri. Sonabar. ch. Das, c/o. Bipin ch. Das
Vill. P.O. Azara, Gurusahi-17
who has been offered the temporary assignment of "Skilled
Labour" under the ad-hoc time bound scheme/
project entitled "Technology Mission for integrated development
of horticulture in North Eastern States (MINI-MISSION-I)"
at Kahikuchi, C.P.C.R.I. (ICAR) vide memorandum
No.F. 1(39)/2001-Estt. dated 06-12-2001 / do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kasaragod this .. 14 (date),
..... 12 (month), 2001 (year)

Signature v. Shri Sonabar ch. Das

Name : Sonabar ch. Das

Designation : Skilled Labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Bipul Baruah, Vill. & P.O. Azara
Guvahati-17.....

who has been offered the temporary assignment of Skilled
Labour..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for integrated develop-
ment of horticulture in North-Eastern States including Sikkim
at ...C.P.C.R.I., Kharikuchi..... (ICAR) vide memorandum
No. F.1(32)/2001-Estt..... dated 06-12-2001 do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kasaragod this 14.....(date),
12.....(month), 2001.....(year)

Signature

Bipul Baruah

Name

Bipul Baruah

Designation

Skilled labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Bijoy Ch. Das, c/o. Chandradhan Das
vill. Mirzapur, P.S. T.P.O. Azara, Kamrup
who has been offered the temporary assignment of Skilled
Labourer..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated develop-
ment of horticulture in North Eastern States including Sikkim
at C.P.C.R.I., Kabi Kinchi..... (ICAR) vide memorandum
No. F.1(30)/2001-Estt...... dated 06.12.2001 do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kasaragod this 14..... (date),
12..... (month), 2001..... (year)

Signature : Sri Bijoy Ch. Das

Name : Bijoy Ch. Das

Designation : Skilled Labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Kan. Das, C/o, Hiran. Das, Kari Kuchi
.P.O.-A.3ara, ... Kamrup...
who has been offered the temporary assignment of Skilled
Labour..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated Development
of Agriculture in North-Eastern States Including Sikkim.....
at C.P.C.R.I., Kari Kuchi..... (ICAR) vide memorandum
No.F. 1(39)/2001 Estt..... dated 06.12.2001.. do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kasaragod this 14.....(date),
12.....(month), 2001.....(year)

Signature : Kan Das
Name : Kan Das
Designation : Skilled Labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Mohd. Farid Ali
.....
who has been offered the temporary assignment of
Skilled Labour..... under the ad-hoc time bound scheme/
project entitled "Mini Mission - I.....
.....
at CPCRI, RC, Kohikuchi..... (ICAR) vide memorandum
No.F. (39) 2001-ES II..... dated 6/2/01..... do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at ^{Kohikuchi} Kasaragod this 13/15..... (date),
December..... (month), 2001..... (year)

Signature : Farid Ali
Name : Md Farid Ali
Designation : Skilled Labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, Tuku Baishya
.....
who has been offered the temporary assignment of Skilled
Labour..... under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated
development of horticulture in North-Eastern States...
at C.P.C.R.I., Kalyankuch..... (ICAR) vide memorandum
No.F.1(32)/2001-ES.1.1..... dated 06-12-2001... do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kasaragod this 14..... (date),
12..... (month), 2001..... (year)

Signature : Sri Tuku Baishya
Name : Tuku Baishya
Designation : Skilled Labour

--000--

FORM OF AGREEMENT TO BE EXECUTED BY THE PERSONNEL
ENGAGED UNDER AD-HOC RESEARCH SCHEMES/PROJECTS UNDER
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE (ICAR)

01 I, ..Sri..Ranjit..Chandra..Das.....
.....
who has been offered the temporary assignment of
"Skilled Labour" under the ad-hoc time bound scheme/
project entitled "Technology Mission for Integrated
development of Horticulture in NE states including Sikkim
at ..KAHIKUCHI..... (ICAR) vide memorandum
No.F. 1.(37)/2001-F&H.. dated 06/12/2001. do hereby
undertake that I will not claim for continued employment or
permanent absorption against any regular post/appointment in
the establishment of this Institute under ICAR, during my
tenure of assignment or after the termination from the
assignment under the Scheme/Project.

02 I am fully aware that my services are purely on
ad-hoc/temporary basis and that shall be terminated on comple-
tion of the term of engagement or on the date, the sanction of
the scheme expires, whichever is earlier.

Dated at Kasaragod this 14-12-2001 (date),
....December..... (month),2001..... (year)

Signature : Dr.

Name : Sri Ranjit ch. D.

Designation : Skilled Labour

--000--

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 298 of 2002.

Date of Order : This the 8th Day of August, 2003.

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

THE HON'BLE MR N.D.DAYAL, ADMINISTRATIVE MEMBER.

1. Sri Krishna Kanta Roy
S/o Late Priya Nath Roy
Vill: Botaghuli, P.O:- Panjabari
Guwahati - 781 037.
2. Sri Nripen Kakati
S/o Late Rajen Kakati
Vill. & P.O:- Pub Borka
District:- Kamrup, Assam.
3. Sri Jatin Chandra Das
S/o Late Joy Ram Das
Vill: & P.O:- Pandu Bazar
Guwahati - 781012.
District: Kamrup, Assam.
4. Sri Munindra Chandra Das
S/o Late Chuni Ram Das
Vill: Deharkuchi, P.O:- Shanikuchi
District:- Nalbari, Assam.
5. Sri Basanta Kumar Boro
S/o Late Bela Ram Boro
Vill: Bokrapara, Khanapara
District: Kamrup, Guwahati- 781 022.
6. Narendra Nath Sarma
S/o Late Rama Nath Sarma
P.O. & Vill:- Bongshar
District:- Kamrup, Assam.
7. Sri Bongshidhar Bayan
S/o Late Laghana Ram Bayan
Vill: & P.O:- Mugdi
District:- Nalbari, Assam.
8. Sri Puna Ram Murari
S/o Late Vhenda Ram Murari
Vill:- Tangabari Kalaigaon
P.O: Tangabari
District: Darrang, Assam.
9. Sri Sankar Basfore
S/o Late Bhuzan Basfore
Vill: & P.O: Kamlal
District: Darbhanga, Bihar.
10. Sri Nayan Baba Singh
S/o Late Hera Singh
Vill: & P.O:- Kamranga
District:- Cachar, Assam.
11. Sri Ramesh Chandra Daimary
S/o Late Tarani Daimary
Vill:- Lahoripar, P.O:- Rupohi
District: Barpeta, Assam.

