

5/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

9

O.A/T.A No. 146/2003
R.A/C.P No. 18/04
E.P/M.A No.

1. Orders Sheet. O.A-146/2003 Pg. 1 to 7 *case*
2. Judgment/Order dtd. 06/10/2005 Pg. No. separate order *order pg-1 to - Dismissed 02/12/04*
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A. 146/03 Pg. 1 to 65
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P. 18/04 Pg. 1 to 11
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 146/03

Misc Petition No:

Contempt Petition No:

Review Application No:

Applicants:- S. Karmakar & Co

Respondants:- W.O.I & Co

Advocate for the Applicants:- S. Sarma, Shri H. Day

Advocate for the Respondants:- CAE B.C. Pathak, B. Pathak
for Resp. No. 2, 3 & 4

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form but not in time. Contention Petition is filed / not filed C.F. for Rs. 50/- deposited vide IPO/PO No. 84.49/397. Dated <u>12.7.03</u>.</p> <p><u>Sd/-</u> By Registrar</p> <p>Notice is prepared and sent to Despatch Section for Respondents 1-4 vide NO 1909-1912 dated <u>9/9/03</u>.</p> <p><u>Sd/-</u> 9/9/03</p>	<p>29.8.03</p> <p>lm</p> <p>26.9.2003</p> <p>mb</p> <p>7.11.03</p> <p>2.12.03</p>	<p>Present: Hon'ble Mr. Justice D.N. Choudhury, Vice-Chairman.</p> <p>Heard learned counsel for the parties.</p> <p>Application is admitted. Call for records. Returnable by four weeks.</p> <p>List on 26.9.03 for orders.</p> <p><u>[Signature]</u> Vice-Chairman</p> <p>List again on 7.11.2003 for orders.</p> <p><u>[Signature]</u> Vice-Chairman</p> <p>no Bench today. Adj'd to 2.12.03.</p> <p><u>[Signature]</u> 12.12.03.</p> <p>no Bench today. Adj'd to 15.12.03.</p> <p><u>[Signature]</u> 12.12.03.</p>

16.12.2003

List on 21.1.2004 for orders.

K. P. Bhattacharya
Member (A)

mb

5.3.04

Four weeks time is granted to the respondents to file written statement as prayed by Mr.A.Deb Roy, Sr.C.G.S.C.

List on 7.4.04 for orders.

K. P. Bhattacharya
Member(A)

bb

7.4.2004

On the prayer made by Mr,A.Deb Roy, learned Sr.C.G.S.C. four weeks time is allowed to the respondents to file written statement.

List on 21.5.2004.

K. P. Bhattacharya
Member (A)

bb

21.5.2004

Ms.U.Das, learned counsel for the applicant was present.

List on 9.6.2004 for filing of written statement.

K. P. Bhattacharya
Member (A)

bb

9.6.2004

Four weeks time is given to the respondents to file written statement. List on 9.7.2004 for orders.

K. P. Bhattacharya
MEMBER (A)

mb

2.8.2004

On the plea of Mr.A.Deb Roy, learned Addl.C.G.S.C. four weeks time is allowed to the respondents to file written statement. List on 7.9.2004 for order.

K. P. Bhattacharya
Member (A)

bb

No. W/S has been
filed.

By
6.4.04

No. W/S has been
filed.

By
20.5.04

No. W/S has been
filed.

By
8.6.04

3-8-04
No. W/S has been
filed.

Notes of the Registry Date Order of the Tribunal

7.9.04.

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

Four weeks time is allowed
to the Respondents to file written
statement, as a last chance.

List on 6.10.04 for orders.

K.V. Prahladan
Member

lm

6.10.2004

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

Learned Advocate for the responden-
ts Mr. A. Deb Roy, Sr. C.G.S.C. seeks time
to file written statement. Till today,
six adjournments have already been granted
in the said purpose. Last adjournment
was granted on 7.9.2004 as a last chance.
Be that as it may, last and final adjour-
nment is granted subject, however, payment
of costs of Rs.500/- to the applicant.
Payment of cost is condition precedent
for granting today's adjournment. If
costs are not paid/deposited on or before
the next date, the respondents shall not
be allowed to file written statement.
Adjourned to 1.12.2004.

R.
Vice-Chairman

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

On the plea of learned counsel
on behalf of Mr.S. Sarma, learned counse
for the applicant case is adjourned to
13.3.05. for hearing.

K.V. Prahladan
Member.(A)

lm

11-10-04

NO W/S has been

Bited

Da

Order dt. 6/10/04
Sent to D/section
for issuing to
resp. NO-2.

COM
3/11/04

30/11/04

1) S/R created for respondents
2) NO W/S has been filed
on behalf of the respondents.

3) Rs. 500/- is not deposited
till today.

NR
30/11/04

mb

11.3.05.

01.12.2004

The Review Application filed by the respondents is rejected. Learned Advocate for the respondents prays for 15 days time to deposit the costs. 15 days time is given to the respondents to deposit the costs and subject to said deposit, written statement shall be taken on record. If the costs are not deposited within 15 days, the written statement shall not be considered for any purpose in this application.

Stand over to 16.12.2004.

Vice-Chairman

mb

16.12.04.

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

Heard Ms. U. Das learned counsel for the applicant and Mr. B.C. Pathak, Addl. C.G.S.C. for the Respondents. Mr. B.C. Pathak learned counsel for the respondents states that the applicant could not be found for making the payment and order be passed to pay the amount to the learned counsel for the applicant within 10 days from to-day. Request is allowed. Stand over to 5th January, 2005.

Vice-Chairman

lm

5.1.2005

List on 10.2.2005 for hearing.

mb

23.02.2005

On the plea of learned proxy counsel for the respondents the case is adjourned and listed for hearing on 11.3.2005.

Member (A)

bb

Written Statement has been filed on behalf of Respondents No. 1 to 4.

15.12

Ar/s- for 30000/- filed

9-1-05

7-1-05

Money receipt for Rs. 500/- is in record.

Member (A)

Member (A)

DA 146/03 (5)

Notes of the Registry	Date	Orders of the Tribunal
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18.3.05

On behalf of Mr B.C.Pathak, learned counsel for the respondents mention has been made for adjournment of the case. List on 29.4.05 for hearing.

[Signature]
Member

Case is ready for hearing.
29.4.2005

pg
29.4.2005

Mr. B.C. Pathak, learned counsel for the respondents is not keeing well. On behalf of him a representation has been made that it may be posted ^{on} another date. Post on 13.5.2005.

[Signature]
Vice-Chairman

mb
13.5.2005

Letter of absence has submitted by Mr. S. Sarma, learned counsel for the applicant. Accordingly adjourned to 27.5.2005.

[Signature]
Member

~~Member~~

~~Vice-Chairman~~

mb
27.5.05.

On the plea of the learned counsel for the Respondents case is adjourned to 8.6.05.

[Signature]
Member

lm

Notes of the Registry | Date | Order of the Tribunal

8.6.05

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

post on 16.6.05 before Division Bench.

[Signature]
Vice-Chairman

pg

16.6.05

After hearing the counsel for the parties at some length on the question of preliminary jurisdiction we feel that the parties have not placed all the relevant records before us. In the circumstances we direct the parties to file all the relevant papers, memoranda ^{of understanding etc} of the Central Government and the BSNL for a proper consideration of the question of jurisdiction.

Post on 22.7.2005 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

Wks has been filed
[Signature]
9.8.05

22.07.2005

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

[Signature]
Member

[Signature]
Vice-Chairman

bb

10.8.2005

Post on 16.8.2005 at 2.30 P.M.

[Signature]
Member

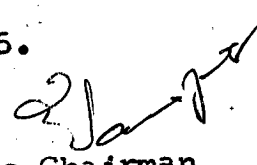
[Signature]
Vice-Chairman

mb

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

Post the matter on 22.8.05.


Member

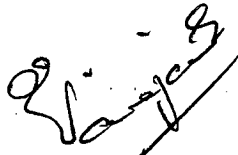

Vice-Chairman

lm

6.10.2005 This unlisted item was taken up at the request of Mr. S. Sarma, learned counsel for the applicant. Counsel submits that the applicant would like to withdraw this O.A. with liberty to approach the appropriate forum.

Heard Mr. B.C. Pathak, learned counsel for the respondents also. Since the applicant wants to withdraw this application with liberty to approach the appropriate authority, this O.A. is dismissed as withdrawn with such liberty.

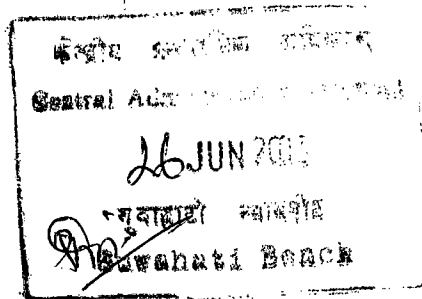

Member


Vice-Chairman

bb

25.10.05

Copy of the order has been sent to the office for issuing the same to the applicant by post as well as to the Advocate for the Respondent.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

D.A. No. 146 of 2003

BETWEEN

Shri Subhash Karmakar & Ors. Applicants.

AND

Union of India & ors..... Respondents.

I N D E X

Sl.No.	Particulars	Page No.
1.	Application	1 to 14
2.	Verification	15
3.	Annexure-1	16, 17
4.	Annexure-2	18-21
5.	Annexure-3	22
6.	Annexure-4	23-29
7.	Annexure-5	30
8.	Annexure-6	31
9.	Annexure-7	32
10.	Annexure-8	33-53
11.	Annexure-9	54-56
12.	Annexure-10	57, 58

Filed by : *Asha Das*

Regn.No.:

File : c:\WS\SUBHASHK

Date :

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

OA No. 146 /03

Subhash Karmakar & Ors.
..... Applicants

-VS-

Union of India & Ors.

