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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

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

O R D E R S H E E T

331/04

Original Application No. _____

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants:-

Md. K. Ahmed For

Respondents

M. C. I For

Advocates for the Applicant

M. Chanda, G. N. Chakrabarti, S. Nath

Advocates of the Respondents

Addl. Case M. K. Ahmed

Notes of the Registry

Date

Order of the Tribunal

23.12.2004

This application is in form
is filed in Form No. 40/10/04
deposited vide IPC/BD
No. 206/35636
Dated 20-12-04

Dy. Registrar

22/12/04
21/12/04

Steps taken with
envelops

mb

28.1.2005

Heard Mr. M. Chanda, learned
counsel for the applicants and also
Mr. A. Deb Roy, learned Sr. C.G.S.C.
for the respondents.

The application is admitted,
call for the records.

List on 28.1.2005 for orders.

Member (A)

Service report is awaited. Lis
on 16.2.2005 for further orders.

Member

bb

16.02.2005

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

None appears for the respondents. Service is completed in respect of respondent No. 3. So far as the other respondents are concerned, service report is awaited. Adjourn to 29.3.2005.

Member (J)

mb

4.4.05.

At the request of learned counsel for the Respondents case is adjourned to

4.5.05. Written statement if any, may file in the meantime.

lm

Vice-Chairman

4.5.05

Mr S.Nath, learned counsel for the applicant is present. Mr M.U.Ahmed, learned Addl C.G.S.C submits that rejoinder is being filed tomorrow.

List for hearing on 1.6.05. Rejoinder if any may be filed in the meantime.

Vice-Chairman

pg

01.06.2005

Mr. M. Chanda, learned counsel for the applicant seeks time to file rejoinder. Post on 15.6.2005.

Vice-Chairman

mb

15.6.2005

At the request of counsel for the parties post on 30.6.2005 before the Division Bench.

Vice-Chairman

mb

30.6.2005

Heard learned counsel for the parties. Judgment delivered in open Court, kept in separate sheets.

The O.A. is disposed of in terms of the order.

Vice-Chairman

Notice duly

Served on

resp. No-3,4.

by
2/2

15-2-05

Notice duly served.

On 12-2-05, 3, 4.

No O.A. has been filed

2

Appearance has been filed by Mr. M.U. Ahmed, Addl. C.G.S.C.

29.3.05

3-5-05

No O.A. has been filed.

2

26.5.05

W/s filed by the Respondent Nos. 1 to 4.

2

31-5-05

No rejoinder has been filed.

2

No Rejoinder has been filed.

29.6.05

29.6.05

Rejoinder filed by the Applicant. Date 15.7.05

Copy of the judgment has been sent to the Office of the Addl. C.G.S.C. by the Applicant. Date 15.7.05

bb

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. Nos. 331/2004

DATE OF DECISION: 30.06.2005

Md. Karimuddin Ahmed & 3 Others

APPLICANT(S)

Mr. M.Chanda

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U. O. I. & Ors.

RESPONDENT(S)

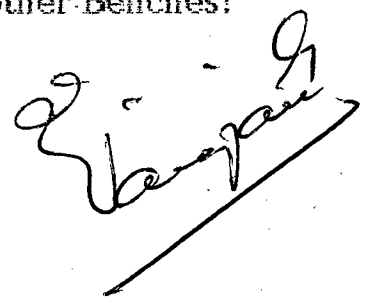
Mr. M. U. Ahmed, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

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

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Original Application No. 331 of 2004.

Date of Order: This, the 30th day of June, 2005.

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

1. Md. Karimuddin Ahmed
S/O Naushad Ahmed
Village:- Berampur
P.O: and P.S: Rangia
Dist: Kamrup, Assam.
 2. Md. Roshid Ali
S/O Late Rafique Ali
Vill and P.O: Udiana
Dist: Kamrup (Assam).
 3. Sri Manzil Ghorl
S/O Sri Azizan
Village and P.O: Changmaguri
District: Kamrup (Assam).
 4. Md. Kadar Ali
S/O Late Channur Ali
Village and P.O: Kathia
District: Kamrup (Assam).
- . Applicants.

By Advocates S/Shri M. Chanda, G. N. Chakraborty, S.
Nath & S. Choudhury.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Defence
New Delhi.
2. The Additional Director General
Staff duties (DGSE), General Staff Branch
Army Headquarters, D.H.Q.
New Delhi.
3. Administrative Commandant
Purv Kaman Mukhalaya
Headquarters, Eastern Command
Fort William, Kolkata-70021

4. Administrative Commandant
Station Headquarters
Rangia, c/o 99 APO.
Respondents.

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

ORDER (ORAL)

SIVARAJAN, J.(V.C.):

The applicants four in number were engaged as casual labourers under the respondents. Pursuant to the directions issued by this Tribunal on 27.2.2002 in O.A.No.80 of 2001 the applicants were assigned temporary status as per communication dated 14.12.2002 (Annexure-II Series). Their entitlements were also stated in the said communication. The scheme for assigning temporary status and regularisation of casual workers is also produced as Annexure-II to the written statement. The applicants' case is that notwithstanding the assignment of temporary status to all the applicants as early as on 14.12.2002 they are not being engaged on casual basis nor being absorbed on regular basis in Group 'D' post. The applicants challenged the communication dated 20.4.2004 (Annexure-IV) wherein it is stated that as per DOP&T instructions Casual Labourers (Grant of Temporary Status) Scheme of Government of India, 1993 the engagement will be on daily rates of pay, need basis and availability of work and that provision of engagement irrespective of need

[Signature]

and payment of minimum salary does not exist. It is also stated that presently it is not possible to employ the applicants in view of the ban on recruitment and that the applicants' contention that subsequent recruits have been employed is not correct. It is further stated that it will be ^{the} endeavour of the respondents to employ the applicants as soon as the ban on recruitment is lifted and the permission is granted by the Government to fill up the ^{vacant} posts.

2. The respondents have filed a written statement. In para 7 of the said statement it is stated as follows:-

"That with regard to the statements made in paragraph 4.6 of the application, the Respondents beg to state that the vacancies of conservancy Safaiwala in Rangiya and its satellite stations were assessed by a station board of officers depend upon the work load for a period of five years and the same is required to be concurred by Controller Defence Accounts. Present authorized strength of safaiwalas is 100. As against the authorized, only 84 are posted. There is deficiency of 16 safaiwalas. The new enrolment for these 16 posts can not be done due to ban on recruitment of conservancy safaiwalas made by the Government of India (Copy of Army Headquarters letter No C/60288/GS/SD-7) Adm Civs) dated 27 Sep. 2004 indicating the ban on recruitment is enclosed as Annexure 'I') As and when the Respondents receives the instructions for enrolment for the vacant posts, the same will be filled up."

It is further stated in para 9 as follows:-

[Signature]

"That allegation in para 5.1 of the O.A. are not correct. It is not correct and baseless to state that large number of subsequent recruitees, junior to the present applicants have been engaged/appointed and still working under the respondents. It is submitted that the seventeen personnel mentioned by the applicants in the OA are employed as per directions of the Hon'ble Tribunal."

3. Heard Mr.M.Chanda, learned counsel for the applicants and Mr.M.U.Ahmed, learned Addl.C.G.S.C. appearing for the respondents. Mr. Chanda submitted that the applicants were assigned temporary status as early as on 14.12.2002 and that this Tribunal in the order dated 27.2.2002 (Annexure-I) issued clear direction to the respondents to consider the question of re-engaging the applicants in any casual vacancy for the time being. Counsel submits that notwithstanding this direction the respondents did not re-engage the applicants nor did they absorb the applicants in regular Group 'D' post even though vacancies existed in the department. Counsel also submits that the ban order was issued only in 2004 whereas the directions to re-engage the applicants were issued by the Tribunal as early as on 27.2.2002 and that the applicants were assigned temporary status on 14.12.2002. Counsel accordingly submitted that the respondents were not justified in not engaging the applicants on casual basis though not on regular absorption. Mr. M. U. Ahmed, learned Addl.C.G.S.C., on the other hand,

Gpa

submits that even after assignment of temporary status the applicants can be provided with work only **when** there is work of the nature earlier done by them. He also submitted that in view of the ban on recruitment imposed by the Central Government there is no question of any absorption of the applicants in any regular **at present** Group 'D' post/even though vacancies do exist.

4. Admittedly, the applicants were assigned temporary status as early as on 14.12.2002. The Tribunal in the judgment dated 27.2.2002 passed in O.A. No. 80 of 2001 had issued direction to consider their claim for re-engagement in casual vacancies pending regular absorption in Group 'D' post. Respondents had not re-engaged the applicants nor absorbed them in regular Group 'D' post. It is an admitted case that 16 posts of Safaiwala are lying vacant. The said vacancies are not filled up solely for the reason that there is a ban on recruitment imposed by the Central Government. Respondents have stated that those vacancies will be filled up as soon as the ban is lifted and sanction is granted to fill up the vacancies. Regarding the contention of the applicants that the persons who were subsequently assigned temporary status have been engaged/appointed and are still continuing, it is stated, that the same was done as per the direction of the Hon'ble Tribunal.

