

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 323/2004

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 323/2004

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: Shri R. Das & Ors

Respondents: M.O.I. & Ors

Advocate of the Applicants: Mr. S.K. Sharma,
P.N. Choudhary

Advocate for the Respondents: C.C.S.C.

Notes of the Registry	Date	Order of the Tribunal
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	22.12.2004	present: The Hon'ble Mr. K.V. Prahladan, Member (A).
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This application is in form
is filed/C.F. for Rs 50/-
deposited vide IPC/BD

No. 37C 430590 to

Dated 37C 430599
15/12/04

Josep
Dy. Registrar

S.O (E) File No.

Heard Mr. G. Rahul, learned counsel
for the applicants. Mr. A.K. Chaudhuri,
learned Addl. C.G.S.C. was present on beha-
lf of the respondents.

The application is admitted, call
for the records, returnable within four
weeks. List for orders on 24.1.2005.

K.V. Prahladan
Member

bb

28.1.2005

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

20/10/05.

On the plea of Mr. B.C. Pathak,
learned counsel for the respondents
list the case on 4.3.2005 for orders.

K.V. Prahladan
Member

bb

S/N - Gwa. Twd

25
24x22

04.03.2005 Present : The Hon'ble Mr. K.V. Prahlanad
Administrative Member.

Mr. D. Baruah, learned counsel states that Mr. B.C. Pathak, learned counsel will appear on behalf of the BSNL and accordingly prays for time to file Vakalatnama. Prayer is allowed.

List on 1.4.2005 for orders.

S/A - another.

Notice duly

mb

01.04.2005 Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

Mr. P.N. Goswami, learned counsel for the applicant is present. Mr. D. Baruah learned counsel appearing on behalf of the Respondents submits that he is filing Vakalatnama on behalf of the Respondents No. 2 to 5 and seeks time for filing written statement. Post on 4.5.2005. Written statement, if any, in the meantime

Vice-Chairman

mb

4.5.05 Counsel for the applicant absent.

Mr B.C. Pathak, learned counsel appearing for the BSNL respondents No.2 to 5 seeks four weeks time to file written statement.

List on 1.6.05 for order.

Vice-Chairman

pg

35-05
No. 4/5 has been filed.

14-6-05
No. 6/5 has been
filed.

Office Notes	Date	Order of the Tribunal
	8.6.05	<p>Since the jurisdiction 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.</p> <p>post on 16.6.05 before Division Bench</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>No. wks has been filed</p> <p><i>30</i> <i>9.8.05</i></p>	<p>pg</p> <p>16.6.05</p>	<p>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 the Central Government and the BSNL for a proper consideration of the question of jurisdiction.</p> <p>Post on 22.7.2005 for hearing.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>pg</p> <p>22.7.2005</p> <p>bb</p>	<p>Since Mr. B.C. Pathak, learned counsel for the BSNL is unwell post on 10.8.2005.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

10.8.2005 Post this case 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 22.11.05.

[Signature]
Member

[Signature]
Vice-Chairman

lm

22.11.2005 Post before the next Division
Bench.

[Signature]
Vice-Chairman

mb

19.12.2005 Mr. G. Rahul, learned counsel
for the applicant submits that in
view of the decision of the Hon'ble
Gauhati High Court the application
against BSNL is not maintainable
and therefore, the applicant wishes
to take up the matter with the
High Court. Counsel for the said
purpose seeks to withdraw the
application. Mr. D. Baruah, learned
counsel
representing Mr. B.C. Pathak,
learned counsel for the respondents
is also present. In view of the
submission made by the counsel for
the applicant this application is
allowed to be withdrawn with liberty

The application stands disposed
of as withdrawn.

[Signature]
Vice-Chairman

mb

16-12-05

The applicant's counsel
has been filed for withdrawal
The OA 323/04.

[Signature]
16.12.05

29.12.05

Copy of the order
handed over to the
Advocate for
the applicant and
a copy of the
order has been
sent to the office
for recording the
Advocate's
response.

Forwarded for
B.C. Pathak
2/1/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
(An application under Section 19 of the Central Administrative Tribunal Act, 1985.)

O.A.NO. ³²³.....OF 2004

BETWEEN

1. Sri Ranjit Das & Ors.

!
∴ Applicants.

AND

1. The Union of India & Ors.

.....Respondents.