..... Respondents

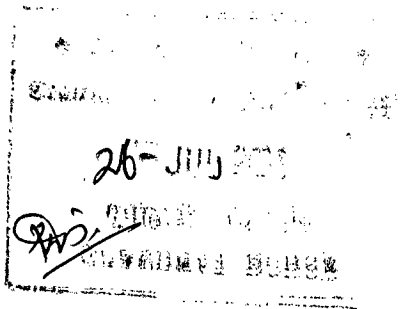
LIST OF DATES

1. On 17.4.1990 Judgment of the Apex Court passed in Writ Petition (C) No.1280 of 1989, (Ram Gopal & Ors -VS- Union of India & Ors.)
2. On 7.11.1989 A scheme preferred in the name and style as "Casual Labourers (Grant of Temporary Status and Regularisation Scheme).
3. On 1.9.99 An order issued by the DOT clarifying the doubts regarding date of effect in the case of grant of Temporary Status to the Casual Labourers.
4. On 31.8.99 Judgment passed in OA No.107 and Others of 1998.
5. On 16.9.94 A gradation list prepared by the District Telecom Engineer, Nagaon Telecom Dist. Nagaon.
6. On 22.11.99 Representation preferred by the applicant No.2 praying appointment against Central Administrative Tribunal Case No. 112/98 and 192/98 dated 31.8.99.
7. 14.7.2000 Identical impugned order rejecting the claim of the applicants (in respect of applicant No.4)
8. 16.8.2001 Judgment and order passed in OA No. 325/2000.
9. 26.9.2002 Order issued by the Divisional Engineer (P & A), TDM, Nagaon rejecting the claim of the applicants.
10. On 3.12.2002 Representation preferred by the applicant praying for conferment of Temporary Status.

10
Filed by
the applicant through
Alsha Das
Advocate
19/6/03

11. On 28.2.2003

Order issued by the Telecom District Manager rejecting the prayer for grant of temporary status as prayed for by the applicant through his representation.



12
Filed by
the applicant through
Alsha Das
Advocate
19/6/03

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No.146..... of 2003

BETWEEN

1. Sri Subhash Karmakar
Vill- Lumding Bazar,
Lumding, Dist-Nagaon,
Assam.
2. Sri Nitai Ch. Mitra
Vill-North Lumding
Sankar Patti,
Lumding, Dist-Nagaon,
Assam.
3. Sri Bikash Malakar
Vill- Pachim Nandalalpur
Dimrupar (Hojai),
Dist.-Nagaon, (Assam)
4. Sri Mati Malakar
Pub-Nandalalpur,
P.O. Dimrupar, Via-Hojai
Dist- Nagaon, Assam
5. Sri Basu Malakar
Vill. & P.O. Dimrupar
Dist.-Nagaon, Assam.
6. Sri Biswajit Malakar
Vill-Pachim Nandalalpur,
P.O. Dimrupar (Hojai),
Dist. Nagaon, (Assam)
7. Sri Lakhikanta Malakar
Pachim Nandalalpur
Dimrupar, Via-Hojai
Dist. Nagaon, Assam,

..... Applicants.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Communication
Sanchar Bhawan, New Delhi
2. The Chief General Manager
Assam Telecom Circle
Guwahati-1

545424-2003-721

3. The Telecom District Manager
Nagaon Telecom Division,
Nagaon.
4. The Chief Managing Director
Bharat Sanchar Nigam Limited,
New Delhi.

..... Respondents.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:

This application is directed against the identical orders dated 26.9.2002 issued by the Respondent No.3 by which prayer made by the applicants in respect of grant of temporary status and subsequent regularisation under the scheme of 1989 has been rejected. This application is also directed against the action of the respondents in constituting the verification Committee for verifying the service particulars of the applicants in terms of the judgment passed by this Hon'ble Tribunal in OA No. 325/2000 and illegally depriving them from the legitimate claim made in terms of the scheme of 1989.

2. LIMITATION:

The applicants declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

14

3. JURISDICTION:

The applicants further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants are citizens of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India. All the applicants in the instant application have raised a common grievance and the relief sought for by them are identical and as such they pray before this Hon'ble Tribunal to join together in a single application invoking Rule 4(5)(a) of CAT (Procedure) Rules, 1987.

4.2. That the applicants in this application have challenged the action of the respondents in rejecting their claim by the Respondents by issuing the identical impugned order dated 26.9.2002. All the applicants got their initial recruitment in various dates ranging from 1988 to 1992. All the applicants since their initial recruitment have been continuing in their respective services as Casual Worker without any break. At the time of their initial recruitment the Respondents placed their indents to the local employment Exchange and the applicants pursuant to intimation appeared before the Respondents at the time of their initial recruitment held interview and pursuant to that interview the applicants got their initial recruitment as Casual worker and they are still continuing without any break.

4.3. That the casual workers of postal department seeking regularisation of their Casual service approached the Hon'ble Apex Court by way of filing Writ Petitions. These Apex Court directing the respondents thereto to prepare a scheme for their absorption. Claiming similar relief number of Writ Petitions were filed by the telecommunication Department and the Hon'ble Apex Court was pleased to pass a similar direction directing the respondents to prepare a scheme for absorption as Casual Workers who have continuously worked for more than one year. Pursuant to the aforesaid decisions the respondents vide communication dated 7.11.89 circulated a scheme in the name and style "Casual Labour (Grant of Temporary Status and Regularisation) Scheme," (in short of 1989 the respondents extended certain benefits to the Casual Workers like temporary status, subsequent regularisation, minimum pay scale, admissible allowances etc.

A copy of the said judgment and the scheme are annexed herewith and marked as Annexure-1 & 2 respectively.

4.4. That the aforesaid scheme of 1989 came into force w.e.f. 1.10.89 onwards however, the interpretation of its cut off date created chaos, although the wording of the scheme regarding the date of commencement was not above understanding. Various litigations and subsequent clarifications have issued by the respondents clarifying the cut off date of which mention may be made of order dated 1.9.99. The said order dated 1.9.99 finally clarified the doubts arose in implementing the scheme of 1989 and the cut

16
off date has been extended to the recruiters up to 1998.

A copy of the said order dated 1.9.99 is annexed herewith and marked as Annexure-3.

4.5. That the applicants praying for regularisation of his service under the scheme of 1989 approached the Hon'ble Tribunal by way filing OA No. 192/98. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OA along with other connected OAs vide a common judgment and order dated 31.8.99 directing the respondents to examine the case of the applicants and to dispose of the matter after making proper verification of the records in terms of the Hon'ble Apex Court judgment as well as the scheme.

A copy of the said judgment and order dated 31.8.99 is annexed herewith and marked as Annexure-4.

4.6. That the respondents in terms of the aforesaid judgment constituted a verification committee to scrutinise the cases of the casual workers and direction has been issued to the divisional authority for forwarding of service particulars of the employees individually in a prescribed format. Pursuant to such a direction the divisional authority transmitted the service particulars of each casual workers to the said verification committee enabling them to scrutinise the matter.

17

4.7 That prior to the aforesaid development in the year 1994, the respondents initiated process for grant of temporary status under the said scheme of 1989 and Gradation list of said Division was prepared by the Telecom District Engineer, Nagaon issued an order dated 16.9.94 indicated the fact that such exercise was carried out but no fruitful purpose could be served.

A copy of the said order dated 16.9.94 is annexed herewith and marked as Annexure-5

4.8. That the respondents once again in the year 1996 made an attempt to extend the benefit of the 1989 scheme to the present applicants and to that effect Division wise scrutiny was made and the names of the applicants along with the payment particulars were sent to the respondent No.2 for grant of temporary status under the scheme of 1989. The respondent No.2 initiated process for grant of temporary status to the present applicants alongwith the other similarly situated employees and a list was prepared wherein names of the applicants have been shown as eligible candidate. However, the said approved list was never circulated nor it was acted upon by the respondents. In spite of repeated pressure by the workers Union the Respondents never extended the benefit of the scheme to the present applicants.

The applicants inspite of their best effort could not collect the copy of the said list of eligible candidates and as such they pray before this Hon'ble Tribunal for an appropriate direction towards production of the same at the

9

time of hearing of this case.

4.9. That taking into consideration the payment particulars and other connected records it is crystal clear that the applicants are eligible for the benefit of temporary status under the scheme of 1989 and its subsequent clarifications issued from time to time. The applicants ventilating their grievances made representations to the concerned authority in terms of the judgment passed by this Hon'ble Tribunal dated 31.8.99 in OA No. 192/98 and others.

A copy of one of such representation filed by the applicant No.2 in annexed herewith and marked as Annexure-6.

4.10. That the respondents on receipt of the said representation submitted by each of the applicants issued an identical order dated 14.7.2000 by which their cases were rejected on the ground that they have not completed the requisite number of working days in terms of 1989 scheme.

A copy of one of such impugned identical order in respect of applicant No.4 is annexed herewith and marked as Annexure-7.

4.11. That the applicants impugning the Annexure-7 order dated 14.7.2000 preferred OA No. 325/2000 before this Hon'ble Tribunal. The Hon'ble Tribunal while issuing notice on 29.9.2000 was pleased to pass on interim order directing the respondents to maintain status quo as regards the

19

continuation of the services of the applicants. The respondents preferred their WS in the said OA No. 325/2000 and controverted the statement made by the applicants. In their WS the respondents in their WS also enclosed the minutes of the verification committee as Annexure-1 and Annexure-2 giving the break outs of their service periods. It is pertinent to mention here that the applicants in their pleadings could not show that the breakouts given by the respondents are not based on records and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA vide judgment and order dated 16.8.2001.

Copies of the Annexure-1 and -2 of the WS filed in OA No. 325/2000 and the judgment and order dated 16.8.2001 are annexed herewith and marked as Annexure-8(colly) and Annexure-9 respectively.

4.12. That the respondents in terms of the aforesaid judgment and order dated 16.8.2001 once again verified the service particulars of the applicants and basing on the same materials as before rejected the cases of the applicants by issuing identical impugned orders dated 26.9.2002 on the same ground. It is noteworthy to mention here that the Hon'ble Tribunal while allowing the OA No.325/00, set aside and quashed the identical orders dated 14.7.2000. However, the respondents once again reiterating the same illegalities passed the aforesaid impugned orders dated 26.6.2002 which is not in conformity with the Annexure-8 (colly).

20

A copy of one of such identical impugned orders dated 26.9.2002 is annexed herewith and marked as Annexure-10.