All the applicants have been working under the Office of the Commissioner (Border), Govt. of India, Ministry of Home Affairs, Bhangagarh, Guwahati-781005. . . . Applicant.

Certified to be true Copy.

Contd./2

Juli Gogoi
Advocate

By Sr. Advocate Mr.D.C.Mahanta, Mr.B.Buragohain & Mr.R.C. Borpatragohain.

- Versus -

1. Union of India
Represented by the Joint Secretary
Government of India
(15-11 & BM) Ministry of Home Affairs
North Block, New Delhi - 110 001.
2. The Desk Officer (B.F.-Desk)
Govt. of India, M.H.A., North Block
New Delhi.
3. The Commissioner (Border)
Government of India
Ministry of Home Affairs, Bhangagarh
Guwahati - 5.
4. The Administrative Officer
Office of the Commissioner (Border)
Govt. of India, Ministry of Home Affairs
Bhangagarh, Guwahati - 781 005. . . . Respondents.

O R D E R

CHOWDHURY, J.(V.C.):

The applicants are eleven in number espousing a common cause. Considering the common interest in the matter and the nature of the reliefs prayed for, leave was granted to the applicants to present their grievances by this application.

1. The applicants are working in the office of the Commissioner (Border) Govt. of India, Ministry of Home Affairs, Bhangagarh, Guwahati i.e. respondent No.3. The office in question, was set up for the construction of Indo-Bangladesh border road and fencing. Pursuant to the above decision the applicants were appointed under the respondents in various posts like UDC, LDC, Peon, Chowkidar, Daftry, Safaiwala and Driver (Group 'C' & 'D') respectively ⁱⁿ in the year 1984. These persons, since then, are working with the best of their abilities. The applicant No.1 was appointed as LDC in a purely temporary capacity w.e.f.30.3.1985 vide order dated 10.4.1985 and his service was extended upto 31.3.2007 vide order dated 23.8.2001. The applicant No.2 was appointed as Peon on temporary basis

Contd./3

6X

w.e.f.16.10.1984. By order dated 2.6.1986 he was allowed to officiate as LDC for a period of one year. Thereafter his service was extended upto 31.3.2007 vide order dated 23.8.2001. The applicant No.3 was appointed as Peon w.e.f.21.1.1985 in temporary capacity. Thereafter he was promoted to officiate as LDC and UDC by order dated 16.10.2001. Similarly, the other applicants were appointed in Group-'D' as Peon, Driver, Safaiwala and Chowkidar. The applicant No.10 was appointed as Chowkidar on 21.11.1986, and he was promoted to the post of LDC w.e.f.16.10.2001. The thematic song of this O.A. is for regularisation of the services of the applicants. In support of their contention the applicants referred to the communication sent by the Administrative Officer, Office of the Commissioner (Border) addressed to the Desk Officer (BF-Desk), Government of India for regularisation of their service. By the aforesaid letter the Administrative Officer indicated about the anxiety of the fourteen nos. of adhoc staff. ^{By the said communication} it was also requested in the event of winding up of the office on completion of the work to initiate absorption of these staff against regular posts in other offices of the Ministry of Home Affairs. The applicants also referred to the communication sent by the Commissioner (Border) addressed to the Joint Secretary (NE), Ministry of Home Affairs. The full text of the communication is reproduced below:-

"No.14013/29(00)93-CB Dated: November 13, 2000

To

The Joint Secretary(NE)
Ministry of Home Affairs
North Block
New Delhi- 100 001.

Sub:- Regularisation of services of temporary staff of the Office of the Commissioner (Border), Ministry of Home Affairs, Guwahati.

Sir,

I am to state that the office of the Commissioner (border) has 14 nos. of directly recruited Group-C and Group-D staff appointed temporarily in the year 1985 at the time of creation of Office on the basis of the names

Contd./4

sponsored by the Employment Exchange, Guwahati. These staff continue to remain temporary even after completion of 14/15 years of service and there is a strong resentment among the staff for non-declaring their services to enable them to get promotion and other benefits under ACP scheme. The matter was discussed in the 34th HLEC meeting at New Delhi and on the advice of the HLEC a detailed note along with bio-data and service particulars of these staff were forwarded to the Min. of Home Affairs, New Delhi for taking necessary action. Recently, the Govt. has approved the additional work for construction of IBB road and fence and as such there is a likelihood of the office being continue for another 8 to 10 years.

It is, therefore, requested that steps may be taken for regularisation of the services of the temporary staff of this office an early date.

Yours faithfully,

Commissioner (Border)"

In response to the aforementioned communication Govt. of India by letter No.1/1/95-BF dated 24/28.11.2000 intimated as to the proposal for continuation of the 29 posts in the Office of the Commissioner (Border) including the 14 Group 'C' & 'D' staffs, beyond February, 2001 to March 2007 was referred to the Finance Commission. By the said communication the Govt. of India informed that the Office of the Commissioner (Border) was created temporarily for supervising the Indo-Bangladesh Border Roads and Fence Construction Project Work, which was scheduled to be completed by March, 2007, therefore, it would not be possible to declare the services of the 14 Group 'C' & 'D' temporary staff as parmanent. These applicants filed representation before the authority for their regularisation and finally knocked the door of the Tribunal for redressal of their grievances.

2. The respondents submitted its written statement. In the written statement the respondents asserted that the Office of the Commissioner (Border) was set up in May, 1984 to liaise with the various construction agencies and the State Government for the purpose of construction of

Contd./5

Indo-Bangladesh border road and fencing in Assam, Meghalaya, Mizoram, Tripura and West Bengal and it was to be wound up after the project was over. It was asserted that the office was a temporary one and all the posts were manned by deputationists from other offices except for 15 nos. of Group 'C' and 'D' staff who were directly recruited on purely temporary basis at the time of setting up the through Employment Exchange, Guwahati. The term of appointment of the applicants itself indicated about the temporary nature of the posts. Those posts were created on temporary basis and were extended from time to time. It was stated in the written statement that the first phase of Indo-Bangladesh Border works is nearing completion and Govt. of India approved additional work for construction of Indo-Bangladesh Border road and fence with the time frame of 2001-2007. In view of the nature of the appointments and character of the project, the respondents stated that the services of the applicants as well as the posts would come to an end alongwith the termination of the Scheme.