Jpr

10

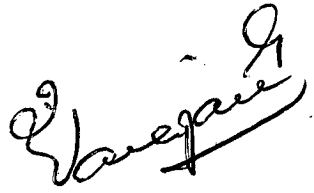
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5. Now the fact remains that there are 16 vacancies of Safaiwala. It is not clear as to whether the ban on recruitment was there even prior to September, 2004 which disabled the respondents from engaging the applicants in the 16 vacancies of Safaiwala even on casual basis. Even though there is a ban on regular recruitment to the said posts, having regard to the fact that the work load of Safaiwalas was considered and the strength of Safaiwala was fixed at 100 and that at present there are only 84 persons appointed as Safaiwala, I am of the view that direction will have to be issued to the respondents to consider the case of the applicants' herein for engagement on casual basis in the 16 vacant posts of Safaiwala. The ban on recruitment imposed by the Central Government will not stand in the way of making casual engagement. Accordingly, there will be a direction to the third respondent to consider the case of the applicants' for engaging them on casual basis in the 16 vacant posts of Safaiwala pending decision on ban recruitment in the said post imposed by the Central Government. This will be done within a period of three months from the date of receipt of this order and the decision taken thereon will be communicated to the applicants immediately thereafter. The question of regular absorption of the applicants to the Group 'D' post, namely, the post of

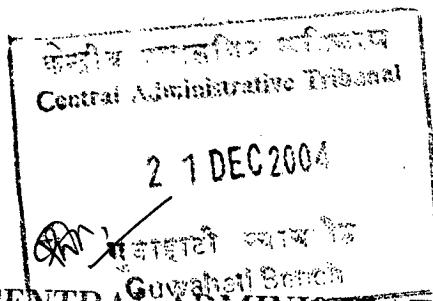
[Signature]

11
7
Safaiwala has to be considered on the basis of seniority in the list of persons who are assigned temporary status immediately on lifting the ban on recruitment.

The Original Application is disposed of as above. The applicants will produce this order before the concerned respondent for compliance.


(G.SIVARAJAN)
VICE CHAIRMAN

bb



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 331 /2004

Md. Karimuddin Ahmed and others.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 09.06.1993, 31.03.1993, 31.12.1987, 01.06.1993- The applicants were initially appointed/engaged as conservancy Safaiwala on casual basis on different dates 1981 onwards but after serving a fairly long period they were terminated on 09.06.93, 31.03.93, 31.12.93 and 01.06.93.
- 27.02.2002- Applicants approached Hon'ble CAT, Guwahati Bench through O.A. No. 108/96, which was disposed of on 27.02.02 with a direction to the respondents to consider case of the applicants for granting temporary status. (Annexure-I).
- 14.12.2002- Respondents were pleased to grant temporary status to the applicants but they were not engaged/reengaged/appointed in service by the respondents. (Annexure-II)
- 12.03.2004- Applicants being highly aggrieved for non-consideration of their engagement/re-engagement/appointment in service served a Lawyer's Notice upon the Respondent No.4 praying interalia their immediate appointment.
- 01.10.2001- Respondents issued appointment letter to the applicants as per the Hon'ble CAT decision dated 26th April, 2001. (Annexure-III).
- 20.04.2004- Respondent No.3 vide his letter dated 20.04.04 addressed to the Lawyer of the applicants, wherein it is stated that at present it is not possible to engage the applicants in view of the ban on recruitment. (Annexure-IV).

Relief(s) sought for:

Md. Karimuddin Ahmed

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. That the impugned order bearing letter no. 3004/court/1/Q dated 20.04.2004 be set aside and quashed.
2. That the Hon'ble Court be pleased to direct the respondents to appoint/re-engage the applicants as conservancy safaiwala with immediate effect in preference to their juniors already appointed in service with all consequential service benefits.
- 3 Costs of the application.
- 4 Any other relief(s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicants pray for the following relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents to consider the applicants as conservancy safaiwala as an interim measure against the existing vacancy till disposal of the original application.
2. That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar to appoint the applicants as conservancy safaiwala.

Md. Faris Idon Ali

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Filed by the applicants.
Through: Subrata Naha.
Advocate
21.12.04.

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

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No 331 /2004

Md. Karimuddin Ahmed and Others. : Applicants.

- Versus -

Union of India & Others: Respondents.

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Filed by

Date

Advocate

Md. Karimuddin Ahmed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. _____/2004

BETWEEN

1. Md. Karimuddin Ahmed.
S/O Naushad Ahmed.
Village- Berampur.
P.O and P.S- Rangia.
Dist- kamrup, Assam.
2. Md. Roshid Ali.
S/O Late Rafique Ali,
Vill and P.O- Udiana,
Dist- Kamrup (Assam).
3. Sri Manzil Ghor.
S/O Sri Azizan.
Village and P.O- Changmaguri,
District- Kamrup (Assam).
4. Md. Kadar Ali,
S/O Late Channur Ali,
Village and P.O- Kathia,
District- Kamrup (Assam)

-AND-

... Applicants.

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Defence
New Delhi.
2. The Additional Director General
Staff duties (DSGE), General Staff Branch
Army Headquarters, D.H.Q.
New Delhi.
3. Administrative Commandant,
Purv Kaman Mukhalaya

Md. Karimuddin Ahmed

Headquarters, Eastern command.

Fort William, kolkata-70021.

4.

Administrative Commandant

Station Headquarters

Rangiya, c/o 99 APO.

... Respondents.

DETAILS OF THE APPLICATION

1.

Particulars of order(s) against which this application is made.

This application is made against the impugned order bearing letter no. 3004/Court/1/Q dated 20.04.2004 issued by the Administrative Commandant whereby engagement has been denied to the applicants on the pretext of ban who have already been granted temporary status following the decisions rendered by this Hon'ble Tribunal in O.A. No. 294/01 and O.A. No. 80/2001 and praying for a direction upon the respondents for appointment/ engagement of applicants immediately in service and a further direction of payment for wages/salary.

2.

Jurisdiction of the Tribunal.

The applicants declare that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3.

Limitation.

The applicants further declare that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

Ms. Karim Ilem Rana

4. Facts of the Case.

- 4.1 That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicants pray permission to move this application jointly in a single application under Section 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 That all the applicants were initially appointed/ engaged as conservancy Safaiwala on casual basis on different dates from 1981 onwards. However after serving for a fairly long period under the respondent No. 4 their services were terminated on 09.06.1993, 31.3.1993, 31.12.1987 and on 01.06.1993. However subsequently without considering the cases of the present applicants recruitment on priority basis who were retrenched casual workers, the respondents engaged as many as 17 fresh casual workers in violation of the rules/ instructions issued by the Govt. of India from time to time and also in violation of the laws laid down by the Hon'ble Court. Being aggrieved for non consideration of their cases for absorption/re-engagement and for non consideration of conferment of temporary status applicants approached this Hon'ble Tribunal for number of occasions by filing Original Application for their re-engagement, for conferment of temporary status and regularization such as O.A No. 108/96. However, following the decision rendered in O.A No. 80/2001 the respondents Union of India were pleased to grant temporary status to the present applicants vide letter No. 3004/1/CC-20/Q dated 14.12.2002, 3004/1/CC-19/Q dated 14.12.2002.

Mr. Karim Khan Khan

3004/1/CC-19/Q dated 14.12.2002 and 3004/1/CC-19/Q dated 14.12.2002 but in the aforesaid order of temporary status issued on 14.12.2002 it is further stated that a grant of temporary status to a casual labourer does not guarantee for immediate regular employment but as and when employment as casual labourer is required the case of the applicants will be considered under the provisions of the DOPT O.M No. 510162/2/90-Est (c) dated 10.09.1993 and further stated in the event of recruitment in the cadre of Group "D" post in the case of the applicant will be considered as per provision laid down in O.M dated 10.09.1993, after the ban on recruitment is lifted.

It is stated that although the applicants were granted temporary status pursuant to the order dated 27.02.2002 passed in O.A. No. 80/2001 but till date the respondents did not engaged/ reengaged/appointed the applicants in service under the respondent No.4 and as a result applicants are being denied wages/salary till date.

A Copy of the judgment and order dated 27.02.2002 and order of conferment of temporary status are enclosed herewith and marked as Annexure-I and II respectively.

- 4.4 That your applicants begs to state that a large number of juniors who were subsequently engaged as conservancy safaiwala were conferred temporary status in terms of the O.M dated 10.09.1993 and they are continuing in service under the respondent No.4, whereas applicants being senior have been denied re-engagement even after conferment of temporary status. The detailed particulars of juniors who were appointed subsequently and conferred temporary status and still working under the respondents as temporary status conservancy safaiwala, the details of those juniors furnish hereunder.

Bd. Karim d Jem Akhona

51/01

<u>Sl. No.</u>	<u>Name of Juniors</u>
1.	Md. Habibur Rahman.
2.	Sri Putul Das.
3.	Sri Phunu Barman.
4.	Md. Syed Islam Ali.
5.	Sri Maniram Das.
6.	Md. Jaynur Ali.
7.	Sri Krishna Das.
8.	Syed Sanshed Ali.
9.	Mrs. Sairabanu.
10.	Ayesha Begum.
11.	Md. Kafiz Ali.
12.	Md. Tazuddin Ahmed.
13.	Atul Chandra Kalita.
14.	Minu rajbonshi.
15.	Smt. Anima Das.
16.	Md. Maznoor Ali Ahmed.
17.	Sri Madan Chandra Kalita.