4.13. That the applicants state that the impugned communication dated 26.9.2002 is an order issued by the respondents without any application of mind. The applicants who got their initial appointment during years 1988 to 1992 are still working under the respondents without any break and as such they fulfill all the eligibility criteria as prescribed in the scheme of 1989 and its subsequent clarifications issued from time to time. The respondents however, without taking into consideration all these aspect of the matter passed the impugned orders illegally depriving the applicants from their legitimate claims. It is stated that the verifications committee while verifying the records of the applicants took into consideration some irrelevant facts without considering the relevant pay vouchers. In fact just after the Constitution of the verification committee the respondents directed the Divisional authorities to furnish the service particulars of each applicants and accordingly the Divisional authorities in a prescribed format sent the service particulars of the applicants. The verification committee only took into consideration those formats and it is the definite information of the applicants that in those formats their cases have been shown to be as eligible candidate for grant of temporary status and other related benefits under the scheme of 1989. However, the verification Committee without there being any material rejected their cases while disagreeing with the service

21

particulars furnished by the Divisional authority. On this score alone the impugned orders passed as a result of such illegal verification are not sustainable and liable to be set aside and quashed.

4.14. That the applicants state that the verification committee took into consideration some irrelevant facts and passed the impugned orders without any physical verification of the records/payment particulars of the applicants and thereby passed the impugned orders rejecting their cases and as such same are not sustainable and liable to be set aside and quashed.

4.15. That the applicants state that the records were called for by the Verification Committee from the divisional authorities by circulating a format and accordingly the divisional authorities after making verification of the payment particulars sent the service particulars of the applicants. To the best of knowledge of the applicants the divisional authorities sent the full service particulars of the applicants having them to be eligible for grant of benefit under the scheme but the verification committee of their own disagreed with the same and gave some arbitrary finding in the impugned orders which are not sustainable and liable to be set aside and quashed. For example, in case of one Sri Shyamal Das who got his initial recruitment in the year 1992 through Employment Exchange, the verification Committee in its finding indicated him to be worked for 30 days in the year 1991. This example is only illustrative but not exhaustive. There are many more instances wherein respondents have acted with

22

some ulterior motive to provide room for the nearer and dearer. It is stated that the applicants are still continuing in their respective services without any discontinuation and in view of the interim order there is every likelihood of termination of their services at any point of time that to without notice. It is therefore the applicants pray before this Hon'ble Tribunal for an appropriate interim order directing the respondents not to disengage them from their present employment with a further direction to allow them to continue in their respective posts during the pendency of the OA.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents in issuing the impugned orders dated 26.9.2002 is illegal, arbitrary and violative of principles of natural justice and as such same are not sustainable in the eye of law and are liable to be set aside and quashed.

5.2. For that the respondents have acted contrary to the provision contained in the scheme of 1989 which was formulated pursuant to a Apex Court judgment, in issuing the impugned orders dated 20.9.2002 and 28.2.2003 and as such same are not sustainable and liable to be set aside and quashed.

5.3. For that the law is well settled when a principle has been laid down in a particular case by a competent court of law, same law is required to be made applicable to all

73

similarly situated employees without requiring them to approach the Court of law again and again. The Central Govt. should set an example of a model employer by extending the benefit of the scheme of the present applicants without any further delay.

5.4. For that the applicants having fulfilled all the required qualification describing the scheme of the 1989, the respondents ought not to have rejected his case on the ground of nonfulfillment of requisite qualification.

5.5. For that the respondents have issued the impugned orders without verifying the service particulars of the applicants and as such both the impugned orders are not sustainable and liable to be set aside and quashed.

5.6. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicants craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

24

The applicants further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicants most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicants:-

8.1. To set aside and quash the impugned communication dated 26.9.2002 with a further direction to the respondents to extend all the benefits of the scheme of 1989 and its subsequent clarification issued from time to time with retrospective effect and with all consequential service benefits including arrear salary and seniority etc.

8.2. To draw up appropriate contempt proceeding against the respondents for making false verification while filing the written statement in OA No. 325/2000 and punish them for their such action involving the provisions under sec.17 of the Administrative Tribunal Act 1985 and contempt of Courts Act 1971.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicants is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this DA the applicants pray for an interim order directing the respondents pray for an interim order directing the respondents not to disengage from their from their present employment and to allow them to continue and to pay their salary.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 86 491391
2. Date : 17/7/2003
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

5/8/21 20/2/21

9th

VERIFICATION

I, Sri Subhash Karmakar, aged about 35 years, son of Subir Karmakar, at resident of Horiom Tila, P.O. Lunding, District- Nagaon, do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4, 1, 4, 13, 4, 14, 4, 15 & 5 to 12... are true to my knowledge and those made in paragraphs 1, 4, 2-4, 7, 4, 8-4, 12 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 19th day of June of 2003.

Signature.

সুভাষ কৰ্মাকৰ
(Subhash Karmakar)

Absorption of Casual Labours
Supreme Court directive Department of Telecom take back all
Casual Mazdoors who have been disengaged after 30.3.85.

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

Writ Petition Nos 1246, 1248 of 1986 176 , 177 and 1248 of 1988.

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

We have heard counsel for the petitioners. Though a counter affidavit has been filed no one turns up for the Union of India even when we have waited for more than 10 minutes for appearance of counsel for the Union of India .

The principal allegation in these petitions under Art 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as Casual Labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30 th September 1988. It is contended that the principle of the decision of this Court in Daily Rated Casual Labour Vs. Union of India & ors. 1988 (1) Section (122) squarely applies to the petitioner though that was rendered in case of Casual Employees of Posts and Telegraphs Department. It is also contended by the counsel that the decision rendered in that case also relates to the Telecom Department as earlier Posts and Telegraphs Department was covering both sections and now Telecom has become a separate department. We find from paragraph 4 of the reported decision that communication issued to General Managers Telecom have been referred to which support the stand of the petitioners.

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the posts and Telegraphs Department".

Attested
Advocate.

We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working more than one year, the counter affidavit does not dispute that petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this court in the reported decision. On principles, therefore the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondents shall prepare a scheme on a rational basis absorbing as far as practical who have continuously worked for more than one year in the Telecom Deptt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are also disposed of accordingly. There will be no order as to costs on account of the facts that the respondents counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

Attested
WDM
Advocate.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles
M.T.H.I New Delhi/Bombay, Metro Dist. Madras/
Calcutta.
Heads of all other Administrative Units.

Subject : Casual Labourers (Grant of Temporary Status and
Regularisation) Scheme.

Subsequent to the issue of instruction regarding regularisation of casual labourers vide this office letter No.269-29/87-STC dated 18.11.88 a scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of at least one year has been approved by the Telecom Commission. Details of the scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer temporary status on all eligible casual labourers in accordance with the above scheme.

3. In this connection, your kind attention is invited to letter No.270-6/84-STN dated 30.5.85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/Districts. Casual labourers could be engaged after 30.3.85 in projects and Electrification circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. These instructions were reiterated in D.O letters No.270-6/84-STN dated 22.4.87 and 22.5.87 from member(pers. and Secretary of the Telecom Department) respectively. According to the instructions subsequently issued vide this office letter No.270-6/84-STN dated 22.6.88 fresh specific periods in Projects and Electrification Circles also should not be resorted to.

3.2. In view of the above instructions normally no casual labourers engaged after 30.3.85 would be available for consideration for conferring temporary status. In the unlikely event of there being any case of casual labourers engaged after 30.3.85 requiring consideration for conferment of temporary status. Such cases should be referred to the Telecom Commission with relevant details and particulars regarding the action taken against the officer under whose authorisation/approval the irregular engagement/non retrenchment was resorted to.

3.3. No Casual Labourer who has been recruited after 30.3.85 should be granted temporary status without specific approval from this office.

4. The scheme finalised in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No SMF/78/98 dated 27.9.89.

Attested

[Signature]

Advocate.

- 19 -

30

5 Necessary instructions for expeditious implementation of the scheme may kindly be issued and payment for arrears of wages relating to the period from 1.10.89 arranged before 31.12.89.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD). GM (IR) for information.
MCG/SEA/TE -II/IPS/Admn. I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Attested
WDM
Advocate.

31

- 20 -

ANNEXURE

CASUAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARISATION) SCHEME.

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication. 1989"

2. This scheme will come in force with effect from 1.10.89. onwards.

3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.

4. The provisions in the scheme would be as under.

A) Vacancies in the group D cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointment on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility qualification prescribed in the relevant Recruitment Rules. However regular Group D staff rendered surplus for any reason will have prior claim for absorption against the existing/future vacancies. In the case of illiterate casual labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed age relaxation equivalent to the period for which they had worked continuously as actual labour for the purpose of the age limit prescribed for appointment to the group D cadre, if required. Out side recruitment for filling up the vacancies in Gr. D will be permitted only under the condition when eligible casual labourers are NOT available.

B) Till regular Group D vacancies are available to absorb all the casual labourers to whom this scheme is applicable, the casual labourers would be conferred a Temporary Status as per the details given below.

Temporary Status.

i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.

ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr. D posts.

iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed any where within the recruitment unit/territorial circles on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not, however be brought on to the permanent establishment unless they are selected through regular selection process for Gr. posts.

6. Temporary status would entitle the casual labourers to the following benefits : 8

Attested

WDM

Advocate.

- i) Wages at daily rates with reference to the minimum of the pay scale of regular Gr.D officials including DA, HRA, and CCA.
 - ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year.
 - iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of week. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.
 - iv) Counting of 50 % of service rendered under Temporary Status for the purpose of retirement benefit after their regularisation.
 - v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr.D employees, provided they furnish two sureties from permanent Govt. servants of this Department.
 - vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.
7. No benefits other than the specified above will be admissible to casual labourers with temporary status.
8. Despite conferment of temporary status, the offices of a casual labour may be dispensed within accordance with the relevant provisions of the industrial Disputes Act. 1947 on the ground of availability of work. A casual labourer with temporary status can quit service by giving one months notice.
9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefit of encasement of leave on termination of services.
10. The Department of Telecommunications will have the power to make amendments in the scheme and/or to issue instructions in details within the framing of the scheme.

@ @ @

Attested

hda

Advocate.

No.269-13/99-STN-II
Government of India
Department of Telecommunications
Sanchar Bhawan
STN-II Section
New Delhi

Dated 1.9.99.

To

All Chief General Managers Telecom Circles,
All Chief General Managers Telephones District,
All Heads of other Administrative Offices
All the IFAs in Telecom. Circles/Districts and
other Administrative Units.