3. We have heard Mr.D.C.Mahanta, learned Sr. counsel for the applicants assisted by Mr. R.C.Borpatragohain, learned counsel and also Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents at length. Mr.Mahanta referring to the Constitutional Scheme of rendering justice - social, political and economy, contended that there was no justifiable ground on the part of the respondents in not taking any positive steps for regularisation of the services of the applicants. The learned Sr.counsel in support of his contention, also referred to various decisions rendered by the Supreme Court to humanise justice. Mr. B. C. Pathak, learned Addl.C.G.S.C did not dispute the legal policies for rendering justice and equity to all concerned. Mr.Pathak however, referred to the

ground realities and submitted that the applicants were appointed purely on temporary basis against project work. The posts are inextricably connected with the Scheme and since the project is temporary, question of creating permanent posts and for that purpose regularisation of services of the applicants does not arise, contended Mr.B.C.Pathak.

4. From the conspectus the following facts emerges:

The ten applicants were appointed during the period from 1.10.1984 to 24.11.1986. The applicant No.8 Sri Puna Ram Murari was appointed on 28.4.1987. The applicant Nos.7, 8 and 10 are ex-Home Guard personnels. Their recruitments were made through Employment Exchange. The persons were recruited for the task undertaken by the Govt. of India for the purpose of construction of Indo-Bangladesh border road and fencing in Assam, Meghalaya, Mizoram, Tripura and West Bengal. The Office of the Commissioner (Border) under Ministry of Home Affairs that was set up in May, 1984 is a temporary one created for the purpose to complete ^{the} mission undertaken. Materials indicated that the Office is a temporary one and the posts were manned by deputationists from other Offices save and except 15 nos. of Grade 'C' & 'D' staffs who were directly recruited through Employment Exchange. The posts were created on temporary basis and extended from year to year. Some of the applicants were given the benefits of promotion on temporary basis with the condition that the promotion would not bestow any right on them to claim regular appointment in the original temporary grade posts. The objective behind ^{is to} execute the construction of Indo-Bangladesh border road and fencing in the five border States. It thus appears that the appointments made were for the purpose of completing the project/scheme. Their appointments are therefore co-terminous of the Scheme itself. The objective of the

project was to meet the requirement. The appointments of the applicants shall continue with the project and the duration is to come to an end with the end of the project on fulfillment of the need.

5. On consideration of all the aspects of the matter, it would not be appropriate for us to issue direction on the respondents as prayed for in aid of Section 19 of the Administrative Tribunals Act, 1985 for absorbing the applicants. Any such direction will be contrary to this Scheme as well as the legal policies laid down by the Supreme Court consistently in this regard right from *Jawaharlal Nehru Krishi Vishwa Vidyalaya vs. Bal Kishan Soni* (1997) 5 SCC 86 to *S.M. Nilajkar vs. Telecom, District Manager, Karnataka* (2003) 4 SCC 27; *Surendra Kumar Sharma vs. Vikas Adhikary and Another* 2003 SCC (L&S) 600 and *MD, U.P. Land Development Corporation and Another vs. Amar Singh and Others* 2003 SCC (L&S) 690.

6. Though we refrain from making any direction on the authority for regularisation of the services of the applicants, we feel it necessary to express our view that the case in hand, deserves consideration for keeping them in employment. We have said so in consideration of the basic foundation of legal policy which is to provide benefit and well being of the denizen - "salus populi est suprema lake". The cardinal objective of legal policy is to render justice, equity and fair play. Our Republican Constitution does not countenance to do injustice. It is the basic policy of the consideration that law should afford equal direction for all signifying in the words of Prof. R. Dworkin - "equal concern and respect". There cannot be two opinions that law should be just. The Court or Tribunal is to assure that there is no failure of justice.

Considering all these aspects of the matter we leave the matter on the respondents to take care of the

: 8 :

situation. We hope and trust that the authority will continue to take the same care as it bestowed already on these persons for keeping the pot boiling. The Scheme is likely to be completed by 2007. Before drawing of the curtain and things fall apart, the respondents are to explore all possible measures to mitigate the situation with a healing touch either by devising a Scheme or other ^{suitable arrangement} as it deem fit and proper. With these observations we close the proceeding. The application thus stands disposed of.

3

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

Sd/ VICE-CHAIRMAN
Sd/ MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

ANNEXURE: R3

O.A. No.1591/98

Friday, this the 23rd day of April, 1999.

CORAM:

HON'BLE MR RK AHOOJA, ADMINISTRATIVE MEMBER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

1. Rachel Samuel,
W/o. John Varghese,
Research Associate,
Central Plantation Crops Research Institute,
Regional Station, Kyamkulam.
2. P.R. Lekha Kumari,
W/o. Prathapachandran Pillai.P.,
Research Associate,
Central Plantation Crops Research Institute,
Regional Station,
Kayamkulam.
3. Bindu .S. Menon,
W/o. K.M. Ravindranath,
Research Associate,
Central Plantation Crops Research Institute,
Regional Station,
Kayamkulam.

...Applicants

By Advocate Mr. P.V. Mohanan

Vs.

1. The Director,
Central Plantation Crops Research Institute,
Kasaragod.
2. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.

...Respondents

By Advocate Mr. C.N. Radhakrishnan

The application having been heard on 5.3.99, the
Tribunal on 23.4.99 delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

Certified to be true Copy.
Jeele Gogoi,
Advocate

The applicants seek the following reliefs:

- (1) To call for the records leading to
Annexure A-14 and set aside the same.



- (iii) To stay the termination of the service of the applicants as Research Associates on 28.11.1998 or on the dates on which the scheme terminates."

2. Applicants say that they were appointed under the scheme of AP Cess Fund and USIF Research Project. At the time of commencement of the project and appointment of the applicants in that project, the Director of Central Plantation Crops Research Institute entered into an agreement with the Embassy of United States of America agreeing to absorb in the event the USIF project ceased to function. The said agreement is in the custody of the first respondent and the applicants with earnest efforts made could not obtain a copy of the same. The scheme in which the applicants are working terminates on 29.11.1998 consequent to which the service of the applicants will also be terminated.