In view of the above factual position the applicants have acquired a valuable and legal rights for engagement in work, when the juniors and subsequent recruitees are working but the action of the respondents for not re-engaging the applicants attract Article 14 and 16 of the Constitution of India.

Md. Karim Uddin Ahmed

4.5

That your applicants being highly aggrieved for non consideration of their engagement/re-engagement/appointed in service served a Lawyer Notice upon the respondent No.4 through their lawyer on 12.03.2004 praying interalia for their immediate employment in service. Be it stated that applicant No.1 and 2 served the said Lawyer Notice and other applicants being similarly circumstanced, approaching this Hon'ble Tribunal along with the applicant No. 1 and 2.

It is stated that on receipt of the Lawyer's Notice dated 12.03.2004, a reply addressed to Lawyer of the applicants vide latter No. 3004 court/1/Q dated 20.04.2004, wherein it is stated that as per DOPT circular dated 10.09.1993 the engagement on daily rates of pay is made on need basis and on availability of work. It is further stated that engagement irrespective of need and payment of salary does not arise. It is further stated that at present it is not possible to engage the petitioner in view of the ban on recruitment. The Administrative Commandant further denied the contention of the applicants that subsequent recruitees were engaged and working under the respondents. It is further stated that attempt will be made to employ the applicants as soon as the ban on the recruitment is lifted and permission is granted by the Govt. to fill up the vacant post. This decision of the Administrative Commandant is highly illegal and arbitrary and contrary to the records. Hence the action of the respondents is in violation of Article 14 of the Constitution of India. On that score alone the Hon'ble Tribunal be pleased to pass an order to re-engage/appoint the present applicants with immediate effect with all service benefits including wages.

Copy of the letter dated 01.10.2001 and letter dated 20.04.04 are enclosed herewith and marked as Annexure-III & IV respectively.

Yd. Karim Salim Ahmed

4.6 that it is stated that when temporary status was granted to the applicants following order of learned Tribunal way back on 14.12.2002 as such ban cannot stand on the way of the respondents for recruitment/re-engagement on service. More so when large number of vacancies of conservancy safaiwala available under the Administrative Commandant, Station Headquarter, Rangia. Moreover, the recruitment/ engagement of juniors in supersession of claims of the Senior Temporary status conservancy safaiwala as per law, attracts Article 14 of the Constitution. Further, no order of ban is specifically mentioned in the impugned order dated 20.04.2004, neither the period of ban imposed by the Govt. of India is indicated in the said impugned order dated 20.04.2004. Therefore plea of ban is not sustainable in the eye of law.

4.7 That it is stated that the applicants have repeatedly approached the authorities for the re-engagement but finding no result, they are approaching this Hon'ble Tribunal for protection of their valuable legal rights and for the appropriate order/direction upon the respondents for immediate re-engagement of the applicants with all consequential service benefits.

4.8 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, alleged ground of ban on recruitment/re-engagement as stated in the impugned letter dated 20.04.2004 is not sustainable in the eye of law, in view of the order of conferment of temporary status passed by the respondents on 14.12.2002 in favour of the present applicants following the decision of the learned tribunal dated 27.02.2002 and also on the ground that large number of

M.D. Karim & Sons, Ahmedabad

subsequent recruits, junior to the present applicants has been engaged/appointed and still working under the respondents.

- 5.2 For that, when temporary status was granted to the applicants following order of learned tribunal way back on 14.12.2002 as such ban cannot stand on the way of the respondents for recruitment/re-engagement on service. More so when large number of vacancies of conservancy safaiwala available under the Administrative Commandant, Station Headquarter, Rangia.
- 5.3 For that, the recruitment/engagement of juniors in supersession of claims of the Senior Temporary status conservancy safaiwala as per law, attracts Article 14 of the Constitution.
- 5.4 For that, no order of ban is specifically mentioned in the impugned order dated 20.04.2004, neither the period of ban imposed by the Govt. of India is indicated in the said impugned order dated 20.04.2004. Therefore plea of ban is not sustainable in the eye of law.
- 5.5 For that, the applicants came to learn from reliable source that ban on recruitment is no more in force.
- 5.6 For that, vide order-dated 01.10.2001, one Sri Abed Ali was recruited/appointed in service as conservancy safaiwala. Therefore similar benefit cannot be denied to the present applicants that too after conferment of temporary status.
- 5.7 For that, non recruitment/re-engagement of the applicants in service, when juniors have been recruited in services with temporary status resulted violation of Article 14 and 16 of the Constitution of India.

M. J. Karam J. Sen Adhoo

5.8 For that, the impugned letter dated 20.04.2004 is not sustainable under the law in view of the fact that juniors are still working under the respondents.

5.9 For that, the applicants have acquired a valuable and legal right for recruitment/re-engagement in service in preference to their juniors.

6. Details of remedies exhausted.

That the applicants state that they have exhausted all the remedies available to them and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicants further declare that they had approached this Hon'ble Tribunal through O.A. No.80/01, which was decided in favour of the applicants and no other application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter no. 3004/court/1/Q dated 20.04.2004.

Md. Karim & Son Alome

8.2 That the Hon'ble Court be pleased to direct the respondents to appoint/re-engage the applicants as conservancy safaiwala with immediate effect in preference to their juniors already appointed in service with all consequential service benefits.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicants pray for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents to consider the applicants as conservancy safaiwala as an interim measure against the existing vacancy till disposal of the original application.

9.2 That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar to appoint the applicants as conservancy safaiwala.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	:	209 J 13 56 36.
ii)	Date of Issue	:	29.11.04.
iii)	Issued from	:	G P O. Guwahati
iv)	Payable at	:	

12. List of enclosures.
As given in the index.

Mr. Karim Khan Ahmed

VERIFICATION

I, Md. Karimuddin Ahmed, S/o Naushad Ahmed, aged about ...years, resident of Village- Berampur, P.O & P.S- Rangia, Dist-Kamrup, Assam do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 28th day of December, 2004.

Md. Karimuddin Ahmed

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.80 of 2001.

Date of Order : This the 27th Day of February, 2002.

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

1. Sri Manzil Ghorl
S/o Sri Azian
Vill. & P.O:- Changmaguri
Dist:- Kamrup (Assam).
2. Md.Karimuddin Ahmed
S/o Naushad Ahmed
vill:-Berampur
P.O. & P.S:- Rangia
Dist: Kamrup, Assam.
3. Md.Roshid Ali
S/o Late Rafique Ali
Vill. & P.O:- Udiana
Dist:- Kamrup (Assam)
4. Kadar Ali
S/o Late Channur Ali
Vill. & P.O:- Kathia
Dist:- Kamrup (Assam).

. . . Applicants.

By Mr.M.Chanda, Mrs.N.D.Goswami,
Mr.G.N.Chakraborty & Mr.S.K.Ghosh.

- Versus -

1. The Union of India
Through the Secretary to the
Government of India, Ministry of Defence.
New Delhi.
2. Additional Director General of
Staff Duties (SDGE), General Staff Branch
Army Headquarters, D.H.Q
New Delhi.
3. Administrative Commandant
Purv Kaman Mukhyalaya
Headquarters, Eastern Command
Fort William, Calcutta-700021.
4. Administrative Commandant
Station Headquarters
Rangiya, C/o 99 APO.

. . . Respondents.

By Mr.A.Deb Roy, Sr.C.G.S.C.

Contd..2

Attached
for
Advocate
21.12.04

- 13 -
O R D E R

K.K.SHARMA (ADMN.MEMBER) :

In this application under Section 19 of the Administrative Tribunals Act, 1985 the four applicants has sought permission to pursue the claim for relief together by filing a single application. The prayer is accepted as their grievances and relief sought for in this application are same.

2. The applicants were engaged as Conservancy Safaiwala on casual basis on different dates from 1981 onwards. They were working at Station Headquarter, Rangiya. Their services were terminated on 9.6.93, 31.3.93, 31.12.87 and 1.6.93. The applicants claimed that as they have worked as Conservancy Safaiwala for a considerable period of time they have acquired a right to be considered for grant of Temporary Status and regularisation. It is stated as many as 17 workers junior to the applicants have been regularised.

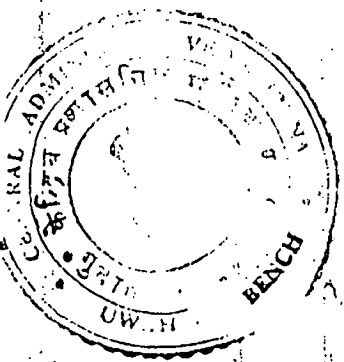
3. The respondents have filed written statement. It is stated that as the applicants were terminated before the date of commencement of Scheme of 1993 they were not entitled to grant of Temporary Status. Only the workers existing on 1993 were considered eligible for grant of Temporary Status.

4. I have heard Mr.M.Chanda, learned counsel, for the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents. Mr.Chanda referring to

K. (Chanda)

Contd.. 3

the judgment dated 15.2.2001 passed in O.A.215/98 submitted that the same issue has been considered by this Bench in this judgment. The facts in the present O.A. are exactly similar to the said O.A. In the order dated 15.2.2001 a direction was given to the respondents to give Temporary Status to the applicants and to consider the case of the applicants alongwith the case of similarly situated employees for regularisation. Following the order in O.A.215/98 similar direction is issued to the respondents to consider the case of the applicants for granting of Temporary Status and regularisation in the light of the Scheme for granting Temporary Status. The process of granting Temporary Status and regularisation should be completed within a period of six months from the date of receipt of the order. Till such re-consideration is made the respondents may also consider to re-engage them in any casual vacancy for the time being.