Sub: Regularisation/grant of temporary status to Casual
Labourers regarding.

Sir,

I am directed to refer to letter No.269-4/93-STN-II dated
12.2.99 circulated with letter No.269-13/99-STN-II dated 12.2.99
on the subject mentioned above.

In the above referred letter this office has conveyed approval on the two items, one is grant of temporary status to the Casual Labourers eligible as on 1.8.98 and another on regularisation of Casual Labourers with temporary status who are eligible as on 31.3.97. Some doubts have been raised regarding date of effect of these decision. It is therefore clarified that in case of grant of temporary status to the Casual Labourers, the order dated 12.2.99 will be effected w.e.f. the date of issue of this order and in case of regularisation to the temporary status Mazdoors eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

Attested
W.D.M.
Advocate.

34

- 23 -

ANNEXURE.-4.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others.
Date of decision : This the 31 st day of August 1999.

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

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

1. O.A. No.107/1998
Shri Subal Nath and 27 others. Applicants.
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda
- versus -
The Union of India and others. Respondents.
By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.
.....
2. O.A. No.112/1998
All India Telecom Employees Union,
Line Staff and Group- D and another..... Applicants.
By Advocates Mr.B.K. Sharma and Mr.S.Sarma.
- versus -
Union of India and others. Respondents.
By Advocate Mr.Mr.A.Deb Roy, Sr. C.G.S.C.
.....
3. O.A.No. 114/1998
All India Telecom Employees Union
Line Staff and Group-D and another. Applicants.
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.
- versus -
The Union of India and others Respondents.
By Advocate Mr. A.Deb Roy, Sr. C.G.S.C.
.....
4. O.A.No.118/1998
Shri Bhuban Kalita and 4 others. Applicants.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms.N.D. Goswami.
- versus -
The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.
.....
5. O.A.No.120/1998
Shri Kamala Kanta Das and 6 others Applicant.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms. N.D. Goswami.
- versus -
The Union of India and Others Respondents.
By Advocate Mr.B.C. Pathak, Addl.C.G.S.C.
.....
6. O.A.No.131/1998
All India Telecom Employees Union and another...Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.
- versus -
The Union of India and others Respondents.
By Advocate Mr. B.C. Patha, Addl:C:G.S.C.

Attested

Advocate.

- 35
- 24 -
-
7. O.A.No.135/98
 All India Telecom Employees Union
 Line Staff and Group-D and 6 others. Applicants.
 By Advocates Mr.B.K.Sharma, Mr.S.Sarma and
 Mr.U.K.Nair.
 - versus -
 The Union of India and others Respondents.,
 By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.

8. O.A.No.136/1998
 All India Telecom Employees Union,
 Line Staff and Group-D and 6 others. Applicants.
 By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.
 - versus -
 The Union of India and others. Respondents.
 By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

9. O.A.No.141/1998
 All India Telecom Employees Union,
 Line Staff and Group-D and another Applicants.
 By Advocates Mr.B.K.Sharma, Mr.S.Sarma
 and Mr.U.K.Nair.
 - versus -
 The Union of India and others Respondents.
 By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

10. O.A. No.142/1998
 All India Telecom Employees Union,
 Civil Wing Branch. Applicants.
 By Advocate Mr.B.Malakkar
 - versus -
 The Union of India and others. Respondents.
 By Advocate Mr.B.C. Pathak, Addl. C.G.S.C.

11. O.A. No.145/1998
 Shri Dhani Ram Deka and 10 others. Applicants
 By Advocate Mr.I.Hussain.
 - versus -
 The Union of India and others. Respondents.
 By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.

12. O.A.No. 192/1998
 All India Telecom Employees Union,
 Line Staff and Group-D and another Applicants
 By Advocates Mr.B.K. Sharma, Mr.S.Sarma
 and Mr.U.K.Nair.
 -versus-
 The Union of India and others..... Respondents
 By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

13. O.A.No.223/1998
 All India Telecom Employees Union,
 Line Staff and Group-D and another Applicants
 By advocates Mr. B.K.Sharma and Mr.S.Sarma.

Attested

W.D.M.
 Advocate.

- versus -

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

.....

14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma,
Mr.U.K.nair and Mr.D.K.Sharma

- versus -

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

15. O.A.No.293/1998

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

- versus -

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

.....

ORDER

BARUAH.J. (V.C.)

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

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

Attended
W.D.M.
Advocate

namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1978, to the casual Mazdoors concerned O.A.s, however, in O.A. No.269/1978 there is no prayer against the order of termination. In O.A. No.141/1978, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. of India, Ministry of Communication made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme was communicated by letter No.269-10/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits under the said scheme, such as conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group-D employees including D.A. and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable

Attested

WDM

Advocate.

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

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

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Line Staff and Group-D. The casual employees not being regular Government servant are not eligible to become members or office bearers to the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries in to their engagement as

casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6. We have heard Mr.B.K.Sharma, Mr J.L.Sarkar, Mr.I. Hussain and Mr.B.Malakar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C. Pathak, learned Sr.C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the scheme was retrospective and not prospective and they also submit that it was up to 1989 and

Assessed

WDA

Advocate

then extended up to 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counser for the applicants also submits that the respondents can not put any cut off date for implementation of the scheme, inasmuch as the Apex Court has not given any such cut off date and had issued directin for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We, therefore, feel that theb matter should be re-examined by the respondents themselves taking in to consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scritinise and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

Attested

W. A. M.

Advocate.

Sri P.K. Adhikari, I.T.S.
Telecom District Engineer,
Nagaon Telecom Dist. Nagaon

Office of the Telecom District
Engineer, Nagaon Telecom Dist.
Nagaon.

D.O. No. E-5/Casual Mazdoor/Part
III/54 Dated 16.9.94

Dear Sri Chaudhury,

While preparing the Gradation list of Casual Mazdoors as per individual proforma report/certificate duly signed by concerned S.I./JTOs and countersigned by you and submitted to this office it is seen that a large number of casual mazdoors are due to be conferred T.S.M. and working continuously without dispensing with their service. Even then you have recruited following casual mazdoors after 22.6.83 and still the same practice is continuing violating the higher authorities orders.

In this connection you are requested to intimate the cause of recruitment of those mazdoors immediately to the undersigned. If your report in this regard is not satisfactory and justify, the undersigned bound to take disciplinary action against you.

Further it is to be noted that: 1) Casual Mazdoors who have already conferred TSM and will be TSM must be utilised in Estimated construction works so that no additional fund is involved in incurring in engaging extra mazdoors. The allotment on wages has already been sealed by DOT.

2) If there is no sufficient work in the Sub-Division, T.S.M. must be diverted to the other Sub-Division consulting with other unit officers. So that no any T.S.M. labourer are sitting idle. The party can be formed with 5 to 6 TSMs under one SI/LI for smooth functioning.

3) Casual Mazdoors who have conferred TSM, their records of payment particulars e.e. ACC-17, ACC-3 and ACC-2 bills of L/M. S.I., JTOs and S.D.Os respectively must be preserved as instructed earlier vide this office D.O. letter of even number dated 28.4.94. So that same can be produced at any time to higher authority on and when called for.

With best wishes.

Names of Mazdoors

- 1) Sri Bikash Kalakar
- 2) " Dhaneswar Englong
- 3) " Hemari Hanse
- 4) " Moti Kalakar
- 5) " Haradhan Seal
- 6) " Indhusing Hira
- 7) " Tapan Kumar Parua
- 8) " Chyamel Das
- 9) " Joy Prakash Singh

Name of Mazdoors

- 10) Mrs. Rita Sarkar
- 11) Sri Ribhash Kalakar
- 12) " L. Debananda Sing
- 13) " Dipen Kumar Nath
- 14) " Dilip Kumar Roy
- 15) ED Islamuddin
- 16) Sri Jagat Barman.

Yours sincerely

(P.K. Adhikari)

To Sri A.S. Chaudhury

S.D.O.T., Hojai

Copy for information to The S.D.O.T./SDE(P)(G/P) Nagaon/DPH/Horizon

Telecom District Engineer
Nagaon Telecom Dist. NGA

Attested
Advocate.

To
Mr Telecom, District Manager,

Through Proper Channel.

Subject : Prayer for Appointment against CAT Case NO. 112/98
and 192/98 Dated,

Sir,

With due honour and humble submission I beg to lay before you the following few lines for favour of your kind and sympathetic consideration.

That Sir, I was working since January, 1988 in this Department as a Casual Mazdoor in Master Roll basis at Lunding under SDOF Diphu and subsequently under SDOF Lunding after re-organisation of the Sub-Division.

That Sir, I have completed 11(Eleven) years of service as Casual Mazdoor with more than 240 days in each year (relevant documents attached) with utmost satisfaction but I have not been confirmed as T.M till date inspite of DOT'S clear order confirmed all the Casual Mazdoors as T.M who are working since 22-06-88.

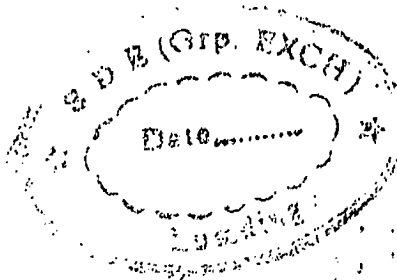
That Sir, Casual Mazdoor of Nagaon SSA went on CAT, Guwahati where my name is also included in the serial number '84'. In this regard DOT also clarified vide G.M.T. Assam letter NO. STS-21/160/26 dated 16-10-98 that who have been completed 240 days in a year should not be retrenched and if retrenched should be reinstate immediately (copy enclosed).

That Sir, apart from all these instruction JTO Lunding ask me to work under contractor from 14th February, 1999 where department will have no responsibility.

Therefore I cordially request you kindly to intervene in the matter and do needful so that I can get justice and have the bone of serving the department under DOT as earlier.

Yours faithfully,

Sd/- N. J. ...



Attested

[Signature]

Advocate

- 32 -

43
ANNEXURE - 7

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON (ASSAM).

NO:E-182/CAT/PL/II/30

Dated at Nagaon, the 14th July"2000.

To.