3. Learned counsel appearing for the respondents vehemently argued that this O.A. is liable to be dismissed at the threshold.

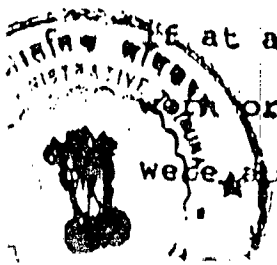
4. The case of the applicants is built upon an alleged agreement executed between the Director of the Central Plantation Crops Research Institute and the Embassy of U.S.A. whereby it was agreed to absorb the applicants in the event of termination of the scheme. Apart from the applicants' claim that there is an agreement agreeing to absorb them on termination of the scheme in the Institute, no details of the agreement have been mentioned in the O.A. For non-mention of the details, the applicants say that the agreement, is in the custody of the first respondent and in spite of best efforts made,



uld not get a copy of the same. -34

Learned counsel appearing for the respondents submitted that there is no such agreement executed as stated by the applicants. Learned counsel appearing for the respondents made available for our perusal a letter from James H. Thomas, Director for U.S. Department of Agriculture addressed to the first respondent dated April 2, 1993 containing a copy of the project proposal. It says that the total amount obligated by the United States Department of Agriculture for this project shall not exceed 13,62,400 Indian Rupees during a period not to exceed three (3) years. In the project report, it is specifically stated that the duration of the project is three years. It is further specified that this scheme cannot be combined with another scheme financed entirely by the Central/State Government/University or private institution for their own funds, not financed by or submitted to I.C.A.R and the Research Associates will be employed on a co-terminating basis with the scheme. (Emphasis supplied).

6. All the three applicants were appointed provisionally to temporary posts of Research Associates in the project. The first applicant was offered temporary post of Research Associate under the project as per A-1 dated 22.11.93 on the terms and conditions laid down therein. The first condition is that the post is temporary for a period of three years. The fourth condition is that the appointment may be terminated on completion of the term of appointment or on the date the sanction of the scheme expires, whichever is earlier. The fifth condition is that the appointment may also be terminated without notice, at any time, the incumbent is found to be negligent in her work or is guilty of unbecoming conduct. Applicants 1 and 3 were appointed as per A-2 order dated 18.1.94 on acceptance



of the scheme expires, whichever is earlier and their service shall be terminated on that date without further notice. No

7. The second applicant was appointed as per A-6 dated 18.1.96 as Research Associate on a temporary basis on the terms and conditions stipulated in O.M. dated 4.12.95. The said O.M. mentioned in A-6, is not made available. From A-2 and A-6, it is clearly seen that the appointment is only temporary and will be terminated on completion of the term of appointment or the date on which sanction of the scheme expires, whichever is earlier. A-1, A-2 and A-6 are in conformity with what is contained in the project proposal that the Research Associates will be employed on a co-termination basis with the scheme.

8. Apart from the bald averment that an agreement was entered into between the first respondent and the Embassy of U.S.A., there is nothing to show that any such agreement was entered into.

9. Even assuming there is an agreement as alleged by the applicants, what is the position? An agreement enforceable by law is a contract. It is well accepted principle that a stranger to a contract, as a general rule, cannot sue upon the contract. It is true that there are certain exceptions recognised. There is no case for the applicants that the exceptions apply here. That being the position, the applicants being strangers to the contract, they cannot sue upon the



Applicants have also raised a ground that the impugned order A-14 is barred by estoppel. The rule of estoppel depends for its application on certain questions of fact. It should, therefore, be specifically pleaded. Where estoppel is not specifically pleaded, a party cannot be permitted to rely upon. To sustain the plea of estoppel, which is a mixed question of law and fact, there should be a distinct pleading standing the facts on which an estoppel can be founded. There is no distinct or specific pleading standing on facts in the O.A. In the absence of such pleading, the contention on the point of estoppel cannot be gone into.

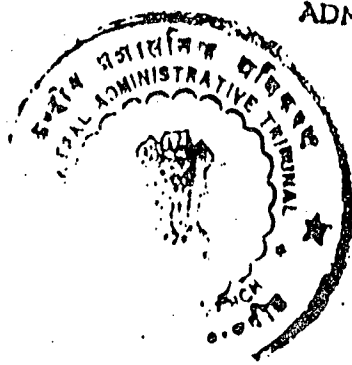
11. We do not find any ground, much less any good ground to admit the Original Application.

12. Accordingly, the Original Application is dismissed.
No costs.

Dated the 23rd day of April, 1939.

Sd/-
A.M. SIVADAS
JUDICIAL MEMBER

Sd/-
R.K. ANJOJA
ADMINISTRATIVE MEMBER





सत्यमेव जयते

BEFORE THE
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL - CUM - LABOUR COURT

"Shram Sadan",
G.G. Palya, Tumkur Road,
Yeshwantpur, Bangalore - 560 022.

DATED : 12th MARCH 2003
PRESENT : Shri V.N.KULKARNI
Presiding Officer

C.R. No. 91/1999

I Party

Sh Ananda,
S/o S. Sanjeeva,
Kudukorigudda,
Kankandy Post,
MANGALORE - 575 002.

II Party

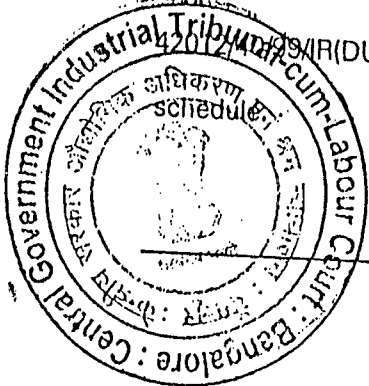
The Director,
Central Plantation Crops Research
Institute,
Kundlu P O.,
KASARGOD - 671 124.