Subject to the observations made above, the application is treated as allowed.

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

Sd/MEMBER (ADMN)

Certified to be true Copy
प्रमाणित प्रतिलिपि

13/3/02
Central Administrative Tribunal
Guwahati Bench, Guwahati
13/3/02

Station Headquarters
Rangiya - 781354

3004/1/CC-19/Q

14 Dec 2002

Md. Karimuddin Ahmed
[Individual concerned]

**GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS
PER HON'BLE CAT JUDGEMENT/ORDER DATED 27 FEB 2002**

1. Please refer to Hon'ble CAT Judgement/Order dated 27 Feb 2002 passed on OA No 80/2001.
2. In compliance with Hon'ble CAT Judgement/Order dated 27 Feb 2002, you are hereby granted temporary status as casual Labourer as provided for in Govt of India DOPT OM No 510162/2/90-Est (c) dated 10 Sep 93.
3. It is relevant to clarify here that as per these Govt orders, the scheme for grant of temporary status as casual Labourer does not guarantee immediate regular employment. The employment as a casual Labourer is made available to such an employee whenever the Estt needs to engage any casual Labourer for a job of casual nature in accordance with the provisions of these Govt Orders. You will thus be provided employment as casual Labourer if the Stn HQ needs to engage casual Labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual Labourer with a temporary status under the provisions of the Govt orders dated 10 Sep 93 during the period of employment as a casual Labourer with a temporary status. As regards the provisions under the scheme regarding providing two Group D posts out of three posts being filled by direct recruitment to the casual Labourers with temporary status to employ on regular basis, you will be considered along with other casual Labourers with temporary status against such an earmarked quota at the time of filling the Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt to fill the vacant posts.

Attested
Advocate
21/12/04

[Signature]
Administrative Officer
Rangiya

Station Headquarters
Rangiya - 781354

3004/1/CC-19/Q

14 Dec 2002

Md. Roshid Ali
[Individual concerned]**GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS
PER HON'BLE CAT JUDGEMENT/ORDER DATED 27 FEB 2002**

1. Please refer to Hon'ble CAT Judgement/Order dated 27 Feb 2002 passed on OA No 80/2001.
2. In compliance with Hon'ble CAT Judgement/Order dated 27 Feb 2002, you are hereby granted temporary status as casual Labourer as provided for in Govt of India DOPT OM No 510162/2/90-Est (c) dated 10 Sep 93.
3. It is relevant to clarify here that as per these Govt orders, the scheme for grant of temporary status as casual Labourer does not guarantee immediate regular employment. The employment as a casual Labourer is made available to such an employee whenever the Estt needs to engage any casual Labourer for a job of casual nature in accordance with the provisions of these Govt Orders. You will thus be provided employment as casual Labourer if the SIn HQ needs to engage casual Labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual Labourer with a temporary status under the provisions of the Govt orders dated 10 Sep 93 during the period of employment as a casual Labourer with a temporary status. As regards the provisions under the scheme regarding providing two Group D posts out of three posts being filled by direct recruitment to the casual Labourers with temporary status to employ on regular basis, you will be considered along with other casual Labourers with temporary status against such an earmarked quota at the time of filling the Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt to fill the vacant posts.

Signature: [Signature]
 Administrative Commissioner
 भारतीय प्रशासन
 For Station Commander
 - [Signature]

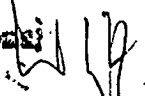
Station Headquarters
Rangiya - 781354

3004/1/CC-19/Q

14 Dec 2002

Md. Manzil Ghoni
[Individual concerned]**GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS
PER HON'BLE CAT JUDGEMENT/ORDER DATED 27 FEB 2002**

1. Please refer to Hon'ble CAT Judgement/Order dated 27 Feb 2002 passed on OA No 80/2001.
2. In compliance with Hon'ble CAT Judgement/Order dated 27 Feb 2002, you are hereby granted temporary status as casual Labourer as provided for in Govt of India DOPT OM No 510162/2/90-Est (c) dated 10 Sep 93.
3. It is relevant to clarify here that as per these Govt orders, the scheme for grant of temporary status as casual Labourer does not guarantee immediate regular employment. The employment as a casual Labourer is made available to such an employee whenever the Estt needs to engage any casual Labourer for a job of casual nature in accordance with the provisions of these Govt Orders. You will thus be provided employment as casual Labourer if the Stn HQ needs to engage casual Labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual Labourer with a temporary status under the provisions of the Govt orders dated 10 Sep 93 during the period of employment as a casual Labourer with a temporary status. As regards the provisions under the scheme regarding providing two Group D posts out of three posts being filled by direct recruitment to the casual Labourers with temporary status to employ on regular basis, you will be considered along with other casual Labourers with temporary status against such an earmarked quota at the time of filling the Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt to fill the vacant posts.


 Administrative Commissioner
 बसासकीय कमान्डर
 For Station Commander
 - जेम्स कमान्डर

Station Headquarters
Rangiya - 781354

3004/1/CC-19/Q

14 Dec 2002

Md. Kadar Ali
[Individual concerned]

**GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS
PER HON'BLE CAT JUDGEMENT/ORDER DATED 27 FEB 2002**

1. Please refer to Hon'ble CAT Judgement/Order dated 27 Feb 2002 passed on OA No 80/2001.
2. In compliance with Hon'ble CAT Judgement/Order dated 27 Feb 2002, you are hereby granted temporary status as casual Labourer as provided for in Govt of India DOPT OM No 510162/2/80-Est (c) dated 10 Sep 93.
3. It is relevant to clarify here that as per these Govt orders, the scheme for grant of temporary status as casual Labourer does not guarantee immediate regular employment. The employment as a casual Labourer is made available to such an employee whenever the Estt needs to engage any casual Labourer for a job of casual nature in accordance with the provisions of these Govt Orders. You will thus be provided employment as casual Labourer if the Stn HQ needs to engage casual Labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual Labourer with a temporary status under the provisions of the Govt orders dated 10 Sep 93 during the period of employment as a casual Labourer with a temporary status. As regards the provisions under the scheme regarding providing two Group D posts out of three posts being filled by direct recruitment to the casual Labourers with temporary status to employ on regular basis, you will be considered along with other casual Labourers with temporary status against such an earmarked quota at the time of filling the Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt to fill the vacant posts.

Attested
Advocate
21.12.04

Administrative Commandant
For Station Commandant

Station Mukhyalaya
Station Headquarters
Rangiya - 781354

01 Oct 2001

3004/1/CC-17/Q

Md Abed Ali
S/O Naushad Ali
Vill- Bangalikuclhi
Post- Rangiya, Dist-Kamrup

APPOINTMENT LETTER CIVILIAN CONSERVANCY SAFAIWALS
(GROUP 'D' CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

1. Please refer to the Hon'ble CAT decision dated 26 April 2001.
2. With effect from 01 Oct 2001, you are hereby appointed as Casual Labour (Conservancy Safaiwala) at Station Headquarters Rangiya and granted temporary status with effect from 01 Oct 2001 as per the Hon'ble CAT decision dated 26 April 2001.
3. The terms and conditions of your service will be governed in accordance with the Govt of India, Ministry of Personnel, P.G and Pensions Department of Personnel & Training letter No 51016/2/90-Estt (C) dated 10 Sep 93 and guidelines contained in OM dated 7.6.88 (Copy issued separately).
4. You are hereby informed and directed to report to undersigned along with the under mentioned documents for conservancy duties on the above date :-
 - (a) Educational qualification certificate.
 - (b) Certificate of age from concerned District Registrar if educational qualification certificate is not held.
 - (c) Cast Certificate from authorised Officials, if belong to SC/ST/OBC.
 - (d) Certificate on local address and permanent address from DC's/SDO's/BDO's Office.
 - (e) Medical fitness certificate from District Medical Officer.
5. Failure to submit the above documents and not reporting in date given above, the decision will be taken at our end.

Attested
Advocate
21.12.04

(CIS Gill)
Major
Officiating Administrative Commandant
for Station Commander

REGD BY POST

Station Headquarters
Rangiya-781354

3004/Court/1/Q

20 Apr 2004

✓ Mr Manik Chanda (Advocate)
Bye Lane -7, Lachit Nagar
Guwahati-781007

GRANT OF TEMPORARY STATUS AS CASUAL LABOURER AS PER
HON'BLE CAT JUDGEMENT/ORDER

Sir,

1. Please refer your Notice on the subject dated 12 Mar 2004.
2. In this connection, it is submitted that as per DOP&T instructions casual labourers (grant of temporary status) scheme of Govt of India 1993, the engagement will on daily rates of pay, need basis and availability of work. Provision of engagement irrespective of need and payment of minimum salary does not exist. L se
3. Presently it is not possible to employ the petitioners in view of the ban on recruitment. Your contention that subsequent recruits have been employed is incorrect.
4. However, it will be our endeavour to employ the petitioners as soon as the ban on recruitment is lifted and the permission is granted by the Govt to fill the vacant posts.