SYNOPSIS OF THE CASE

1. That the applicant NO.1, 2 and 3 were appointed as Daily Rated Mazdoor (DRM) in the year 1993, 1995 and 2000 respectively and since then they are continuously working under the JTO (P)/Barpeta Town as well as under the Divisional Engineer Telecom, Barpeta.

2. That the Applicants state that pursuant to a Judgment passed by the Hon'ble Apex Court, the Respondents prepared a Scheme and by letter dated 7/11/89, the said Scheme was circulated. The Scheme indicates benefits like grant of temporary status, subsequent regularisation, minimum wages increments, counting of service benefits, bonus etc. payable to casual workerers who fulfill the eligiblity of the said Scheme. The aforesaid Scheme was extended from time to time and the benefit of the Scheme have been extended to the recruitees upto 1/8/98.

Contd.....p/

(2)

3. That the applicants state that they fulfill all the required qualification mentioned in the said Scheme of 1989 and subsequent clarifications. Due to the inaction of the Respondents some of the similarly situated employees approached the Hon'ble Tribunal and the Tribunal directed the Respondents to extend the benefits of the said Scheme to the applicants thereto.

4. That the present applicants claiming a similar benefit preferred representations before the concerned authorities which has also been forwarded to the next higher authority but the same has not been entertained on the count that they were not a party to those proceedings.

**** X *****

Contd.....p/

১৯৮৫ সালের ১২ ডিসেম্বর
Central Administrative Tribunal

1 DEC 2004

১৯৮৫ সালের ১২ ডিসেম্বর

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

(An application under Section 19 of the Central Administrative Tribunal Act, 1985.

Title of the Case : O.A. NO. 323 OF 2004

Ranjit Das & Ors.Applicants.

-VERSUS-

Union of India & Ors.Respondents.

I N D E X

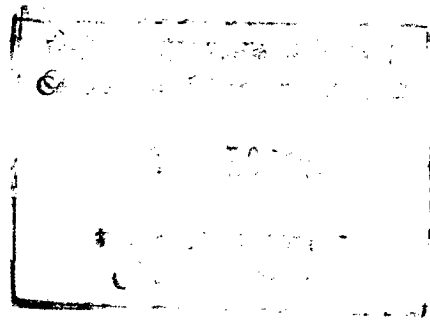
<u>Sl. No.</u>	<u>Particulars</u>	<u>Page Nos.</u>
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9.	Annexure - 7 32

For use in Tribunal's Office

Registration NO.

Date of Filing.

Contd....p/



Filed by
Sri Ranjit Das
9
Through, P.N. Dasgupta,
Advocate, 15/12/2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
(An application under Section 19 of the Central Administrative Tribunal Act, 1985.)

O.A.NO. 323 OF 2004

BETWEEN

1. Sri Ranjit Das,
S/o Late Mothura Das,
Resident of Vill: Bohori,
Kumarpara, P.O. Bohori,
P.S. Tarabaarihat,
District: Barpeta.
2. Sukur Ali,
S/o Joynal Abdin,
Resident of Vill: Gandhaipara,
P.O. Mechpara, P.S. Howly,
District: Barpeta, Assam.
3. Sri Gopal Chandra Mandal,
S/o Late Thakur Das Mondal,
Vill: Goraimarippathar,
P.O. Sonkuchi Colony,
District: Barpeta.

...Applicants.

AND

1. The Union of India,
Represented by the Secretary
to the Government of India,
Ministry of Communication,
Sanswar Bhawan,
North Block, New Delhi-1.

Contd....p/

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Sri Ranjit Das

(2)

2. The Chairman cum Managing Director,
BSNL, New Delhi.
3. The Chief General Manager, Assam,
Telecom Circle, Guwahati-7.
4. The Divisional Engineer,
Telecom, Barpeta.
District: Barpeta.
5. The Sub-Divisional Officer,
Telecom Barpeta Road.
District: Barpeta.

.....Respondents.

DETAILS OF APPLICATION

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

This application is directed against the action of the Respondents in rejecting the claim of the Applicants for grant of temporary status by issuing various orders which have been discussed in detail under the head facts of the case.

2. LIMITATION

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

3. JURISDICTION

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

Contd.....p/

Sri Ranjit Das

[3]

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 and laws framed thereunder.

(i) That the applicant NO.1 was appointed as Daily Rated Mazdoor (DRM) in the month of January, 1993 and since then is continuously working under the JTO (P)/Barpeta Town. That the applicant No.1 has been employed in various line works as well as in the operation and maintenance of power plants.