Appearances

I Party : Ramesh Upadhayay & S N Bhat
Advocates
II Party : S V Shastri
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-42012/IR(DU) dated 27.07.1999 for adjudication on the following



Ananda vs. CPCRI

Certified to be true Copy.
Juli Gogoi
Advocate

THE SCHEDULE

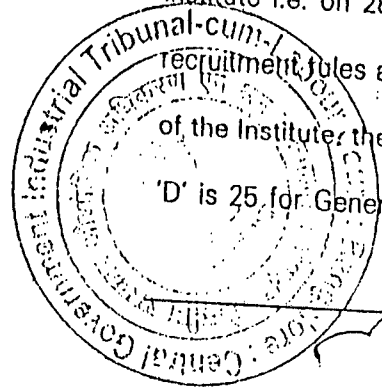
"Whether the action of the management of Central Plantation Crops Research Institute (Indian Council of Agricultural Research), Kasargod, Kerala in not considering the case of Sri Ananda, Ex.climber for reinstatement and regular employment on the plea that he is overaged is legal & justified? If not, to what relief the said workman is entitled?"

2. I party workman was working with the Management. He was not reinstated and was not taken as Regular Employee and therefore Industrial Dispute is raised.
3. Parties appeared and filed claim statement and counter respectively.
4. The case of the workman in brief can be narrated as under:
BRIEF HISTORY
5. I party was appointed as Climber on consolidated pay of Rs. 1,100.00 per month from 24.09.1992 at CPCRI SEED FARM at Kidu, Dakshina Kannada. He has been continuously working as a Climber. There were no complaints against him. He was terminated by an order dated 28.02.1994 which is not correct. Some other 7 employees were also terminated. It is his further grievance that subsequently except him all other employees service whose services were terminated along with him were re-appointed and they are working. I party has been attending the Regional Station and requesting for reinstatement but he was asked to wait and ultimately he has not been reinstated. He was sponsored by the Employment exchange and the Management appointed the workman as Climber with effect from 24.09.1992. It is his further case that while terminated Mandatory requirements of Industrial Disputes Act 1947 are not complied with. I party for these reasons and some other reasons has prayed to pass award in his favour.

6. As against this, the case of the Management in brief is as under:

7. It is the case of the Management that Central Plantation Crops Research Institute (CPRCRI) is an Institution functioning under Indian Council of Agricultural Research (ICAR), a Registered Society under the Societies Registration Act 1860 and fully financed by the Government of India, Ministry of Agriculture, conducting research on Plantation Crops. Regarding its functioning details are given.

8. It is the further case of the Management that the workman was appointed under a Adhoc scheme entitled 'Production of genetically superior high yielding planting materials of arecanut' and the appointment was purely temporary. He was appointed through Employment exchange along with 7 others. This workman and others worked till the termination of the period of scheme. Consequently upon the expiry of the aforesaid scheme the services of workmen came to an end. This was as per the terms and conditions of the appointment order itself. It is the further case of the Management that some others were regularly appointed except this workman. They were appointed considering their experience and they were earlier sponsored by the Employment exchange and they were called as fresh nominees and were selected under Group 'D' regular posts of Climber-cum-Mazdoor in 1994. It is the further case of the Management that after a lapse of 4 years and 8 months of the termination of the said ad-hoc scheme, the workman represented the Institute i.e. on 28.10.1998 to give him regular appointment. But as per the recruitment rules applicable to Central Government Employees and employees of the Institute, the age limit for appointment against the regular post of Group 'D' is 25 for General, 28 for OBC and 30 for SC/ST. The date of birth of the



applicant is 16.05.1965, he has crossed the age limit of 30 years and he is not eligible for regular appointment.

9. It is further said that the Management does not come under the Industrial Dispute Act. Management for these reasons and some other reasons has prayed to reject the reference.

10. It is seen from the records that the Management examined one witness MW 1 and closed the case. On behalf of Management number of documents were marked.

11. Against this, the workman filed affidavit as evidence and he was cross-examined.

12. I have heard both the counsels at length. I have carefully perused the records. I have read the evidence and also considered the decisions relied by the Management.

13. According to the evidence of MW 1 workman was appointed under a scheme and it was purely temporary appointment. He also said that on the expiry of the scheme automatically services of the I party came to an end. Ex M-1 is the appointment order of the workman. It is an established fact that the appointment of the workman was under a scheme namely 'Production of genetically superior high yielding planting materials of arecanut' of CPCRI. According to the appointment order Ex M-1 the appointment was temporary for a period of one year till the termination of the above-referred scheme. With this, it is clear that the appointment was under a particular scheme for a specific period and therefore there is no merit in the arguments of the learned counsel appearing for the workman that the workman has worked continuously

for more than 240 d
has not complied with
the termination is

81
14. From
a case
he?

for more than 240 days and he is deemed to be in service and Management has not complied with the provisions of 25 (F) of the Industrial Dispute Act and the termination is bad.

14. From the material before us and from the records, it is clear that it is not a case of termination. I party workman in his cross-examination has said that he accepted the terms and conditions of Ex M-1 and reported for duty. He also admits that he was appointed under a scheme and he was removed after the completion of the scheme.

15. The learned counsel appearing for the Management has relied on the following decisions:

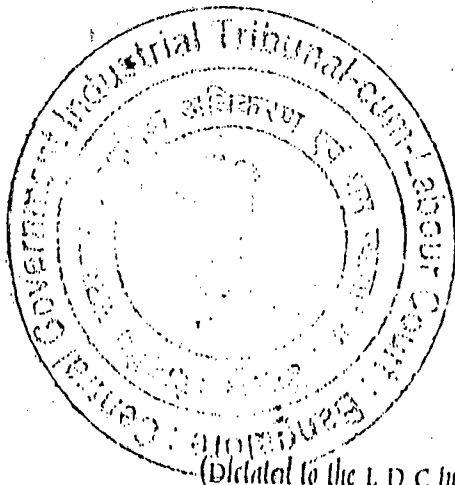
1. AIR 1997 SUPREME COURT 1855
2. W.A. No. 466/2000 dated July 10, 2000 &
3. W.A. No. 1210 of 1991 dated 19th March, 1998

16. Keeping in mind the principles held in W.A. No. 466/2000 dated July 10, 2000. I am of the opinion that the case of the workman is not retrenchment at all. The next contention of the Management as per MW 1 is that subsequently some other workmen were regularly appointed but by the time, I party workman approached the management, he was over aged. Workman has admitted in his cross-examination that he gave representation in writing in October 1998. He also admitted that in October 1998 he was over aged. He says that his case he was not considered. He says that his case he was not considered because he was age barred. It was argued by the learned counsel appearing for the Management that till 1998 this

-44 42

by the learned counsel appearing for the workman that in the year 1994, I was not regular employee and at that time he was not over aged and therefore there is injustice to this workman. There is no merit in this argument because the workman himself has said that only in the year 1998 he gave written representation. By that time he was over aged and the Management could not recruit him as regular employee as per rules.