Sri Moti Malakar
Vill. Pnb. Nandatalpur Hojai

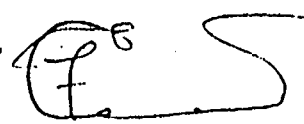
SPEAKING ORDER.

In pursuance of the Hon'ble CAT Guwahati Case No 192/98. Your representation was received through the SDE CAT/Hojai. Your case was scrutinised by a Committee formed by the Chief General Manager Telecommunication, Assam Circle, Guwahati-7..

The above committee had scrutinised and examined your representation as well as the payment particulars and wages paid to you in respect of the years under review by the disbursing authority.

The said scrutiny and verification of the relevant documents revealed that in any of the years the No. of days worked by you was below the requisite No. of days (i.e. 240 days).

As such your claim for conferment of Temporary Status Mazdoor could not be entertained.


Sub-Divisional Engineer(HRD),
O/O the T.D.M., Nagaon.

Advocate

ANNEXURE -

8 (colly)

ANNEXURE - 3

2

X

3

4

5

Sri. Jyamal Das.

S/o Jyante Das.
 1993 = 133 days.
 1994 = 219 " ✓
 1995 = 79 "
 1996 = 19 "
 1997 = 124 "
 1998 = 95 "

J. P. Singh

S/o N. B. Singh.
 1992 = 06 days.
 1993 = 120 "
 1994 = 198 "
 1995 = 123 "
 1996 = 38 "
 1997 = 77 "
 1998 = 66 "

Islamuddin

S/o Md. Gomal Ali.
 1993 = 55 days
 1994 = 210 " ✓
 1995 = 92 "
 1996 = 24 "
 1997 = 26 "
 1998 = 08 "

Nurul Haque

S/o Suraj Ali (A.S.C)
 (P.S. Dar)
 1994 = 32 days
 1995 = 131 "
 1996 = 39 "

Moti Malakar

S/o Natar Baidhary Singh
 1994 = 169 days.
 1995 = 183 "
 1996 = 55 "
 1997 = 546 hours.
 1998 = 137 hours

GA = 192/98

Om. Prakash Singh

S/o Naz Badshah Singh.
 1994 = 93 days.
 1995 = 151 days.
 1996 = 24 days.
 1997 = 54 days.
 1998 = 39 "

Dip Malakar

S/o Birendra Malakar.
 Records are not
 available at 307/H

WJ

Bishaji Malakar

S/o Birendra Malakar.
 1990 = 21 days.
 1993 = 220 " ✓
 1994 = 222 " ✓
 1995 = 224 " ✓
 1996 = 65 "
 1997 = 43 "

Bashir Malakar

1993 = 222 days ✓
 1994 = 233 " ✓
 1995 = 105 "
 1996 = 72 "
 1997 = 62 "
 1998 = 18 "

Bikash Malakar

S/o Birendra Malakar.
 1993 = 202 days ✓
 1994 = 224 " ✓
 1995 = 227 "
 1996 = 51 "
 1997 = 154 "
 1998 = 83 "

Attested
 WJ
 Advocate.

Contd B = 2-
 49

Abdul Malik

S/o Abdul
1994 = 55 days.
1995 = 147 days.
1998 = 11 days.

12
Rishi Sarkar

S/o Jagdish Sarkar
1994 = 121 days
1995 = 189 "
1996 = 33 "
1998 = 72 "

13
Rajesh Sarkar

S/o Jagdish Sarkar
Records are not available at CDO/Hy
= 5 pm Office.

✓✓

14
Dharmendra Zeka

S/o Bulam Zeka
1994 = 216 ✓
1995 = 200 ✓
1996 = 38
1997 = 58
1998 = 66 -

15
Pinku Paul

1993 = 93 days.
1994 = 122 days.
1995 = 136 "
1996 = 55 "
1998 = 19 "

16
Birush Malakar

S/o Birush Malakar
1993 = 79 days.
1994 = 60 "
1995 = 89 "
1996 = 51 "
1997 = 39 "
1998 = 57 "

17
Lakshmi Malakar

1993 = 196 days
1994 = 82 "
1995 = 233 ✓
1996 = 65 "
1997 = 132 "
1998 = 23 "

18
Saminan Mallik

Records are not available at CDO/Hy
= 7 pm Office.

✓✓

19
Sukumar Zilla

S/o Upendra Zilla
1993 = 80 days
1994 = 131 "
1995 = 182 "
1996 = 112 "
1997 = 18 "
1998 = 19 "

20
Haradham Seal

S/o Brajendra Seal
1993 = 148 days
1994 = 215 " ✓
1995 = 166 "
1996 = 73 "
1997 = 112 "
1998 = 38 "

21
Xitai ch. Mitra

S/o Sudhansu Mitra
1990 = 57 days
1991 = 62 "
1993 = 14 "
1995 = 05 "
1997 = 02 "
1998 = 28 "

22
Subhash Karmakar

S/o Sudhi Karmakar
1990 = 17 days.
1991 = 15 days.
1992 = 06 days.
1993 = 12 days.
1995 = 07 days.

Attested

Advocate.

-8- 35.

Annexure-2.

Sri Shyam Das
S/o Jayant Das

46

Jan 93 — 25
Feb 93 — 25
March 93 — 24
April 93 — 1

BR. A.S. CHANDRAIAI
S.O.T. Hojai
Sri K.R. day J.T.O.

June 93 — 29
Aug 93 — 25
Sept 93 — 25
Dec 93 — 25
183

Jan 98 — 19
Feb 98 — 19
March 98 — 19
95

March 94 — 25
April 94 — 24
May 94 — 29
June 94 — 24
July 94 — 24
Aug 94 — 25
Oct 94 — 25
Nov 94 — 24
Dec 94 — 24
219

Jan 95 — 30
Aug 95 — 30
Nov 95 — 19
79

Jan 96 — 19
June 97 — 19
Aug 97 — 19
Nov 97 — 25
189

Attested as per goods
consist in this office
Test. checked
Hojai

Attested
was
Advocate.

36-

Sri Jay Prakash Singh
S/o Shri Nar Bahadur Singh

March 92	6	Sri S.K. Das	52
May 93	30	Sri K.R. Das	13
June 93	15	June 97	15
July 93	25	July 97	15
Oct 93	25	Aug 97	7
Nov 93	25	Sept 97	12
	120	Nov 97	30
March 94	31		77

April 94	16	Jan 98	19
June 94	30	Feb 98	19
July 94	31	April 98	19
Sept 94	12	May 98	9
Oct 94	22		66
Nov 94	30		
Dec 94	26		
	195		

Jan 95	22
Feb 95	28
Mar 95	22
April 95	9
May 95	15
July 95	20
Nov 95	11

R3

Jan 96	23
Feb 96	15
	35

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[Signature]

Attested
USA
Advocate

37-
M. d. Nurul Hoque
S/o Suray Ali

48

Sri A. S. Chaudhary
Sri P. S. Das.

May 94 — 25
July 94 — 4
Aug 94 — 3
32

April 95 — 25

May 95 — 15

Aug 95 — 30

Sept 95 — 19

Oct 95 — 25

Nov 95 — 19

Dec 95 — 19

131

Jan 96 — 24

Feb 96 — 15

39

Verified by me
Available in this office
28.10
Test checked
K. S. D.

Attested
was
Advocate.

~~38~~ 38

Sri Omprakash Singh
S/o Nar Badshahwar Singh

Sri A S Chandhary
Sri P. S Das J. T. O

Sept 94 — 12

Oct 94 — 22

Nov 94 — 30

Dec 94 — 29

93

April 95 — 30

May 95 — 9

Jan 95 — 22

Feb 95 — 28

March 95 — 22

April 95 — 5

May 95 — 15

July 95 — 29

Nov 95 — 30

151

Feb 96 — 15

Mar 96 — 9

24

June 97 — 13

Aug 97 — 21

Sept 97 — 2

Nov 97 — 18

(205) 54 ✓

Verified by
Gopal Singh
Bure geo
Gins Office
Text checked
Hindus

Attested

Nar

Advocate

39- Sni Abdul Malik
Sni. Abdul

Sni A. S. Chaudhary Soot

Sni P. R. Day

March 94 — 25

May 94 — 25

Dec 94 — 13

Nov 94 — 7

65

Jan 95 — 31

Feb 95 — 15

Nov 95 — 19

(65)

Mar 95 — 18

June 95 — 15

Aug 95 — 30

Dec 95 — 19

197

April 98 — 11

Verified by J. S. Chaudhary
Available in J. S. Office
200 12
Text checked
19/12/98

Attested

W. M.
Advocate.

Page - 40 -
 Sri Channamuntha Seka
 S/o Bulan Seka

Sri N.K Das S.O.I.
 Sri Upen Bora J.O

Jan 94 — 31

Feb 94 — 15

Mar 94 — 20

June 94 — 25

July 94 — 31

Sept 94 — 15

Oct 94 — 22

Nov 94 — 30

Dec 94 — 26

216 ✓

Jan 98 — 17

Feb 98 — 19

Apr 1998 — 19

May 98 — 9

66

Jan 95 — 22

Feb 95 — 17

March 95 — 22

April 95 — 5

June 95 — 5

July 95 — 37

Sept 95 — 30

Oct 95 — 15

Nov 95 — 19

Dec 95 — 19

May 95 — 15

200 ✓

Jan 96 — 23

Feb 96 — 15

38

June 97 — 13

July 97 — 15

Nov 97 — 30

53

As per office
 available in this office
 200 ✓

Attested

Advocate

41 - ✓ Smt Rita Sankar
 2/0 Jagdish Sankar

July 94 — 21 Smt A.S. Chaudhary
 Sept 94 — 29 Smt K.R. Day
 Oct 94 — 10
 Nov 94 — 30
 Dec 94 — 31
 199

April 95 — 30
 May 95 — 20
 Jan 95 — 31
 Feb 95 — 28
 Sep 95 — 30
 Oct 95 — 31
 Nov 95 — 14
 189

Jan 98 — 24
 Feb 98 — 24
 March 98 — 24
 April 98 — 24

Jan 96 — 5
 Feb 96 — 28
 93

Noted at Police Office
 available in (J.S. Office)
 T. S. Chaudhary
 21/1/98

Attested

Advocate.