(ii) That the applicant NO. 2 was appointed as Daily Rated Mazdoor (DRM) in the month of January, 1995 and since then is continuously working under the JTO (P)/Barpeta Town. That the applicant No.2 has been employed in various line works as well as in the operation and maintenance of power plants.

(iii) That the applicant NO. 3 was appointed as Daily Rated Mazdoor (DRM) on 1/2/2000 and since then is continuously working in the Office of the Divisional Engineer Telecom, Barpeta.

Copies of the certificates of work are annexed herewith and marked as ANNEXURE-1 Series.

4.4 That the Applicants state that pursuant to a Judgment passed by the Hon'ble Apex Court, the Respondents prepared a Scheme and by letter dated 7/11/89, the said Scheme was circulated. The Scheme indicates benefits like grant of temporary status, subsequent regularisation, minimum wages increments, counting of service benefits, bonus etc. payable to casual workerers who fulfill the eligiblity of the said

Contd....p/

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Stu Ravijit Day

[4]

Scheme.

Copies of the Judgment of the Apex Court as well as the Scheme are annexed herewith and marked as Annexure-2 and 3 respectively.

4.5 That after issuance of the Annexure-3 Scheme, the Respondents issued clarifications from time to time of which mention may be made of order dated 1/9/99 by which the benefits of the Scheme have been extended to the recruitees upto 1/8/98.

A copy of the said Order dated 1/9/99 is annexed herewith and marked as ANNEXURE-4.

4.6 That the applicants state that they fulfill all the required qualification mentioned in the said Scheme of 1989 and subsequent clarifications issued time to time, and as such, the Respondents are duty bound to extend the said benefits to them. It is stated that after the issuance of the Scheme in the year 1989, the Respondents, however, never implemented the same and due to such inaction, casual workers started filing original applications in various Benches of this Hon'ble Tribunal. Similarly, some of the similarly situated employees preferred O.A. No. 299 and 302 of 1996 before this Hon'ble Tribunal and by a Judgment and Order dated 13/8/97 said O.As were allowed directing the Respondents to extend the benefits of the said Scheme to the applicants thereto.

A copy of the Judgment and Order dated 13/8/97 is annexed herewith and marked as ANNEXURE-5.

4.7 That evenafter, the aforesaid Judgment and Order dated 13/8/1997, the Respondents ignored many more eligible candidates and the same led to filing of a number of O.A.s

Contd....>/

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Sri Ranjit Day

[5]

before this Hon'ble Tribunal seeking appropriate relief. The Hon'ble Tribunal after hearing the parties to the proceedings was pleased to dispose of the O.A's by a common Judgment dated 31/8/99 directing the Respondents to scrutinise the case of the casual workers and to pass orders granting them temporary status.

A copy of the said Judgment and Order dated 31/8/99 is annexed herewith and marked as ANNEXURE-6.

4.8 That the present applicants claiming a similar benefit preferred representations before the concerned authorities which has also been forwarded to the next higher authority but the same has not been entertained on the count that they were not a party to those proceedings. It is pertinent to mention herein that some of the persons appointed as Casual Workers in the year 2001 and 2002 have also been given temporary status and subsequent regularisation.

A copy of the forwarding letter dated 3/10/2001 issued by the Respondent No.5 whereby the representations filed by the applicants were recommended and forwarded to the higher Authority is annexed herewith and marked as ANNEXURE-7.

4.9 That the applicants beg to state that the action/inaction on the part of the Respondents as indicated above clearly shows the fact that the matter in respect of grant of temporary status and regularisation has not been taken due care of and the Respondents deployed all the possible means in rejecting the prayer of the Applicants.

4.10 That the Respondents have clearly acted against the Scheme/Circular dated 7/11/1989 and the subsequent clarifications issued from time to time whereby casual labours were sought to be regularised. It is pertinent to mention herein that the aforesaid Scheme was formulated in pursuance to the

Contd....p/

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Sri Ravjit Day

[6]

Judgment and Order passed by the Hon'ble Supreme Court of India. As such, the Respondents are duty bound to execute the aforesaid Scheme and subsequent clarifications.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that, the Respondents have acted illegally and arbitrary in not granting temporary status to the present Applicants under the Scheme of 1989 and as such, appropriate direction need be issued to the Respondents for granting temporary status to the present Applicants.