17. It is clear from the records that the workman was appointed under particular scheme and he was removed after the completion of the scheme and he could not be appointed as regular employee because by the time he gave application he was over aged. I have given my best consideration to the material before me and I am of the opinion that there is no merit in this reference and accordingly, I proceed to pass following order:



ORDER

Reference is rejected.

(Dictated to the L D C in camp court, transcribed by him, corrected and signed by me on 12th March 2003)


(V.N.KULKARNI)
PRESIDING OFFICER

12-3-2003
C. G. I. T-CUM-L. C. B.
TRUE COPY

2.9 JUN 2005

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO.308/2004

Sri Sonabar Das & Others

...Applicants

-Vs-

Union of India & Others

... Respondents

(Additional Written Statements filed by the Respondent No.3,
Secretary, ICAR, New Delhi)

The written statements of the Respondent No.3 are as follows:

1. That a copy of the OA No. 308/2004 (hereinafter referred to as the "application") has been served on the Respondent No.3. The respondent No.3 has gone through the same and understood the contents thereof. The respondent No.3 is the overall controlling authority alongwith the respondent No.2 and they could be sued on behalf of the Indian Council of Agricultural Research (ICAR) and the Respondent No. 4, 5 and 6 are subordinate authorities. The said Respondent No. 3 instructed the Respondent No. 4, 5 and 6 to file written statements for and on behalf of the Respondent No. 2 and 3 also vide communication F.No. 19-4/2004/Law dated 13.6.2005.

A copy of the said communication dated
13.6.2005 is annexed as **Annexure R5**.

2. That according to the letter dated 13.6.2005, the Respondent No.1, the Union of India is not at all a necessary party in the

Filed by
Advocate
29/6/05

instant case. The DG, ICAR, the Respondent No.2 is also represented by the Respondent No.3. As such the respondent No.2 is also not a necessary party and the respondent No.3 has already been implicated as a necessary party. It is also provided by law that the ICAR could be sued through the Secretary as per Rule 23(c) of ICAR Rules and bye-laws.

3. That the written statements of the Respondent No. 2 and 3 are also same as the written statements already submitted on behalf of the Respondent No. 4, 5 and 6 and they have no other written statements to be filed in the case. The respondent No.2 and 3 will rely upon and support the written statements filed by the respondent No. 4, 5 and 6 in the case and accordingly the Respondent No. 2 and 3 have authorized the Respondent No.6 to file this additional written statements to clarify the above position and therefore this additional written statements have been filed.
4. That the written statements filed by the Respondent No. 4, 5 and 6 shall also be treated for all such purpose and intent as the written statements for an on behalf of the Respondent No. 2 and 3 also.

In the premises aforesaid, it is therefore prayed that the written statements filed for and on behalf of the Respondent No. 4, 5 and 6 may kindly be treated as the written statements of the respondent No. 2, 3, 4, 5 and 6 and the Respondent No.1 may be struck off from the array of parties as it is not necessary to implicate the respondent No.1 in the instant case and /or pass any other or further order/ orders as your Lordships may deem fit and proper.

VERIFICATION

I, Shri A.K. RAY , at present working as Co. PI, Minimisim-I, CPLRI (R), Kabikuchi, who is taking steps in the case and being competent and duly authorized, do hereby solemnly affirm and state that the statements made in para 2 to 4 are true to my knowledge and belief, those made in para 1 ——— being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 27th day of June, 2005 at Guwahati.


 DEPONENT

Co-Principal Investigator (Minimisim-I)
 CPLRI Kabikuchi
 Guwahati - 781015

FAX

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

F.no.19-4/2004-Law

June 13, 2005

To

The Director,
C.P.C.R.I.,
Kasaragod-671124Sub: O.A.No. 308/04 filed by Shri S. Das & Others Vs. UOI & others before
Hon'ble CAT, Guwahati Bench Regarding.


Sir,

Kindly refer to Council's letter of even No. dated 21.12.2004 on the subject cited above. In this connection, the undersigned is directed to request you to forward a copy of reply filed by the Institute. The defence of the case on behalf of D.G., ICAR and Secy. ICAR be also arranged in addition to respondent No.4 to 6. Name of respondent No.1 i.e. Secretary, Ministry of Agriculture be got deleted from the array of parties as Secretary of Agriculture is neither necessary nor a proper party. Name of D.G., ICAR be also got deleted from the array of parties on the ground that ICAR can be sued through only Secretary, ICAR as per Rule 23 (C) of ICAR Rules & By Laws.

Yours faithfully,

(S.R. CHAUHAN)
DESK OFFICER (LAW)

Copy to: 1. Shri Anup Kumar Chaudhuri, ACGSC, 74 K.R. Chaudhuri Road
Baralumukh, Guwahati- 781009
2. Director, CPCRI, Research Station, Kahikuchi- 7801017,
Guwahati (Assam) for necessary action.


DESK OFFICER (LAW)

Certified to be true Copy.

Bibhash Pathak
Advocate

26 JUL 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

Filed by
Shri Sonabar Das
Applicant
through *[Signature]*
(Abul AHMED) Es
Advocate

O. A. No. 308/2004

Sri Sonabar Das & Others

...Applicants

- Versus -

Union of India & Others

...Respondents

- AND -

IN THE MATTER OF

Rejoinder Submitted by the Applicants in the above said
Original Application against the written statement filed by
the Respondents.

The humble Applicants submit this rejoinder as follows:

1. That with regard to statements made in paragraphs 1, 2, 3(a), 3(b), 3(c) and 3(d) of the written statement filed by the respondents of the above said Original Application, the Applicants have no comments and beyond records nothing is admitted.
2. That with regard to the statements made in paragraph 3(e) of the written statement filed by the respondents is not fully correct and also misleading to this Hon'ble Tribunal. The applicants beg to state that it is fact that earlier the instant applicants had approached this Hon'ble Tribunal by filing Original Application No. 236/2003 and during the time of hearing i.e., 29.09.2004 the said Original Application was withdrawn by the learned counsel for the applicants to enable the applicants to file representation before the concerned authority for regularization of their services. But it is not a fact, as mentioned by the learned counsel for the instant respondents in their written statement that the Hon'ble Tribunal wants to dismiss the said Original Application

236/2003 if the applicants do not file representations. The learned counsel for the applicants during the course of hearing of the said case made a prayer to the Hon'ble Tribunal to withdraw the said Original Application in order to file representations for regularization of the services of the applicants. Accordingly, the applicants had filed representations before the concerned authority. But till date the respondents have not disposed off the said representations filed by the applicants. As such, the statements made by the respondents are misleading to this Hon'ble Tribunal.