Yours sincerely,



Station
Commander
Administrative Committee
স্টেশন কমান্ডার
For Station Commander
এই নথি স্বাক্ষর

Attended
Advocate
21.12.04

केन्द्रीय प्रशासनिक न्यायालय
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI

2) 4 M BENCH AT GUWAHATI

IN THE MATTER OF
Guwahati Bench
OA No 331/2004

Colonel
Administrative Commandant

Md. Karimuddin Ahmed and three others.
Son of Shri Naushad Ahmed
Village - Berampur
P.O and P.S - Rangiya
Dist - Kamrup (Assam)

Applicants

- Vs -

1. Union of India
Through the Secretary,
Government of India
Ministry of Defence
New Delhi.
2. Additional Director General of Staff Duties
(SDGE), General Staff Branch,
Army Headquarters, DHG,
P.O. New Delhi-110011
3. Administrative Commandant, -
Purv Kaman Mukhyalaya
Headquarters, Eastern Command,
Fort William,
Calcutta-700021.
4. Administrative Commandant,
Station Headquarters,
Rangiya-781354
Assam

Respondents

IN THE MATTER OF :-

Written Statement submitted by the Respondents No. 1 to 4

WRITTEN STATEMENTS :-

The humble answering Respondents
submit their written statements as follows :-

1. (a) That I am the Administrative Commandant, Station Headquarters Rangiya and Respondent No. 4 in the above case. I am acquainted with the facts and circumstance of the case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the contentions and statement made in the application may be deemed to have been denied. I am competent and authorized to file the written statement on behalf of all the respondents.
- (b) The application is filed unjust and unsustainable both on facts and in law.
- (c) That the application is bad for non-joinder of necessary parties misjoinder of unnecessary parties.
- (d) That the application is also hit by the principles of waiver, estoppel and acquiescence and liable to be dismissed.

Contd.....

2. That with regard to the statement made in paragraph 1 of the application, the Respondents submit that presently there is complete ban on recruitment of conservancy staff. (Copy of Army Headquarters letter No C/60288/GS/SD-7(Adm Civs) dated 27 Sep 2004 indicating the ban on recruitment is enclosed as Annexure 'I'), as regards to granting of temporary status, it is submitted that as per Department of Personnel and Government of India 1993, the engagement will be on daily rates of pay and need basis and availability of work. No where it has been mentioned in the Scheme that they must be engaged and paid minimum salary. (Copy of Government of India's Instructions on the entitlement of casual labourers on temporary status is enclosed as Annexure 'II').
3. That with regard to statements made in paragraphs 2,3, 4.1 and 4.2 of the application, the respondents/deponent have no comments on them and the applicants are put to strictest proof thereof.
4. That with regard to the statements made in paragraph 4.3 of the application, It is incorrect to say that applicants were engaged on different dates from 1981 onwards. The correct position of their employment are as under :-
 - (a) Applicant No. 1 Md. Karimuddin Ahmed -The Individual was employed as conservancy safaiwala on casual basis with effect from Apr 1988 to Jan. 1993.
 - (b) Applicant No. 2 Md. Roshid Ali - The individual was employed as conservancy safaiwala on casual basis with effect from Oct. 1981 to Dec. 1989.
 - (c) Applicant No. 3 Manzil Ghorl - The individual was employed as conservancy safaiwala on casual basis with effect from Nov. 1991 to Dec. 1993.
 - (d) Applicant No. 4 Md Kadar Ali - The individual was employed as conservancy safaiwala on casual basis with effect from Apr. 1992 to Dec. 1993.

It is also not true that the Respondent had engaged 17 fresh casual workers. It is submitted that the 17 casual workers were given temporary status and engaged as per the

Contd

direction of Hon'ble Tribunal and are covered under Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India 1993 (copy enclosed as Annexure 'II'). It is further submitted that as regards to granting of temporary status, as per the above Scheme, the engagement will be on daily rates of pay and need basis and availability of work. It is further submitted that the order dated 28 Apr 1997 passed in OA No 108/96 was strictly, properly and correctly followed by the respondents. There were eight applicants out of which four were considered for employment. The Hon'ble Tribunal on OA No 108/96 directed the following :-

"This Tribunal we hold that applicants No 1 T. Ali, No 3 NC Kalita, No 5 Smt L. Das and No 6 JC Boro should be given temporary status. Regarding the remaining applicants as they were not in employment on the date of commencement of the scheme, they cannot be given the temporary status under the scheme. However, the respondents are also directed to consider whether they could be given benefit under the office Memorandum dated 7.6.1988". A copy of the judgment and order dated 28 Apr 1997 and subsequent board proceedings are enclosed herewith and marked as Annexure III.

On receipt of the above court order, the written opinion and advice was taken from Shri Shaikat Ali, then Senior Central Government Standing Counsel and a board of officers was detailed to examine and check the eligibility of applicants for employment. The Present applicants were not found eligible for grant of temporary status by the board of officers (copy of the board proceedings are enclosed as Annexure 'III'). However, following the decision rendered in OA No 80/2001, the applicants were granted temporary status as casual labourers as provided for in Government of India, DOPT OM No 510162/2/90-Est-© dated 10 Sep 1993 (copy attached as Annexure 'II')

5. That with regard to the statements made in paragraph 4.4 of the application, the respondents beg to state that the engagement of seventeen personnel mentioned by the applicants were in accordance with Hon'ble Tribunal's decision. Since the applicants were employed by the Respondent No. 4 on daily wages basis for work which was of casual, seasonal and intermittent nature, there is no question of Junior and Senior. Details of seventeen conservancy safaiwalas employed by Respondent No. 4 as per the directions of the Hon'ble Tribunal are as under :-

(a) As per Hon'ble Tribunal's direction dated 28 Jul. 1994 on OA No 228 of 1993. the following were employed as conservancy safaiwalas (copy of direction attached as Annexure 'IV') :-

- (i) Syed Sanshed Ali (ser 8)
- (ii) Mrs Saira Banu (ser 9)
- (iii) Ayesha Begum (ser 10)
- (iv) Md Mafiz Ali (ser 11)
- (v) Md Tazuddin Ahmed (ser 12)
- (vi) Atul Chandra Kalita (ser 13)
- (vii) Mina Rajbanshi (ser 14)
- (viii) Smt Anima Das (ser 15)
- (ix) Md Maznoor Ali Ahmed (ser 16)

Contd.....

(b) As per Hon'ble Tribunal's direction dated 28 Nov. 1995 on OA No 265 of 1993, the following were employed as conservancy safaiwalas (copy of direction attached as Annexure 'V') :-

- (i) Shri Mani Ram-Das (ser 5)
- (ii) Md Jainur Ali (ser 6)

(c) As per Hon'ble Tribunal's direction dated 10 Nov. 1995 on OA No. 248 of 1994, Md Syed Islam Ali (ser 4) was employed as conservancy safaiwala (copy of direction attached as Annexure 'VI') :-

(d) As per Hon'ble Tribunal's direction dated 19 Mar 1997 on OA No. 100 of 1996 following were employed as conservancy safaiwalas (copy of direction attached as Annexure 'VII') :-

- (i) Md Habibur Rahman (ser 1)
- (ii) Sri Putul Das (ser 2)
- (iii) Sri Phunu Barman (ser 3)
- (n) Sri Krishna Das (ser 7)
- (o) Sri Madan Ch Kalita (ser 17)

The above individuals were employed as conservancy safaiwalas and granted temporary status as per 1993 Scheme issued by the Government of India, Department of Personnel and Training letter No. 51016/2/90-Est(c) dated 10 Sep. 93 (copy enclosed as Annexure 'II') as they have fulfilled the stipulated conditions.

6. That with regard to the statements made in paragraph 4.5 of the application, it is submitted that as per DOP&T instructions, casual labours (grant of temporary status) Scheme of Government of India 1993, the engagement will be on daily rates of pay, need basis and availability of work. Provision of engagement irrespective of need and payment of minimum salary does not exist in this effect the DOP&T Instructions has been filed herewith as Annexure 'II'.

Contd.....

It is also submitted that the applicants are not covered under the 1993 scheme as they were terminated well before the date of commencement of Scheme. Same are clearly mentioned in the Annexure 'III'.

Further it is pertinent to mention have that the allegations leveled against the respondent by the applicant as acted in highly illegal, arbitrarily, and in any contradiction is baseless and since the respondent/deponent is a law abiding officer and there is any such bad record as alleged till date.

7. That with regard to the statements made in paragraph 4.6 of the application, the Respondents beg to state that the vacancies of conservancy safaiwala in Rangiya and its satellite stations were assessed by a station board of officers depend upon the work load for a period of five years and the same is required to be concurred by Controller Defence Accounts. Present authorized strength of safaiwalas is 100. As against the authorized strength, only 84 are posted. There is deficiency of 16 safaiwalas. The new enrolment for these 16 posts can not be done due to ban on recruitment of conservancy safaiwalas made by the Government of India (Copy of Army Headquarters letter No C/60288/GS/SD-7(Adm Civs) dated 27 Sep. 2004 indicating the ban on recruitment is enclosed as Annexure 'I') As and when the Respondents receives the instructions for enrolment for the vacant posts, the same will be filled up.
8. That with regard to the statements made in paragraph 4.7 and 4.8 of the application, the respondents have no comments on them and the applicants are put to strictest proof thereof.
9. That the allegation in para 5.1 of the O.A are not correct. It is not correct and baseless to state that large number of subsequent recruitees, junior to the present applicants have been engaged/appointed and still working under the respondents. It is submitted that the seventeen personnel mentioned by the applicants in the OA are employed as per directions of the Hon'ble Tribunal.