5.2 For that, the Applicants having fulfilled all the required qualification for grant of temporary status under the Scheme of 1989, the Respondents are duty bound to extend the benefit of the Scheme to the present Applicants without requiring them to approach this Hon'ble Tribunal.

5.3. For that, the similarly situated employees working under the Respondents have been enjoying the benefits of the Scheme and thus, there is no earthly reason as to why similar benefits have not been extended to the present Applicants. Therefore, appropriate direction need be issued to the present Respondents directing them to extend all the benefits of the Scheme to the present applicants.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicants declare that he has no other alternative and efficacious remedy except by way of filing this application.

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

The applicants further declare that no other application,

Contd....p/

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Sri Ranjit Day

[7]

writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR:

•

Under the facts and circumstances stated above, the applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs:

8.1 To direct the Respondents to extend the benefit of the Scheme as has been granted to the similarly situated employees like that of the present Applicants with all consequential service benefits.

8.2 Cost of the application.

8.3 Any other relief(s) to which the applicants are entitled to.

9. INTERIM ORDER PRAYED FOR:

During pendency of this application, the applicants pray before this Hon'ble Tribunal for a direction to the Respondents to allow them to continue in their earlier engagement as Daily Rated Mazdoor.

10.

The application is filed through Advocate.

Contd....p/

[8]

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. NO.: 37C 430590 - 37C 430599

(ii) Date : 15/12/04.

(iii) Payable at : Guwahati.

12. List of Enclosures: •

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As stated in the Index.

VERIFICATION.

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Sri Ranjit Das

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[9]

V E R I F I C A T I O N

I, Sri Sri Ranjit Das, S/o Late Mothura Das, Resident of Vill: Bohori, Kumarpara, P.O. Bohori, P.S. Tarabaarihat, within the District of Barpeta, Assam aged about 28 years, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1-3, 4.1, 4.8, 4.9, 4.10, are true to my knowledge and those made in paragraphs 4.4, 4.5, 4.6, 4.7, ... being matter of records are true to my information.

I have not suppressed any material fact.

And I sign this verification on this 15th day of December, 2004 at Guwahati.

Sri Ranjit Das

Sri Ranjit Das.

Contd.....p/

TYPED COPY
ANNEXURE :- 1 series
TO WHOM IT MAY CONCERN

Certified that Sri Ranjit Das Son of Lt. Mathura Das,
Vill: Bahari Kumarpara, P.O. Bahari, P.S. Tarabari hati,
Dist: Barpeta, Assam has been working contineously as DRM
under the JTO(P)/Barpeta Town Since January, 1993 to till
date. He has been helping JTO(P)/Barpeta Town in various line
working with the line Staffs of Barpeta Town NEAX Exchange.
He has also been helping him in the operation and maintenance
of power plants and any other works assigned to him.

He is a good worker.

I wish him a good success.

Sd/Illegible, 14/7/2000
A.T.O. (Phones)
Barpeta Town.

*Attestd
P. W. Goswami.
Advocate.*

Contd.....p/

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TYPED COPY

ANNEXURE :- 1 series

TO WHOM IT MAY CONCERN

Certified that Shukur Ali Son of Joynal Abdin, Vill: Gandhari Para, P.O. Meah Para, P.S. Howly, District: Barpeta, Assam has been working continuously as DRM under the JTO(P)/Barpeta Town Since January, 1995 to till date. He has been helping JTO(P)/Barpeta Town in various line working with the line Staffs of Barpeta Town NEAX Exchange. He has also been helping him in the operation and maintenance of power plants and any other works assigned to him.

He is a good worker.

I wish him a good success.

Sd/G.R. Ahmed, 17/7/2000

A.T.O. (Phones)

Barpeta Town.

Attested
P.N. Goswami
Advocate

Contd....p/

TYPED COPY

ANNEXURE :- 1 *series*

TO WHOM IT MAY CONCERN

Certified that Sri Gopal Ch. Mondal, S/o Late Thakur Das Mandal, Vill: Goraimari Pathar, P.O. Sonkuchi Colony, District: Barpeta has been working in this Division since 1/2/2000 to till date. The No. of days worked are as mentioned in the ACE-2 Accounts.

The performed his duties satisfactorily and conduct and character are good.

Sd/Illegible, 28/1/2002.
Divisional Engineer, Telecom,
Barpeta.

Attested
F.N. Goswami
Advocate,

Contd....p/

ANNEXURE-1

Absorption of Casual Labourers
Supreme Court directive Department of Telecom take back all
Casual Mazdoors who have been disengaged after 30.3.88.