-12- -42-
✓ Islam Uddin
S/o Md. Omar Ali

Sri A. S. Chaudhary

Sri K. R. Ray

Sept 93 — 15

Nov 93 — 10

Dec 93 — 20

55 days

Jan 94 — 35 days

March 94 — 3 "

April 94 — 15 "

June 94 — 30 "

July 94 — 31 "

Sept 94 — 15 "

Oct 94 — 2 "

Nov 94 — 30 "

Dec 94 — 26 "

210 ✓

Nov 97 — 10 days

Dec 97 — 16 "

26 "

Jan 98 — 8 days

8 days

Jan 95 — 22

Feb 95 — 28

March 95 — 22

April 95 — 5

May 95 — 15

92

Feb 96 — 15 days

March 96 — 9 "

24

Arrested
was
Advocate

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available in this office
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Ref. checked
H/

43 ✓ Sri Bibhash Malakar 64
C/o - Binodh Malakar

Sri A. S. Chandhary

Sri K. R. Ray

Jan 93 — 31 April 97 — 19

Feb 93 — 28 July 97 — 18

Mar 93 — 5 Oct 97 — 12

June 93 — 15 Dec 97 — 30

79

79

Oct 94 — 8 Jan 98 — 19

Nov 94 — 30 Feb 98 — 19

Dec 94 — 22 38

60 April 98 — 19

57

Feb 95 — 3

Mar 95 — 27

July 95 — 20

Nov 95 — 15

Dec 95 — 6

May 96 — 18

89

Jan 96 — 24

March 96 — 27

51

Verified as per records
Available in this office.
2nd
Sd/-
Sd/-
Sd/-

Attested

Advocate.

- 13/11/46 -
 Sni. P. S. Jagit Malakar 6
 S/o Birendra Malakar

Sni S. K. Das 5001/Hog
 Sni K. R. Day J. T. O/Hog

Aug 90 — 6
 Sep 90 — 15
 21
 Jan 93 — 15
 Feb 93 — 28
 Mar 93 — 30
 May 93 — 5
 June 93 — 30
 Aug 93 — 30
 Sept 93 — 20
 Nov 93 — 17
 Dec 93 — 30
 220 ✓

Jan 95 — 31
 Feb 95 — 28
 Mar 95 — 7
 May 95 — 18
 July 95 — 20
 Aug 95 — 18
 Sept 95 — 29
 Oct 95 — 25
 Nov 95 — 30
 Dec 95 — 18
 224 ✓

Jan 94 — 30
 March 94 — 37
 April 94 — 30
 May 94 — 16
 July 94 — 31
 Aug 94 — 22
 Oct 94 — 8
 Nov 94 — 30
 Dec 94 — 24
 222 ✓

Jan 96 — 30
 Feb 96 — 28
 March 96 — 7
 65
 Aug 97 — 31
 Sept 97 — 2
 Oct 97 — 10
 43

Attested
 Non
 Advocates.

Witnessed by J. S. Jeeva
 in this Office.
 b

Test checked
 Friday

- 45 - ✓ Sni Sukumati Dutt⁵⁶
S/o - Upendra Dutt

Sni A. S. Chakrabarty
Sni K. R. Day

Feb 93 — 15

Mar 93 — 15

May 93 — 5

June 93 — 15

Dec 93 — 30

80

Jan 96 — 27

Feb 96 — 28

March 96 — 27

June 96 — 30

112

Jan 94 — 30

Feb 94 — 26

March 94 — 27

April 94 — 23

May 94 — 8

June 94 — 16

July 94 — 21

131

Dec 97 — 18

68

Jan 28 — 4

Feb 28 — 15

19

Jan 95 — 30

Feb 95 — 28

Mar 95 — 27

May 95 — 30

July 95 — 37

Sept 95 — 30

176

Dec 95 — 6

182 Verified as per record
available in the office.
Test checked
25/10/95

Attested

Advocate.

✓ 14-46-41
 Sri Bikash Malakar
 S/o Binendra Malakar

Jan 93	31	Sri A. S. Chaudhary
Feb 93	28	Sri K. R. Ray, J. T. O
March 93	15	

May 93	31	Jan 95	15
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Aug 93	30	Feb 95	28
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Sept 93	20	March 95	27
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Nov 93	17	April 95	18
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Dec 93	30	May 95	30
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202	July 95	20
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Jan 94	30	Aug 95	15
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Feb 94	26	Sept 95	29
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March 94	30	Oct 95	25
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May 94	8	Dec 95	30
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June 94	30		227
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Aug 94	22		
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Oct 94	28	Jan 96	23
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Nov 94	28	Feb 96	28
--------	----	--------	----

Dec 94	22		51
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224

April 97	19
----------	----

July 97	18
---------	----

Aug 97	31
--------	----

Sept 97	14
---------	----

Oct 97	28
--------	----

Nov 97	13
--------	----

Dec 97	31
--------	----

154

Attested
 W. S.
 Advocate.

47

Sri Haradhan Seal
S/o Brajendra Seal

Jan '93	— 15	Sri H. S. Chandhary S.O.T
Feb '93	— 28	Hojai
March '93	— 15	Sri K. R. Day J.T.O.
April 93	— 30	
May 93	— 15	
June 93	— 15	
Dec 93	— 30	
	148	
April 1994	— 20	
May 94	— 30	
June 94	— 15	
Aug 94	— 26	
Sept 94	— 30	
Oct 94	— 24	
Nov 94	— 30	
Dec 94	— 9	
	215	
March 95	— 6	
April 95	— 7	
June 95	— 23	
July 95	— 31	
Aug 95	— 31	
Sept 95	—	
Oct 95	— 20	
Nov 95	— 18	
Dec 95	— 30	
	166	
Jan 96	— 30	
Feb 96	— 25	
Mar 96	— 18	
	73	
May 97	— 12	
June 97	— 14	
Aug 97	— 14	
Oct 97	— 27	
Nov 97	— 21	
Dec 97	— 22	
	112	
Jan 98	— 19	
Feb 98	— 19	
	38	

Twofold in Bare Seal
Office
Text-check
Hojai

Attested

Advocate

- 15 - 48 -

Sri Nilai Mitra
S/o Sudhansu Mitra

March 90 — 17 Sri R. Patra SGT O Dip
May 90 — 25 Sri K.R. day J.T.O.
June 90 — 15

57 days

Jan 91 — 31
May 91 — 31

62 days

March 93 — 12
April 93 — 2
14 days

June 95 — 5
2 days

Aug 97 — 2
2 days

Feb 98 — 9
March 98 — 19
28 days

Verified as per records
available in this office
checked
27/4/20

Attested

W.D.

Advocate

49-
Sri Subhash Karmakar
8/0 - Sudhi Karmakar.

March 90 — 17

17 days

Sri R. Patkar S DOT Diphu

Sri K. R. day J. T. O.

May 91 — 15

15 days

March 92 — 6

6 days

March 93 — 12

12 days

Jan 95 — 5

July 95 — 7

7 days

Verified as per records
available in this office
J.S.D.
Test checked
Ambar

Attested

W.D.S.

Advocate.

✓ Sri Moti Malakar.

8/10 Lati Rupam Malakar.

Apri 94 — 20

Sri A-S. Chaudari Hojai

June 94 — 15

Sri R.P. Saha. J.T.O

July 94 — 31

Aug 94 — 14

Janu 97

62 hours

Sept 94 — 27

March 97

63 "

Oct 94 — 10

April 97

60 "

Nov 94 — 21

June 97

62 "

Dec 94 — 31

July 97

62 "

169

Oct 97

62 "

Nov 97

60 "

Dec 97

62 "

Jan 95 — 31

Feb 97

56 "

Feb 95 — 13

62 6 hours.

March 95 — 31

546 "

May 95 — 25

Oct 95 — 20

Jan 98

62 hours

Nov 95 — 10

Feb 98

56 "

Aug 95 — 24

March 98

19 "

April 95 — 8

137 "

Sept 95 — 9

Dec 95 — 30

183

Janu 96

30

days

Feb 96

25

days

Dec 96

62

days

Hours

55 days

55 days

55 days

55 days

55 days

55 days

55 days

55 days

55 days

55 days

55 days

55 days

55 days

Arrested

under

Advocate

Verified at the records
available in this office
27.10.97
T. S. Choudhary
K. S. Choudhary

Sri Basu Malakar

Janu 93	15	Sri A. S. Chandani, S.D.O. Hojai
March 93	30	Sri R. P. Saka, J.T.O
April 93	30	
May 93	5	
June 93	30	
July 93	15	Jan 95 — 31
Aug 93	30	Feb 95 — 13
Sept 93	20	March 95 — 7
Nov 93	17	April 95 — 15
Dec 93	30	July 95 — 20
	222	Aug 95 — 15
Janu 94	30	Sept 95 — 29
Feb 94	26	Oct 95 — 25
March 94	30	Nov 95 — 30
May 94	16	
June 94	30	
Aug 94	22	Jan 96 — 20
Sept 94	29	Feb 96 — 25
Nov 94	30	March 96 — 27
Dec 94	20	
	233	72
		Aug 97 — 31
		Sept 97 — 2
		Oct 97 — 24
		Nov 97 — 13
		Dec 97 — 12
		62
		Janu 98 — 7
		April 98 — 4
		68

Verified & available in the office
 20-5-98
 Govt. Shiksha
 Dept.

Attested
 was
 Advocate

Sri

Rinku. Paul.

52 -

63

Feb 93 — 13

May 93 — 15

July 93 — 27

Dec 93 — 30

June 93 — 15

93

Sri A. S. chawdani S.O.T. Hoyal

" R. P. chara J. T. O

June 94 — 25

June 94 — 25

July 94 — 31

Sept 94 — 30

Nov 94 — 7

Dec 94 — 29

122

Janu 95 — 22

Feb '95 — 28

March 95 — 10

June 95 — 30

July 95 — 31

Nov 95 — 15

136

Janu 96 — 31

Feb 96 — 15

March 96 — 9

55

March 1998 — 19 days.

Verified & Due given
available in this office
12.00
12/

Attested

W. D. M.

Advocate.