The copies of the Hon'ble Tribunal's directions to employ the seventeen Conservancy safaiwals are enclosed at Annexure IV, V, VI and VII.

Contd.....

10. That with regard to the statement made in paragraph 5.2 of the application, the number of vacancies of conservancy safaiwalas were assessed on five year basis by a board of officers and the same is depend upon the work load. The board proceedings is required to be concurred by the Controller of Defence Accounts and only after the concurrence of the Controller or Defence Accounts, the vacancy position would be available. Presently the board proceedings for the period from Aug 2004 to Jul 2009 are presently held CDA Guwahati for concurrence.
11. That with regard to the statement made in paragraph 5.3 of the application, it is submitted that no juniors to the applicants were engaged by the respondents. (Copies of Hon'ble Tribunal's directions are enclosed as Annexure IV, V, VI and VII).
12. That with regard to the statement made in paragraph 5.4 and 5.5 of the application, copy of Army Headquarters letter No. C/60288/GS/SD-7(Adm Civs) dated 27 Sep. 2004 is enclosed as Annexure 'I'.
13. That with regard to the statement made in paragraph 5.6 of the application, it is submitted that Md. Abed Ali was appointed and granted temporary status with effect from 01 October 2001 as per the Hon'ble Tribunal's decision dated 26 Apr 2001 on OA number 451/99. (copies of Court order and board proceedings attached as Annexure 'VIII' and 'IX' respectively).

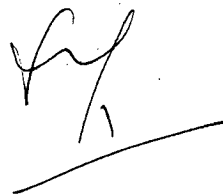
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- 41
14. That with regard to the statement made in paragraph 5.7 and 5.8 of the application, it is submitted that no juniors to the applicants were engaged by the respondents. All the seventeen conservancy safaiwalas were employed as the directions of Hon'ble Tribunal (Copies of directions are enclosed as Annexure IV, V, VI. and VII).
 15. That with regard to the statement made in paragraph 5.9, 6, 7, 8, 8.1, 8.2, 8.3, 8.4, 9, 9.1, 9.2 and 10 of the application, the respondents have no comments on them and the applicants are put to strictest proof thereof.
 16. That the respondents submit that the application is devoid of merit and as such the same is liable to be dismissed.
 17. That this written statement is made as bonafide, and for the ends of Justice and equity.

VERIFICATION

I, Colonel Arvind Mahajan, working as Administrative Commandant, Rangiya do hereby solemnly declare that the statements made above are true to my knowledge, belief and information and nothing being suppressed.

I sign this verification on this 31st day of Mar 2005 at Rangiya.



(Arvind Mahajan)
Colonel
Administrative Commandant
Station Headquarters Rangiya

Telephone: 23018903

Registered

Addl Dte Gen of Staff Duties
SD-7(Adm Civs)
General Staff Branch
Army Headquarters
DHQ PO, New Delhi - 11

C/60288/GS/SD-7(Adm Civs)

27 Sep 2004

Headquarters

Southern Command (GS/SD)

Eastern Command (GS/SD)

Western Command (GS/SD)

Central Command (GS/SD)

Northern Command (GS/SD)

ARTRAC

FR	RR

**BAN ON RECRUITMENT OF CONSY STAFF AND THE
CIVILIAN MAN-POWER SANCTIONED IN THE PE'S**

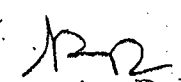
1. Reference AO 22/2001.

2. Presently there is complete ban on recruitment of consy staff. The MOD has finally turned down the proposal of the Army HQ to exempt the consy vacancies from the purview of govt ban orders. It has however, suggested the Army HQ to explore the feasibility of outsourcing for this category of staff. This issue is being examined in its entirety by LWE Dte at this HQ. The final decision on the issue as and when received from the MOD will be intimated to all concerned by this HQ. It is therefore, requested that no reminders be sent to this HQ for release of consy vacancies/permission for outsourcing/ employment of casual workers etc till the receipt of final decision on the issue from this HQ.

3. It is also intimated that there is partial ban on filling up civilian posts sanctioned in the PE's/WEs. Data pertaining to normal wastage vacancies accrued during the proceeding financial year is provided to the committee chaired by the Defence Secy for release of vacancies under the ADRP. The committee is empowered to release one third of the wastage vacancies accrued in the preceding financial year or one percent of the authorised strength of the civilian cadre whichever is less. SD-7 thus just gets about 10 group D vacancies and 4 group C vacancies for allotment to all Commands/Areas HQ/Sub Areas HQ/Stns HQ. AG Branch has taken up a proposal with the Govt to exempt civilian man-power of the lower formations of the army from the operation of ADRP and consequently allow to fill all backlog wastage vacancies. Till the proposal is accepted by the govt, the army units/estts have to bear with the existing deficiencies of civilian man-power. The Army HQ are fully seized with the problem and are making all out efforts at all levels to get favorable decision from the govt. It would send intimation to all concerned as soon as positive decision on the issue is received from the govt.

4. It is requested that the above information may be disseminated Areas/Sub Areas/Stn HQs under your Command.

5. Please acknowledge.


(A Rajan Babu)
Dy Dir, SD-7(Adm Civs)
For Dy Chief of Army Staff (IS&T)

Copy to:-

LWE Dte

AG/MP 4/(Civ)

9

Annexure - II

28

43

Copy

No. 51016/2/90-Estt (C)
Government of India
Ministry of Personnel, P.G, and Pensions
Department of Personnel & Training

New Delhi, the 10th Sept, 1993

OFFICE MEMORANDUM

Subject: Grant of temporary status and regularisation of casual workers-formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, Judgement dated 16th Feb 1990 in the case of Shri Raj Kamal & Others Vs. UOI.

The guidelines in the matter of recruitment of persons on daily wage basis in Central Government offices were issued vide this Department's O.M No. 49014/2/86-Estt (C) dated 7.6.88. The policy has further been reviewed in the light of judgement of the CAT, principal Bench, New Delhi delivered on 16.2.90 in the writ petition filed by Shri Raj Kamal and others Vs Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7.6.88 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in O.M. dated 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/-
(Y.G. Parande)
Director

9(A)

APPENDIX

Department of Personnel & Training. 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 Government of India, 1993".

2. This scheme will come into force w.e.f. 1.9.1993.

3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of posts who already have their own schemes.

4. Temporary Status

- i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle 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 Group 'D' posts.

✓ 5. 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 for a corresponding regular Group 'D' official including DA, HRA and CCA.
- ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro-rata wages 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 from the date of conferment of temporary status.

- iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity 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 benefits of encashment of leave on termination of service for any reason or on their Quitting service.
 - iv) Maternity leave to lady casual labourers as admissible to regular Group D Employees will be allowed.
 - v) 50% of the service rendered under Temporary status would be counted for the purpose of retirement benefits after their regularisation.
 - vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group D employees, provided they furnish two sureties from permanent Govt. servants of their Department.
 - vii) Until they are regularised, they would be entitled to productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.
6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers.
7. Despite conferment of temporary status, the services of a casual labourers may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.
8. Procedure for filling up of Group D Posts
- i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of personnel & Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus of the reasons will have prior claim for absorption against existing casual labourers or those who fail to fulfill the minimum qualification prescribed for post regularisation will be considered.

46

(10(A)

be requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authority should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's O.M. dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government Offices.

11. Department of Personnel & Training will have the power to make amendments or relax any of the provisions in the scheme they may be considered necessary from time to time.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 108 of 1996.

Date of Order : This the 28th Day of April, 1997.

Justice Shri D.N.Baruah, Vice-Chairman

Shri G.L.Sanglyine, Administrative Member.

Md. Tajnur Ali and 7 others. . . . Applicants.

By Advocate S/Shri J.L.Sarkar & M.Chanda.

- Versus -

1. Union of India
through the Secretary, Govt. of India,
Ministry of Defence,
New Delhi.
2. Additional Director General of
Staff Duties (SDGE),
General Staff Branch,
Army Head Quarters, DHG,
P.O. New Delhi-110011.
3. Administrative Commandant,
Purv Kaman Mukhyalaya,
Head Quarters, Eastern Command,
Fort William, Calcutta-700021.
4. Administrative Commandants,
Station Headquarters, Rangiya,
C/O 99 A.P.O.

. . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C.

ORDER

BARUAH J.(V.C)

These eight applicants have approached this Tribunal in this application, praying inter alia for directions to the respondents to reappoint the applicants and regularise their services in the existing vacancies and also to the respondents to give all the consequential benefits including monetary benefit from the respective date of their engagement and also to pay regular salary and allowance to the applicants. All the applicants were engaged Casual Labourer in the Station Headquarter, Rangia under Defence Department. They were enga--

discharging their duties. Their services were later on terminated on different dates. Details are extracted below :

<u>Sl.No.</u>	<u>Name</u>	<u>Initial date of appointment</u>	<u>Date of verbal termination</u>
1.	Md. Tajnur Ali	22.5.1987	31.12.1993
2.	Md. Karimuddin Ahmed	April, 1988	9.6.1993.
3.	Sri Naren Ch. Kalita	1.8.1991	31.12.1993
4.	" Mongil Ghosi	1.11.1991	31.3.1993.
5.	Smt Lalita Das	31.12.1992	31.12.1994
6.	Sri Jatin Ch. Boro	1.9.1992	31.10.1993
7.	Md Rashid Ali	1.10.1981	31.12.1987
8.	" Kader Ali	21.4.1992	1.6.1993.