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 :

Attested
P.N. Gopinath,
Advocate.

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" 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".

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.

ANNEXURE-3

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.87

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 30.3.85 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.

A

3.3. No Casual Labourer who has been recruited after 30.3.89 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.

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.

:

nd/a

ASSISTANT DIRECTOR GENERAL (BTN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD). GM (IR) for information.
MCB/SEA/TE -11/IPB/Admn. 1/CSE/PAT/SPB-1/SR Secs.

All recognised Unions/Associations/Federations.

nd/a

ASSISTANT DIRECTOR GENERAL (BTN).

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.

1) 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 244 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Handmen.

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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 :

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 work. 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 regularized 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 officers of a casual labour may be dispensed within accordance with the

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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 month's 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 or 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.

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ANNEXURE.4

No.269-13/99-BTN-II
 Government of India
 Department of Telecommunications
 Bancher Bhawan
 BTN-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: Regularization/grant of temporary status to Casual
 Labourers regarding.

Sir,

I am directed to refer to letter No.269-4/93-BTN-II dated 12.2.99 circulated with letter No.269-13/99-BTN-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 12.2.97 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/Federations/Associations.

(HARDAS SINGH)
 ASSISTANT DIRECTOR GENERAL (STN)

Attested
 P.N. Grawani
 Advocate,

ANNEXURE - 5.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 299 of 1996.

and

302 of 1996.

Date of order : This the 13th day of August, 1997.

Justice Shri D.N. Dasgupta, Vice-Chairman.

O.A. No. 299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D.

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors.

..... Respondents.

O.A. No. 302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors.

..... Respondents.

Advocate for the applicants : Shri H.K. Sharma

Shri B. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Additional S.C.

ORDER

GUWAHATI, J. (V.C.)

Both the applications involve common question of law and similar facts. In both the applications the applicants have prayed for a direction to the respondents to give them certain

benefits which are being given to their counter parts working in the Postal Department. The facts of the cases are :

1. O.A. No.382/96 has been filed by All India Telecom Employees Union, Line Staff and Group-D, Assam Circle, Guwahati, represented by the Secretary Shri J.N.Mishra and also by Shri Upen Pradhan, a casual labourer in the office of the Divisional Engineer, Guwahati. In O.A. 297/96, the case has been filed by the same Union and the applicant No.2 is also a casual labourer. The applicant No.1 in O.A. No.297/96 represents the interest of the casual labourers referred to Annexure-A to the Original Application and the applicant No.2 is one of the labourers in Annexure-A. Their grievances are :

2. They are working as casual labourers in the Department of Telecom under Ministry of Communication. They are similarly situated with the casual labourers working in the Department of Postal Department under the same Ministry. Similarly the members of the applicant No 1 are also casual labourers working in the telecom Department. They are also similarly situated with their counter parts in the Postal Department. They are working as casual labourers. However the benefits which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicants Unions. The applicants state that pursuant to the judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India & Ors. reported in (1988) in sec.122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a scheme was prepared by the Department of Posts granting benefit to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. Those cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers (Supra). The Apex Court, after considering the entire matter directed the department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communication prepared a scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme" on 7.11.89. Under the said scheme certain benefits had been granted to the casual labourers such as conferment of temporary status, wages and Daily Rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.93 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the casual labourers engaged during the period from 31.3.1985 to 22.7.1988. On the other hand the casual labourers employed in the Department of Posts as on 21.11.1982 were eligible for temporary status. The time fixed as 21.11.1982 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1993 passed in O.A.No.750/94. Pursuant to that judgment, the Govt. of India issued a letter dated 1.11.95 conferring the benefit of temporary status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communication also urged before the concerned authorities that

they should also be given same benefit. In this connection the casual employee submitted a representation dated 29.12.1975 before the Chairman, Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

3. O.A.292/76 is also of similar facts. The grievances of the applicants are also same.

4. Heard both sides, Mr.B.K.Sharma, learned Counsel, appearing on behalf of the applicants in both the cases submit that the Apex Court having been granted the benefit of temporary status and regularization to the casual labourers, should also be made available to the casual labourers working under Telecom Department under the same Ministry. Mr.Sharma further submit that the action in not giving the benefits to the applicants is unfair and unreasonable. Mr.A.K.Choudhury, learned Addl.C.B.S.C for respondents does not dispute the submission of Mr.Sharma. He submits that the entire matter relating to the regularization of casual labourers are being discussed in the J.C.M level at New Delhi, however, no decision has yet been taken. In view of the above I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of casual labourers (grant of temporary Status and Regularisation) prepared by the Department of Telecom. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Public Works per Paragraph-3 (in O.A.302/76) and Annexure-4 (in O.A.No.292/76) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

However, considering the entire facts and circumstances of the case I make no order as to costs.