3. That with regard to statements made in paragraphs 4 to 15 of the written statement, the Applicants beg to state that the same are not true and the same are false. It is a fact that offer of appointment is made for a period up to 31st March 2002 from the date of joining of the post and liable to terminate on completion of the term of engagement or on the date the sanction of scheme expired. But surprisingly after termination of the said engagement letter period i.e. after 31st March 2002, the Respondents continued the engagement of the applicants without giving them any further notices or any letter of continuation of the said engagement. It is also not true that the applicants immediately had approached this Hon'ble Tribunal after completion of their engagement period i.e., 31st March 2002 and got the interim stay order from this Hon'ble Tribunal and continued their engagement. But the applicants had approached this Hon'ble Tribunal after one and half years of expiry of their engagement periods. As such, the statements made by the respondents regarding that the applicants had continued in their services as per directions of this Hon'ble Tribunal is misleading and misconceived. From the above, it is clear that there are regular vacancies for employment under the respondents. The applicants were also engaged in regular roaster duty of day and night watch and ward duty under the Respondents. The work and nature of duties of the applicants are permanent in nature. The applicants are looking after Ninety (90) Bighas of Agricultural Land under the Central Plantation Crops Research Institute, Research Center Kahikuchi Azara, Guwahati-17. The said Agricultural Land cultivated Coconut trees, Betal-nut trees, Cashew trees, Peppers and varieties of Vegetables etc. The said food and

Vegetables products are use for research work and also for selling it to the local public by the Respondents.

The offer of engagement made by the Respondents expires on 31st March 2002. But the Respondents without renewing the said offer of engagement engaging the Applicants continuously without any notice. The Applicants also presuming that their engagement will be regularize by the Respondents, as the Respondents have not terminated their service on 31st March 2002 and they did not tried for any other jobs. Now all the Applicants are over aged for Government or Semi- government and Private jobs. The Respondents are also exploiting the men power of the Applicants by giving them a very lower fixed pay of skilled labour @ Rs.1500/- p.m. which is illegal, arbitrary and not sustainable in the eye of law. The Central Government being a model employer cannot deprive the Applicants from their legitimate pay of a skilled labour. The Applicants are drawing a fixed pay, which is also lower than unskilled labour working under any Government, Semi-government or Private Organization. The Government of India, Ministry of Labour Office of the Regional Labour Commissioner, (Central), Rajgarh Road, Chandmari, Guwahati has issued a Circular vide No. G/R.93(1)/96-Cor.L.S.II dated 10th May 2004 regarding minimum wages to be paid to the Skilled labour in agriculture sector is Rs. 114.59 per day. As such, the minimum wages per month of a Skilled Labour in agriculture sector is Rs. 3,435/-. But the respondents have deprived the applicants from their legitimate wages by paying only Rs. 15,00/- per month, which is gross violation of fundamental rights guaranteed under the Constitution of India. Moreover, the jobs of the applicants are permanent in nature and the respondents need the applicants for smooth running of the Central Plantation Corps Research Institute, Kahikuchi, Guwahati. The applicants being local unemployed youth, as such they should be given priority by the respondents to engage them in a permanent manner. There are many Group-D post are lying under the Respondents. Recently in the year of 1999, 2002 and 2003 namely Sri Biman Das, Sri Purna Das and Sri Upen Ch. Das were retired from their service as Group-D staff under the Respondents. Apart from this also one Sri Jamir Ali, Sri Puna Ram Das and many other permanent Group-D staff will also retire from

service in the year 2005 and 2006 respectively. In the said posts the instant Applicants can absorb by the Respondents.

From the above facts it is very clear that the Respondents are exploiting the men power of the Applicant by not regularizing them and also by not paying the appropriate minimum pay scale as fixed by the Government of India, Ministry of Labour for Agriculture Sector to the skilled labour.

Annexure - X is the photocopy of the Circular dated 10.05.2004 issued by the Government of India, Ministry of Labour for Agriculture Sector.

4. That with regard to the statements made in paragraphs 16 and 17 of the written statement, the applicants beg to state that same are not true and also misleading to this Hon'ble Tribunal. The applicant in the instant original application in paragraph 4.5 fairly stated that they have earlier approached this Hon'ble Tribunal by filing Original Application No. 236/2003 and also withdrawn on 29.09.2004 to file representation before the respondents. The applicants have also annexed the copy of the said order in the instant original application. As such, the statements made by the respondents are misleading and also misconceived to the facts and circumstances of the case.

In view of the above, it is clear that the applicants' application is genuine, legal and to be considered and necessary direction may be given to the respondents by this Hon'ble Tribunal to regularize the services of the applicants and also to pay the minimum wages as per Government of India Circular. The written statement submitted by the respondents is wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of respondents to refute the contentions, averments, questions of law and grounds made by the applicant in the Original Application filed by the applicant deserve to be allowed by this Hon'ble Tribunal.

VERIFICATION

I, Shri Sonabar Das, Son of Bipin Ch. Das, Vill. & P.O.- Azara, (Kootpara), District-Kamrup, Guwahati-17. I am the Applicant No.1 of the instant Application and as such I am authorized by other Applicants to sign this verification do hereby solemnly verify that the statements made in this rejoinder are true to my knowledge and belief. I have not suppressed any material facts.

And I sign this verification on this the 24th day of July 2005 at Guwahati.

Shri Sonabar Das

GOVERNMENT OF INDIA
MINISTRY OF LABOUR
OFFICE OF THE REGIONAL LABOUR COMMISSIONER (CENTRAL)
RAJGARH ROAD, CHANDMARI, GUWAHATI-781 003.