The respondents having terminated their engagement on the different dates, the applicants being dissatisfied, sent notices to the respondents through their lawyers demanding their reinstatement and for payment of their salary. However, nothing was done. Hence the present application.

2. The case of the applicants is that as per Annexure-D scheme to the rejoinder the casual workers who were in the engagement and served and worked 240 days continuously in case of 6 days week and 206 days in case of 5 days week should be granted temporary status and also to be regularised in the service in manner indicated in the said scheme. But contrary to the provisions of the said scheme the engagement of the applicants as casual labourer had been terminated. The contention of the applicants is in the facts and circumstances of the case, under the said scheme the services of the applicants ought not to have been terminated. On the other hand, they ought to have been granted temporary status and also regularise their engagement under the scheme.

According to the applicants the said scheme was prepared by the Government of India, Department of Personnel and Training vide No.51016/2/90-Estt(C) dated 10.9.1993. The scheme became effective on and from 1.9.1993. The applicants ought to have been granted temporary status and thereafter regularise their service as per the conditions mentioned in the said scheme. Relevant portion of the scheme is extracted below :

"The guidelines in the matter of recruitment of persons on daily wage basis, the grant of temporary status to the casual employees, who are presently employed and have rendered one year or continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the scheme."

In view of the above all the Central Government departments except department of Telecom, Posts and Railways may be regulated under the scheme. In the scheme it is abundantly clear that these casual employees were in the engagement on the date of commencement of the scheme (1.9.1993) and who were still in the engagement on the date of issue of this scheme those casual employees should have been given the temporary status and also later on regularised. On looking to the particulars we find that applicant No. 1 Tajnur Ali, applicant No.3 N.C.Kalita, applicant No.5 Smt Lalita Das and applicant No.6 Jatin Ch.Boro were in employment on the date of commencement of the scheme and they also completed more than 240 days from the date of their initial appointment. Mr J.L.Sarkar, learned counsel appearing on behalf of the applicants has also drawn our attention to a decision of this Tribunal given in O.A.No.56 of 1994, Bhudhiram Boro & Ors. vs. Union of India & Ors. wherein

wherein this Tribunal held that those who were in employment on the date of issuance of the Notification of the scheme dated 10.9.1993 ought to be given temporary status and subsequently regularised. This Tribunal in the said judgment however, did not give the similar direction to the other applicants whose services have been terminated prior to that date. However, the Tribunal gave a direction to the respondents to consider whether they could be given benefit contained in earlier office memorandum dated 7.6.1988 which were applicable prior to enforcement of the 1993 scheme. The earlier office memorandum issued under Government of India, Department of Personnel & Training Office Memorandum No. 48014/2/86-Estt(C) dated 7.6.1988 certain conditions were laid down regarding the manner of recruitment of casual workers on daily rated basis. This office memorandum was issued pursuant to the decision of Supreme Court in its judgment dated 17.1.1986. The earlier judgment of this Tribunal directed the respondents to consider whether they could have engaged as casual labourer in pursuance to the aforesaid office memorandum dated 7.6.88. The facts of this present case are also similar in nature. Therefore, following the aforesaid judgment of this Tribunal we hold that applicants No.1 T.Ali, No.3 N.C.Kalita, No.5 Smt L.Das and No.6 J.C.Boro should be given temporary status. Regarding the remaining applicants as they were not in employment on the date of commencement of the scheme, they cannot be given the temporary status under the scheme. However, the respondents are also directed to consider whether they could be

contd.. 5

given benefit under the office Memorandum dated 7.6.1988. The respondents are directed to comply with the direction as early as possible at any rate within a period of 3 months from the date of receipt of this order.

Considering the entire facts and circumstances of the case we however, make no order as to costs.

Sd/-VICE CHAIRMAN
Sd/-MEMBER (A)

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[Signature]
16.5.97

Section Officer
अनुभाग अधिकारी
Central Administration
केन्द्रीय प्रशासन
Suwahin Bazar, C
गुवाहाटी - ब्यायपीठ, 9

STATEMENT OF CASE FOR GRANT OF TEMPORARY
STATUS TO AFFECTED PERSONNEL OF ARUNACHAL
APPLICATION NUMBER 108 OF 96

INTRODUCTION

1. Station Headquarters, Rangiya was raised in April 1979 and it has jurisdiction over the area from Rangiya to Mattigom, Tamepur, Darranga and Chongseri covering all Military/Non Military units. Convoys were employed as casual workers and paid daily per diem rates as fixed by Labour Commission of Assam from time to time. Convoys serving at this station Headquarters on casual daily wages have filed a case in the Central Administrative Bench Guwahati in OA No 108/96. As per the Hon'ble CAT order/judgment this Headquarters has been directed that Mr Tajnur A.I, Mr N C Kalita, Smt Anita Das and Mr J C Boro be given temporary status as per 1993 scheme issued by Govt of India letter No S1016/2/90-Ext(c) dated 10 Sep 1993. The other applicants of OA 108/96 cannot be given temporary status as they were not in employment on the date of commencement of the scheme.

PROPOSAL

2. It is proposed to grant temporary status as per the 1993 scheme issued by the Govt of India letter No S1016/2/90-Ext(c) dated 10 Sep 1993 and in accordance to the Hon'ble CAT Order/judgment of OA 108/96 to Mr N C Kalita, Smt Anita Das and Mr J C Boro.

OUTLINE OF JUSTIFICATION

3. Mr NC Kalita, Smt Anita Das and Mr J C Boro were employed as casual labour with station Headquarters Rangiya and have fulfilled the stipulated conditions for grant of temporary status as per the 1993 scheme issued by the Govt of India Min of Pw & Pension department of Pw & Ind letter No S1016/2/90-Ext (c) dated 10 Sep 93. It has also been directed by the Hon'ble CAT order/judgment that the above applicants be given temporary status as per contents of letter quoted.

4. The temporary status to Mr Tajnur A.I though found eligible for the same as per the Hon'ble CAT order on OA 108/96 dated 28 Apr 97 is recommended not to be considered. On verification it has been found that Mr Tajnur A.I was arrested by the Rangiya Police station vide case No 139/96 u/s 457/380 IPC and the case is pending in the court having been involved in a case of theft. The other applicants in OA 108/96 were not in employment during the year 1993 and hence they are not eligible for grant of temporary status.

16(A)

DETAILED JUSTIFICATION OF THE CASE

5. Out of the four cases directed to be given temporary status by the Hon'ble CAT order/judgment in case No OA 108/96 dated 29 Apr 97, it is recommended that Mr N C Kalita, Mrs. Kalita Das, Mr J C Boro be granted temporary status as they fulfil the eligibility conditions of the 1993 scheme as laid down in Govt of India Min of Pers P, C and pension Department of pers & Trs letter No S1016/2/90-est(c) dated 10 Sep 93.

6. Mr Tajnur Ali though eligible his case is not recommended to be accepted for change to temporary status as he is involved in a case of theft and police case has been registered against the individual vide case No 139/96 U/S 457/380 IPC which is pending in the court.

SUMMARY

7. As per the directions of the Hon'ble CAT Order/judgment and the fulfilment of eligibility conditions of the 1993 scheme as laid down in Govt of India Min of Pers P, C and pension Department of pers & Trs letter No S1016/2/90-est(c) dated 10 Sep 93, it is recommended that Mr N C Kalita, Mrs. Kalita Das and Mr J C Boro be granted temporary status.

Proceedings of a
assembled at,
on the day of
by the order of
for the purpose of

- Bd of Offrs
- Sqn HQ Rangiya
- 06 Oct 97 & subsequent days
- Sqn HQ Rangiya Convening Order No 3004/1/CC-7/0 dt 26 Sep 97.
- To carry out to scrutinise and finalise the existing documents of affected personnel of original application Number 108 of 96 for Grant of temporary status.

Presiding Offr

- IC-27837A Lt Col M A Joseph
226 Transit Camp

Members

1. - S-4410W Lt P S Parthya
21 Mtn Div Sig Regt
2. - S-4320M Lt Ashok Kumar
ABD Rangiya

1. The bd having assembled pursuant to order proceeded to peruse the undermentioned orders/letters in order to examine the eligibility of conservancy safaiya as for Grant of temporary status.

- (a) Original application No 108 of 96.
- (b) The Hon'ble Central Administrative Tribunal Guwahati Bench order dated 28 Apr 97 passed on the original application 108 of 96.
- (c) Govt of India department of personnel and Trg letter No 51916/2/90-Est (c) dated 10 Sep 93
- (d) Govt of India department of personnel and Trg OM No 49014/2/96-Est(c) dated 07 Jun 98.