Sd/ Vice Chairman.

ANNEXURE-6.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1978 and others.
Date of decision : This the 31 st day of August 1979.

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

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

1. O.A. No.107/1978

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.112/1978

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. 114/1978

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.118/1978

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.120/1978

Shri Kamala Kanta Das and 6 others Applicant.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda

and Mr. 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.
.....

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.Nalakar

- versus -

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

11. O.A. No.143/1998

Shri Dhani Ram Deka and 18 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.D.K. Sharma, Mr.S.Sarma
and Mr.D.K.Nair.
-versus-
The Union of India and others..... Respondents
By Advocate Mr.A.Deb Roy, Sr.C.B.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.
- versus -
The Union of India and others .. Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.B.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.D.K.nair and Mr.D.K.Sharma
- versus -
The Union of India and others .. Respondents.
By Advocate Mr.B.C.Pathak, Addl. Sr.C.B.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.D.C.Pathak, Addl. Sr.C.B.S.C.
.....

ORDER

PARAGRAPHS (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. These applications were filed as the casual employees engaged in the telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the scheme, namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned D.A.s, however, in O.A. No.245/1998, there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of 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 performing their services in different office in the Department of telecommunication under Assam Circle and N.E. Districts. 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.26/1998/III dated 11.11.97 and it came in to operation with effect from 1998. Certain casual employees had been given the benefits under the 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 12.12.1998 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 29.11.87 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 to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A. Nos. 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus the applicants have approached this Tribunal by filing the present O.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

in order to effect to and the authority continued to be.

The respondents in the respondents in all the cases H.A. that the respondents had no authority to represent the so called 2. not employees of the casual employees are not members of the union they are not bonded. The casual employees are not members of the union and are not eligible to become members of the union. 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 respondents according to the respondents reveal that none of the casual employees were never engaged by the Department. In fact, engagement in to their engagement as casual employees. In principle, the respondents justify the action in response with the services of the casual employees on the ground that they were engaged solely on temporary basis for special requirements of specific work. The respondent further states that the casual employees were to be dismissed when there was no further need for continuation of their services. Besides, the respondents state that the present applicants in the H.A. were engaged by persons having no authority and without following the usual procedure for appointment/engagement. According to the respondents, such casual employees are not entitled to any benefit or compensation and they can not get the benefit of the scheme of 1972 as this scheme was introduced and not retrospective. The respondents only state that the respondents were engaged to run the scheme in the H.A. The respondents further state that the casual employees of the H.A. Department are not similarly placed as the H.A. Department of Posts. The respondents also state that they have approached the Benchie District High Court

against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos. 302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos. 302 and 229 of 1996 the respondents have filed writ 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.H.K.Sharma, Mr J.L.Barker, Mr.L. Hussain and Mr.H.Mahd ar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.B.S.C. and Mr.B.C. Pathak, learned Sr.C.B.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 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 counsel for the applicants also submit 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 direction for conferment of temporary status and subsequent regularization to those casual workers who have completed 240 days of service in a year.

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,

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therefore , feel that the 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 scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

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ANNEXURE- 7

BSN

O/O THE SDOT/BARPETA RD

No. E-24/CM/2001-2002/19 Dt. BRD 3/10/2001.

To,

The TDM/BGN.

Sub: Names of Casual Mazdoors working this Sub-Division, since long, left over cases.

Ref: Your Office letter NO.E-25/PT &CM/CAT cases/2000-2001/36 dated 11/8/2000.

Kindly find enclosed h/w two application, received from two casual Mazdoors working since long at Barpeta Road, whose applications are forwarded by JTOT/BPE-which are forwarded for your kind disposal.

1. Sri Ranjit Das Working Since 3/2/1993.
2. Sri Sukur Ali Working since 2/1/1995.

The reason for delay is explained by the JTO/BPE; Letter is enclosed herewith with.

No. BPE-E/-1/1/Staff/01-02/A.

Encl: As above dated 19/9/2001.

*Attested
P. N. Goswami
Advocate.*

Contd....p/