- 53 -
Sri. Lakshmi Konda malakani

ANNEXURE 2
64

Jan '93 - 15	Sri. N.S. Chaothani S.D. O.T. Huzar
Feb '93 - 28	Sri. K.R. Day J.T.O. Huzar
March '93 - 28	
April '93 - 30	
May '93 - 30	
June '93 - 18	
July '93 - 20	Jan '96 - 30
Aug '93 - 30	Feb '96 - 28
196	March '96 - 7
	25
Oct '94 - 27	
Nov '94 - 30	April '97 - 23
Dec '94 - 31	May '97 - 16
22	June '97 - 10
	Aug '97 - 17
Jan '95 - 31	Sep '97 - 7
Feb '95 - 28	Oct '97 - 23
March '95 - 31	Dec '97 - 30
June - June '95 - 23	132
July '95 - 31	Jan '98 - 23
Aug '95 - 31	23
April '95 - 30	
May '95 - 8	
Oct '95 - 20	
233	

Verified as per records
available in this office
not checked
[Signature]

Attested

[Signature]
Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 325 of 2000.

Date of Order : This is the 16th Day of August, 2001.

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

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

1. Sri Shyamal Das
Presently working under
Telecom District Manager, Nagaon.
2. The All India Telecom Employees
Union L.S & Gr-D, represented by its
Circle Secretary, Sri J.N.Mishra . . . Applicants.

By Mr.B.K.Sharma, Mr.S.Sarma & Mr.U.K.Goswami

- Vs -

1. The Union of India
Represented by the Secretary to the
Ministry of Communication
New Delhi.
2. The Chief General Manager
Assam Telecom Circle
Guwahati.
3. The Telecom District Manager
Nagaon, Telecom Division
Assam. . . Respondents.

O R D E R



CHIEF JUSTICE D.N.CHOUDHURY J.(V.C.) :

The application is made in representative capacity, espousing the cause of twenty two Casual Labourers, mentioned in the list annexed at page 16 of this application.

2. These applicants claimed that they were engaged as Casual Labourers by the respective JTOs during the period from 1988 to 1992. They claimed that they have completed more than 240 days in more than a year and therefore, they are entitled for granting temporary status as per Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 prepared by the Deptt.

Attested

W.D.

Advocate

Contd.. 2

of Telecommunication. But the respondents in a most illegal fashion denied the applicants temporary status and without properly examining the materials on records turned down their claim vide order dated 14.7.2000.

3. Mr.S.Sarma, learned counsel for the applicant stated that the respondent authority had fallen into error in not taking into account all the services rendered by the concerned by the applicants, which were duly verified by the concerned JTOs. Mr.Sarma, in support of his contention, relying on Annexure-RJ-1 (colly) stated that these applicants had completed 240 days in a year and therefore they were entitled for granting temporary status.

4. Mr.A.Deb Roy, learned Sr. C.G.S.C for the respondents, opposing the case of the applicants, stated that the matter had already been considered and there was nothing to reconsider the facts of the case. Since, the applicants have produced some materials in support of their case, we are of the opinion that the matter should be reconsidered. Accordingly, we set aside the impugned order dated 14.7.2000 and direct the respondents to reconsider the case of the applicants on the basis of materials produced on records. The respondents may also call for the records from the concerned records, if required. On perusal of the same and upon hearing the applicants, the respondents shall pass an appropriate order as per law. While considering the case of the applicants, the respondents shall also take note of the Order No. Estt-9/12/CM/15 dated 15.1.2001, the Memorandum No. ESTT-9/12/PT/KTD/40 dated 15.2.2001 and the Memorandum D.O.No. STES-21/160/101 dated 22.3.2001. The respondents are

Attested

W.D.
Advocate

Contd.. 3



directed to complete the exercise within three months from the receipt of this order.

Subject to the observations made above, the application stands allowed to the extent indicated above.

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



Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

BB

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (A)

आवृत्त अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Orachali Boro, Guwahati-8
गुवाहाटी न्यायालय, गुवाहाटी-8

Attested

Advocate

ANNEXURE - 10

BHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM.

No.E-182/CAT/02-03/

Dated at Nagaon the 26.09.2002.

To,

Sri
Vill
P.O.

Subhash Karmakar
Lumding Bazar
Lumding Dist. Nagaon (Assam)

Dear sir,

As you are aware that as per direction given by Hon'ble CAT Guwahati Bench, Guwahati in OA No. 325/2000..... the department constituted verification committee for different SSAs/Units under the circle for conducting detailed verification/Scrutiny about the No. of days of engagement yearwise in different units/offices and also to collect proof/evidence for such casual labourer including yourself. The committee verified all the documentary as well as other proof from the various units/offices and also personally interviewed such casual labourer including you on 03/07/2002. In our office, the committee comprised of three members namely 1. Sri S.C. Tapadar, DE(P&A) O/O the TDM Nagaon, 2. Sri D.N. Baishya, ADT(MIS) O/O the CGMT Guwahati and 3. Sri M.R. Choudhury, Sr.AO(Cash) O/O the TDM Nagaon.

The aforesaid committee submitted its report to the Department detailing all about their findings/proof against each casual labourer including you. The detailed report is enclosed and furnished herewith in Annexure for your information.

Under the above circumstances as you could not satisfy the eligibility criteria as laid down in the scheme for conferment of TSM/regularization, your case could not be considered favourably. Please take notice that, you have not been in engagement under the Department since June/1998 and the Department is bound to consider only the cases of such eligible casual labourers for conferment of TSM against such vacancies/works. This is done in accordance with the Hon'ble Tribunals order /and also to stay/statusquo that was directed to be maintained.

Enc-As above.

Divisional Engineer (P&A)
O/O the T.D.M. Nagaon.

Copy to:- The ADT (Legal) of the CGMT Guwahati for information.

Attested

Advocate,

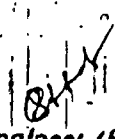
Divisional Engineer (P&A)
O/O the T.D.M. Nagaon.

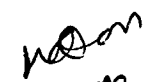
ANNEXURE.

Details of findings by the verification committee of NAGAOB SSA in case of
 Sd/- Subhash Karmakar, in the unit/office.....

Date of engagement.	Authority of engagement.	No. of days engaged. (A) Upto 1.8.98 for normal case (B) year/ days for the cases because stay/status quo/not to dis-engagement order by Ho/nice Tribunal	Proof of payment document ary.	Name & design. of members of verification committee	Reasons in brief of ineligibility.	Remark
1	2	3	4	5	6	7

12/89 M.S.D. nile	1989 = 18 days	ACSA 17	1) S. C. Tapadar	Not completed 240 days in my working years.
5/10/89	1990 = 38 "	"	DE (P & A) / Nagpur	
	1991 = 31 "	"	2) D. N. Banishya	
	1992 = 13 "	"	ADT (Misc) C.C. / SH	
	1993 = 65 "	"	3) M. R. Choudhury	
	1994 = nil	"	Sr. AO (cash) / Nagpur	
	1995 = 4 "	"		
	1996 = nil			
	1997 = nil			
	1998 = nil			


 Divisional Engineer (P&A)
 O/O the T.O.M., Nagpur
 Nagpur-482001


 Subhash Karmakar

VAK

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,
MIZORAM AND ARUNACHAL PRADESH)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

IN THE COURT OF AT GUWAHATI

OA No. 146 OF 2003

Subhash Karmakar & Ors. Appellant

Plaintiff/ Petitioner

VERSUS

Union of India & Ors. Respondent

Defendant / Opposite Party

Know all men by these presents that the above named applicants

do hereby nominate, constitute and appoint Sri. S. Sarma &
Mits U. Das

Advocate and such of the undermentioned Advocates as shall accept this Vakalatnama to be my/ our true and lawful Advocate to appear and act for me/ us in the matter noted above and in connection there with and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filling in or taking out papers, deeds of composition, etc. for me/ us and my/our behalf and I/We agree to ratify and confirm all acts so done by the said advocates as mine/ ours to all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear or act on my/ our behalf.

In witnesses whereof I/ We hereunto set my/ our hand this 19th day of June 2003

- (1) Mr. P. K. Goswami
- (2) Mr. P.C. Deka
- (3) Mr. J. M. Choudhury
- (4) Mr. A. K. Bhattacharyya
- (5) Mr. B.K. Sharma
- (6) Mr. L. Talukdar
- (7) Mr. P.K. Tiwari
- (8) Mr. T. N. Srinivasan

- (9) Mr. M. K. Choudhury
- (10) Mr. B. M. Sarma
- (11) Mr. G. K. Thakuria
- (12) Mr. M. Chanda
- (13) Mr. B.K. Baishya
- (14) Mr. D. S. Bhattacharyya
- (15) Mrs. S. D. Baruah
- (16) Mr. Siddhartha Sarma

- (17) Mr. P. C. Kalita
- (18) Mr. K. Paul
- (19) Mr. U. K. Nair
- (20) Mr. D. K. Sarmah
- (21) Mrs. N. S. Thakuria
- (22) Mr. U. K. Goswami
- (23) Mr. A. Rahman
- (24) Mr. M. Dutta

Sri..... Senior Advocate, leads me/ us in this case.

Received from the executant,
satisfied and accepted.

Advocate

Accepted

Advocate

Accepted

Advocate

70
Sri Bikaash Karmakar - (1) Sri Nikhil Choudhury
Sri P. C. Kalita - (2) Sri U. K. Nair
(3) Sri M. K. Choudhury
(4) Sri D. S. Bhattacharyya
(5) Sri B. K. Baishya
(6) Sri M. Chanda
(7) Sri G. K. Thakuria
(8) Sri P. C. Deka
(9) Sri J. M. Choudhury
(10) Sri A. K. Bhattacharyya
(11) Sri B. K. Sharma
(12) Sri L. Talukdar
(13) Sri P. K. Tiwari
(14) Sri T. N. Srinivasan
(15) Sri M. K. Choudhury
(16) Sri B. M. Sarma
(17) Sri G. K. Thakuria
(18) Sri M. Chanda
(19) Sri B. K. Baishya
(20) Sri D. S. Bhattacharyya
(21) Sri Mrs. S. D. Baruah
(22) Sri Mr. Siddhartha Sarma
(23) Sri Mr. P. C. Kalita
(24) Sri Mr. K. Paul
(25) Sri Mr. U. K. Nair
(26) Sri Mr. D. K. Sarmah
(27) Sri Mrs. N. S. Thakuria
(28) Sri Mr. U. K. Goswami
(29) Sri Mr. A. Rahman
(30) Sri Mr. M. Dutta

Notice

Date - 20/6/03⁴¹

From,

Alsha Das
Advocate

To

Sr. C.G.S.C.