No. G/R. 93(1)/96-Cor. LS.II

Dated the, 10 MAY 2004

C I R C U L A R

Whereas, the Central Government vide order No.1(2)/2004-LS.II dated 22-03-2004 of Chief Labour Commissioner (Central), New Delhi, have increased rate of VDA fixed vide Notification S.O. No. 113 (E) dated 28.01.2002, S.O. 9 (E) dated 3.1.2002, S.O.512 (E) dated 12-07-1994 and S.O.1085 (E) dated 11-11-1999 by the Govt. of India w.e.f. 01-04-2004 in different schedule employment payable under the aforesaid Notification.

Whereas, Government of Assam vide Order No. GLR.459/86/Pt-1/120-A dated 17-12-2002 & No. GLR.380/83/469 (Agriculture) dated 01-02-2002 have increased the rate of VDA fixed vide Notification No. GLR.459/86/Pt-1/106 dated 01-12-2001 and which are higher than the rate fixed by the Central Government in certain category of employment. Therefore, the rates of wages payable in the state of Assam to the workers in the Central sphere in the following schedule employment are as under:

I. (i) In the construction or maintenance of road, Runways or in building operation:

Category	Minimum rate of wages payable at Guwahati city including places within a distance of 15 Km from the periphery of Municipal corporation		Minimum rate of wages payable in other places of Assam	
	Per day	Effective date	Per day	Effective date
Unskilled	* Rs.64.07	01-05-2002	* Rs.64.07	01-05-2002
Semi skilled/ unskilled supervisory	** Rs.85.01	01-04-2004	* Rs.67.17	01-05-2002
Skilled / Clerical	** Rs.105.13	01-04-2004	** Rs.89.54	01-04-2004
Highly Skilled	** Rs.129.78	01-04-2004	** Rs.105.13	01-04-2004

N.B : * The above rates are of Government of Assam and exclusive of rest day wages. (If a worker work for six days continuously in a week, he is entitled wages for rest day)

** The above rates are of Central Govt. and inclusive of rest day wages payable.

I. (v) Laying down underground Electric, Wireless, Radio, Television, Telephone, and Overseas Communication cables and similar other underground cabling works, Electric lines, Water supply lines and Sewerage pipe lines :

Category	Minimum rate of wages payable at Guwahati city including places within a distance of 15 Km from the periphery of Municipal corporation		Minimum rate of wages payable in other places of Assam	
	Per day	Effective date	Per day	Effective date
Unskilled	Rs.70.42	01-04-2004	Rs.58.36	01-04-2004
Semi skilled/ unskilled supervisory	Rs.85.01	01-04-2004	Rs.70.42	01-04-2004
Skilled / Clerical	Rs.105.13	01-04-2004	Rs.89.54	01-04-2004
Highly Skilled	Rs.129.78	01-04-2004	Rs.105.13	01-04-2004

N.B : The above rates are of Central Govt. and are inclusive of rest day wages.

29/6/04

10/6/04

29/6/04

29/6/04

29/6/04

29/6/04

II. Employment in red oxide Mines, quartzite, & silica Mines, granite Mines, Magnesite Mines, Laterite Mines, Stone Mines, Kyanite Mines, Mica Mines, Steatite Mines (including mines producing talc, asbestos and talc) ochre Mines, asbestos, fire clay Mines, copper Mines, uranium Mines, iron ore Mines, hematite Mines, gypsum & barytes Mines, rock phosphate Mines, chromite Mines, magnetite Mines, Graphite Mines, dolomite Mines, China clay & white clay Mines, , wolfram Mines, manganese Mines, Feldspar Mines, bauxite Mines, marble & calcite Mines, lignite Mines, gravel Mines and slate Mines :

Category of worker	Minimum rate of wages per day	
	For work above ground	For work below ground
Unskilled	Rs. 58.36	Rs. 70.42
Semi-skilled / Unskilled supervisory	Rs. 70.42	Rs. 85.01
Skilled / Clerical	Rs. 85.01	Rs. 104.13
Highly skilled	Rs. 104.13	Rs. 124.25

N.B : The above rates are of Central Govt. and inclusive of rent day wages and effective from 01-04-2004

III. Employment in Agriculture:

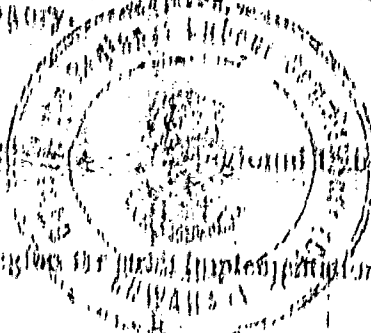
Category	Minimum rate of wages payable at Guwahati city including places within a distance of 15 Km from the periphery of Municipal corporation		Minimum rate of wages payable in other places of Assam	
	Per day	Effective date	Per day	Effective date
Unskilled	Rs.95.09	01-04-2004	Rs.93.09	01-04-2004
Semi skilled/ unskilled supervisory	Rs.105.84	01-04-2004	Rs.97.47	01-04-2004
Skilled / Clerical	Rs.114.59	01-04-2004	Rs.104.83	01-04-2004
Highly Skilled	Rs.128.71	01-04-2004	Rs.114.59	01-04-2004

N.B : The above rates are of Central Govt. and inclusive of weekly rent day wages.

Minimum rate of wages payable at Guwahati city including places within a distance of 15 Km from the periphery of Municipal corporation		Minimum rate of wages payable in other places of Assam	
Per day	Effective date	Per day	Effective date
Rs.63.70	01-04-2004	Rs.56.14	01-04-2004

Note : The above rates are of Central Govt. and inclusive of rent day wages.

- * In the places, which are at the height of over 6000 feet above sea level, 10 % extra wages will be paid.
- * Workers employed on high rise buildings i.e. on or above 4th floor or over 30 feet height, even for one hour in a day shall be paid 20 % extra wages of the Minimum wages for the appropriate category.
- * Workers employed in tunnel work shall be paid 20 % extra of the minimum wages fixed under this Notification for the appropriate category.



(T.P.) (Jha)
Regional Commissioner (Central)
Guwahati

Copy to :

1. All the A.L.C. (C)/L.T.O.(C) of this region for their implementation and wide circulation in their respective areas.
2. L.S I / L.S II / L.S III Division,
3. All P.W's for information and wide circulation / all central wide notice
4. Press Information Bureau (PIB), Guwahati with request that wide publicity may also be given for the

Attal
R. S. S. S. S.