CAT, Ghy

Sub: OA NO. 103

Subhash Karmakar & Ors.
- - Applicants

- B -

Union of India & Ors.

- - Respondents

Sir,

Please find herewith a copy of
OA being filed today. Kindly
acknowledge the receipt thereof.

Thanking You.

Sincerely Yours

Alsha Das
Advocate

Received copy

23/6

Sr. C.G.S.C.

CAT, Ghy.

Central Administrative Tribunal
2 DEC 2000
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : AT GUWAHATI

O.A.No. 146 / 03

Shri Subhash Karmakar & Others.....Applicants

-VS-

Union of India & OthersRespondents

(Written statements filed by the respondent No.1 to 4)

The written statements of the above noted respondents are as follows:

1. That a copy of O.A.No.146/03 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof.
2. That save and except these statements made in the application which are specifically admitted, the rest may be treated as denied by the respondents.
3. That with regard to the statements made in para 1, the respondents state that there is no cause of action available to the applicants against the respondents after the formation of Bharat Sanchar Nigam Limited (referred to as "BSNL") a Govt. company duly registered under the

5.9-
Filed by:
B. C. Pathak
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati
72

Companies Act, 1956 and after the transfer of assets and liabilities by the Govt. of India, Ministry of Communication, Department of telecommunications (Services) w.e.f. 1.10.2000. The respondent No.2, 3 and 4 are the official respondents under the exclusive control of BSNL. This Hon'ble Tribunal has no jurisdiction over the said establishment of BSNL and the official respondent No.2,3 and 4 as the Govt of India has not yet issued any notification as required by law under section 14(2) of the Central Administrative Tribunal Act, 1985, (referred to as the "Act"). The law is well settled by the various decisions pronounced by different Benches including this Hon'ble Bench of the Tribunal that the Hon'ble Tribunal has no jurisdiction over the BSNL. Whatever exercise alleged to have been done is therefore not tenable in law. The Scheme of 1989, was an one time measure only applicable to respondent No.1 and the same has ceased to operate against the respondent No.2, 3 and 4 after 1.10.2000 for the reasons as stated hereinabove. The respondents crave the leave of the Hon'ble Tribunal to allow them to produce and rely upon such case laws supporting the case of the respondents at the time of hearing of the application.

4. That with regard to the statements made in para 2, the respondents state that the application is barred by the law of limitation as provided under section 20 and 21 of the Act and hence the same being not maintainable is liable to be dismissed.
5. That with regard to the statements made in para 3 of the application, the respondents state that no direction or order could be issued by this Hon'ble Tribunal against the respondents No.2, 3 and 4 as the jurisdiction of this Hon'ble Tribunal is not extended to exercise against the said respondents.
6. That with regard to the statements made in para 4.1 of the application, the answering respondents have no comment to offer against those statements.

7. That with regard to the statements made in para 4.2 of the application, the respondents state that the allegations and the claims made by the applicant are not supported by any cogent and irrefutable evidence to support such claims and allegations. The burden of proof lies on the applicants to show that they had been recruited during the period ranging from 1988 to 1992 and they have been continuing as casual workers without any break. It is also not a fact that the applicants were sponsored through the local Employment Exchange and they were interviewed before recruitment. It is also not correct that the applicants are still continuing without any break. The respondents state that the casual labourers were engaged on daily rate wage basis whenever there was requirement of such casual jobs and on no work no pay basis. They were never engaged on regular/ continuous basis against any post or vacancy.
8. That with regard to the statement made in para 4.3 and 4.4 the respondents state that the Govt. of India, Department of Telecommunications formulated a scheme known as "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of the Department of the Telecommunications, 1989" (referred to as the "Scheme"). The said Scheme was formulated as an one time measure but the same was extended upto 1.8.1998 only for some limited purpose as clearly explained vide Govt of India, Department of Telecom No.269-4/93-STN dtd 12.2.99 and Govt of India, Department of Telecom No.269-13/99-STN.II dtd 1.9.99. According to the said Scheme read with the said circular dtd 12.2.99 and 1.9.99, none of the applicants are entitled to any such benefits as claimed in the application. Until and unless the vires of the said subordinate legislations are challenged and a declaration is pronounced by a competent court of jurisdiction including this Hon'ble Tribunal declaring those legislations namely the Scheme and the said two circular dtd 12.2.99 and 1.9.99 as ultra-vires and illegal, no relief could be extended to the applicants as demanded by them.

9. That with regard to the statements made in para 4.5, 4.6, 4.9 and 4.10 of the application, the respondents state that considering a series of cases as a batch including O.A.No.192/98 this Hon'ble Tribunal by a common order passed on 31.8.99 held that the records placed before the Tribunal were not sufficient to come to a conclusion as to determine the eligible criteria whether the applicants were entitled to the benefit of the Scheme or not. Therefore, due to paucity of records, this Hon'ble Tribunal directed the then respondents to verify the claims of the individual casual labourers on their respective claims to be made by a written representation and by verifying the official records of the said respondents. In compliance with the said order the then respondents constituted a high power expert verification committee to verify the departmental records and also the records of the applicants supporting their respective claims. In the exercise the then respondents conferred Temporary Status to those casual labourers who could fulfill the required criteria as provided in the Scheme and rejected those case of applicants who failed to fulfill the required criteria under the Scheme. The present applicants in the instant application were also found that they never completed 240 days in a year during the course of their engagement. Hence their cases were rejected after being duly considered and verified.
10. That with regard to the statements made in para 4.7 and 4.8, the respondents state that the allegations / claims made in these paragraphs are false and frivolous and without and basis, hence the same are denied by the respondents.
11. That with regard to the statements made in para 11, the respondents state that when the interim order was passed on O.A.No.325/2000 directing the then respondents to maintain status quo as regard the continuation of services of the applicants, the applicants were no longer in engagement immediately prior or on the said crucial date of the order. As the applicants were not in engagement, status quo as such was accordingly maintained. But in the mean time, the BSNL

came into existence w.e.f.1.10.2000 with a separate and distinct legal entity from the erstwhile respondents. By the coming of the BSNL the entire status of the erstwhile respondents got changed, when the order dtd.16.8.2001 was passed in O.A.No.325/2000. This order became unenforceable against the respondent No.2, 3 & 4 for the reasons as stated above. However, the official respondents No.2, 3 & 4 wrongly exercised their jurisdiction and acting from such wrong premises they further verified the claims of the applicants if they were entitled to the benefit under the Scheme. But the said respondents after verification of the records once again found that the applicants failed to fulfill the criteria as required by the Scheme as they never completed 240 days in a year in service. Hence their case was rejected on 26.9.2002.

12. That with regard to the statements made in para 4.13, the respondents state that for the reasons as stated above and in absence of even a single iota of evidence that they had ever completed 240 days in a year, the case of the applicants could not be considered by the respondents.
13. That with regard to the statements made in para 4.14 to 4.15, the respondents state that the allegations and the claims of the applicants are false and baseless. There is absolutely no supporting proof to justify their allegations and claims. The respondents acted fairly and sincerely as per direction of the Hon'ble Tribunal and they had no occasion to act otherwise or contrary to the direction of the Tribunal or any other law, guidelines and circulars.
14. That with regard to the statements made in para 5.1 to 5.6, the respondents state that under the facts and circumstances of the case, provisions of the scheme, circular, law and the directions of the Hon'ble Tribunal, the ground shown by the applicants to support their contentions / claims are no ground at all in the eye of law and hence the application is liable to be dismissed with cost. In this connection

the present respondents begs to submit that this Hon'ble Tribunal has no jurisdiction to exercise power under the Act and to issue any direction or order at-least to the respondent No.2, 3 and 4 even no order could be issued to the respondent No.1 as the said department has already been merged with the BSNL w.e.f.1.10.2000 and until and unless said order of merger / transfer of assets and liability by the Govt. of India, Ministry of Communications, Department of Telecommunications is challenged with regard to its vires, legality and validity and set aside by the competent court of jurisdiction. The respondents also respectfully submit that the erstwhile and present respondents by mistake exercised their jurisdiction after 1.10.2000 in dealing with the matter in issue of the applicants. But whatever might be the action carried out by the respondents in contravention of law and the authority, the law in this regard is well settled that the court shall not issue any mandamus to direct the Government or such authority to refrain from enforcing law or to act contrary to the provisions of law. The law is also well settled that the court shall not legitimize illegal acts of officers. It is also well settled that the court cannot perpetuate a wrong appointment or mistake by misinterpreting the provisions of the statutes. The Hon'ble Supreme Court has also laid down law that the Government cannot be compelled by the court to change its policy involving expenditure. In the instant case the Government has changed the status of the respondents by their policy decisions and therefore no direction could be issued to the present respondents to re-engaged or regularized the services of the applicants de hors the provisions of law. The respondents also respectfully submits that under a similar circumstances the Supreme Court has held that the Scheme of casual labourer is a one time measure and not a continuous ongoing process. This ratio decidendi as laid down by the Hon'ble Apex Court is also equally applicable in the instant case.

15. That with regard to the statements made in para 6 & 7, the respondents have no comment to offer.

16. That with regard to the statements made in para 8.1 to 8.4 and 9 of the application the respondents state that in any view of the matter and under the given facts and circumstances of the case and the provisions of law, Scheme and circulars and guidelines etc it clear that the application has been filed by the respondents without any merit and the same is liable to be dismissed with cost.

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

VERIFICATION

I, Shri Sankar Chandra Das, S/O Late Gopi Ram Das, aged about 58 years, resident of Telecom Officers' Colony, Chenikuthi Hill side, Guwahati -3, working as Assistant Director Telecom (Legal) in the office of the Chief General Manager, Bharat Sanchar Nigam Limited, Assam Circle, Guwahati, do hereby solemnly affirm and state that the statements made in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 are true to my knowledge and belief, those made para 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 30th day of November, 2004 at Guwahati.

Shankar Chandra Das
Deponent

Assistant Director Telecom (Leg II)
O/o the Chief General Manager, BSNL
Assam Telecom Circle, GUWAHATI