2. In the original application No 108 of 96, the casual workers have asked for Grant of temporary status :-

- (a) Mr Tajnur A I
- ✓ (b) ~~Mr. Karimuddin Ahmed~~
- (c) N-gren Ch Kalita
- ✓ (d) ~~Manjit Chori~~
- (e) Mrs Kalita Das
- ✓ (f) ~~Rashid A I~~
- ✓ (g) ~~Kader A I~~

3. The Hon'ble Central Administrative Tribunal Guwahati Bench Order dated 28 Apr 97 in OA No 108/96 has directed that temporary status as per 1993 scheme issued by Govt of India department of personnel and Trg Letter No 51016/2/90-Net(c) dated 10 Sep 93 as they have fulfilled the stipulated conditions to the following casual workers :-

- (a) Mr Tajnur A1
- (b) Mr Naren Ch Ka'ita
- (c) Mrs Ka'ita Das
- (d) Mr Jatin Ch Dore

4. The Hon'ble Central Administrative Tribunal Guwahati Bench Order dated 28 Apr 97 has not considered the case of other casual workers as they were not in employment on the date of commencement of the scheme and hence they can not be given temporary status under the scheme.

5. The board scrutinized the existing documents available and pay slips and it is seen that the following casual workers are eligible for grant of temporary status under the 1993 scheme issued by the Govt of India department of personnel & Trg Letter No 51016/2/90-Net(c) dated 10 Sep 93 :-

- (a) Mr Tajnur A1
- (b) Mr Naren Ch Ka'ita
- (c) Mrs Ka'ita Das
- (d) Mr Jatin Ch Dore

6. However the board does not recommend the grant of temporary status to Mr Tajnur A1 (S a) though directed by the CAT Order dated 27 Apr 97 as on verification, it has been found that Mr Tajnur A1 was arrested by the Rangiya Police station vide case No 130/96 U/A 457/280/PC having been involved in a case of theft which is pending in the court.

7. In view of the above and in the light of Hon'ble CAT Order dated 27 Apr 97 and the applicants fulfilling the eligibility conditions the board recommends the grant of temporary status to the following :-

- (a) Shri Naren Ch Ka'ita
- (b) Mrs Ka'ita Das
- (c) Shri Jatin Ch Dore

Presiding Officer -

(TC-27837A -t Col H A Joseph)

Members 1. -

(S-44109 -t P A Parvati)

2. -

(S-43201 -t Ashok Kumar)

(19)

Annexure - IV
5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.228 of 1993

Date of decision: This the 28th day of July 1994

The Hon'ble Justice Shri S. Haque, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Member (Administrative).

1. Shri Saifuddin Ahmed
2. Shri Umesh Chandra Das,
3. Shri Golap Chandra Das
4. Syed Saushad Ali
5. Md Makib Ali
6. Md Khorshed Ali
7. Shri Haren Das
8. Md Rejek Ali
9. Md Samsul Ali
10. Shri Chandra Dev
11. Md Nuruddin Ahmed
12. Md Mohbbat Ali
13. Md Mosam Ali
14. Md Javed Ali
15. Md Rakshed Ali
16. Pandit Ali
17. Ms Saira Banu
18. Ms Ayesha Begum
19. Shri Deben Chandra Kakoti
20. Shri Suren Nath
21. Md Abed Ali
22. Md Mafiz Ali
23. Md Tazuddin Ahmed
24. Md Makibar Rahman
25. Syed Sarif Ali
26. Shri Atul Chandra Kalita
27. Syed Samnur Ali
28. Md Monir Ali
29. Md Basir Ali
30. Shri Mina Rajbanshi
31. Syed Nabib Ali
32. Ms Golnehar Begum
33. Shri Anima Das
34. Md Sirajuddin Ahmed
35. Md Harej Ali
36. Sri Karuna Chandra Das
37. Md Khasnur Ali
38. Shri Basanta Kalita
39. Md Maznoor Ali Ahmed
40. Nuruddin Ahmed
41. Akbar Ali
42. Najim Ali
43. Shri Haladhar Das
44. Shri Dharmaram Haloi

MINISTERIAL
7.8
TRIBI

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: 2 :

45. Kale Bhadur Chettri
46. Achyut Haloi.
47. Ganesh Ram → 01 Apr 82
48. Ganesh Das → 01 Apr 82

All the applicants are working
as Conservancy/Safaiwalas in
different units under Station
Head Quarters, Rangia

.... Applicants

By Advocates Shri J.L. Sarkar and
Shri M. Chanda

-versus-

1. The Union of India through the
Secretary, Government of India,
Ministry of Defence, New Delhi
2. The Additional Director General of
Staff Duties (SDGB) General Staff
Branch, Army Head Quarters, DHG,
New Delhi
3. The Administrative Commandant,
Purv Kaman Mukhyalaya,
Head Quarters, Eastern Command,
Fort William, Calcutta
4. The Administrative Commandants,
Station Headquarters, Rangia,
C/o 99 A.P.O.

.... Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

....



(1) D. Chamali and another -vs- State of U.P. reported in (1986) 1 SCC 637, (2) Surinder Singh and another -vs- Engineer in Chief, CPWD and others reported in (1986) 1 SCC 639, (3) Daily Rated Casual Labourers (P&T Deptt.) Dak Tar Mazdoor Manch -vs- Union of India and others and another case (Writ petition No. 302/86) reported in (1986) 1 SCC 122. These decisions are applicable in the instant case. The applicants are entitled for regularisation only after obtaining sanction for the posts by the respondents. Presently, they are entitled to the minimum of the appropriate pay scale of Class IV category as Safaiwalas.

5. This application is allowed. The respondents are directed to make communications with the headquarters to obtain sanction for regularising the applicants within a period of six months from the date of receipt copy of the judgment/order and accordingly regularise them as Safaiwalas in Class IV category. The respondents are further directed to pay minimum of the appropriate pay scale of Class IV category as Safaiwalas to the applicants with effect from the month of August 1994. The respondents are directed not to terminate the services of the applicants till their regularisation.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L. SANGLYNE
MEMBER (ADMN)

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प्रतिलिपि

Section Officer (J)

आनुभाग अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guvahati Bench, Gauhati-6
गुवाहाटी न्यायालय, गुवाहाटी-6



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20(A)

ORDER

HAQUE.J.

The fortyeight applicants, excluding Shri Ganesh Ram (applicant No.47) have filed this application for regularisation in Class IV catagory service.

2. The applicants are serving as Conservancy/Safaiwalas under the respondents at Station Headquarter, Rangia since several years on daily wages basis. Some of them are serving since 1982. They have claimed for regularisation in their service as well as minimum of the appropriate pay scale of Class IV catagory as Safaiwalas till their regularisation.

3. Heard learned counsel Mr J.L. Sarkar on behalf of the applicants. Learned Sr. C.G.S.C. make his submissions in conformity with the defence plea in the written statement.

4. The respondents by their written statement admitted that the applicants are serving as Conservancy/Safaiwalas with breaks since several years. It is stated that they are serving in the filed station and, therefore, not entitled for regularisation. It is found on scrutiny that the breaks in the services of the applicants were artificial in order to delink continuity of service to their disadvantage. Such breaks cannot be encouraged because it will be to the disadvantage of casual labourers in service which may defeat their rights and privileges including right of regularisation in service. Therefore, services of the applicants are regarded as in continuity. In such cases, the Supreme Court has enunciated principles and guidelines for regularisation

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.265 of 1993.

Date of Order : This the 28th Day of November, 1995.

Justice Shri M.G.Chaudhari, Vice-Chairman.

Shri G.L.Sanglyine, Member (Administrative).

1. Md Issa Ali,
2. Shri Pradeep Das,
3. " Kartik Das,
4. " Maniram Das,
5. Md Jainur Ali,
6. " Zakir Hussain &
7. Shri Lunek Ch. Boro

. . . Applicants.

All the applicants are working as Conservancy/
Safaiwala under Station Headquarters, Rangia,
Assam.

By Advocate Shri M.Chanda.

- Versus -

1. Union of India
through Secretary, Govt. of India,
Ministry of Defence,
New Delhi.
2. Addl. Director General of Staff
Duties (SDGE) General Staff Branch,
Army Headquarters, DHG,
P.O. New Delhi-110011.
3. Administrative Commandant,
Purv Kaman Mukhyalaya,
Headquarters, Eastern Command,
Fort William, Calcutta-700021.
4. Administrative Commandants,
Station Headquarters, Rangia,
C/O 99 APC.

. . . Respondents.

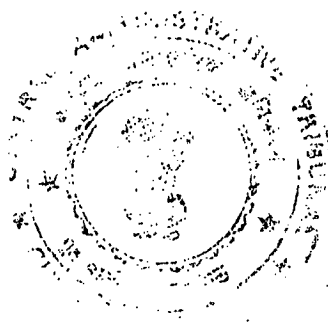
By Advocate Shri Golap Sarma, Addl.C.G.S.C.

ORDERCHAUDHARI J.(V.C)

The 7(seven) applicants who have been engaged periodically on casual basis on daily wage as Conservancy/Safaiwala at the Station Headquarters, Rangiya under the respondent No.4 seek a direction to the respondents to reappoint and regularise their services as Class-IV employees. The O.A. was filed on 20.12.93. Subsequent thereto

contd. 2...

12/11/95



21(A)

- 2 -

the applicants have been re-engaged with effect from 1.8.94 as Casual Labourers. The case of the present applicants is similar to the applicants who were concerned in O.A. 264/93 decided on 5.9.95.

2. The respondents have filed written statement and the contentions raised are similar as were raised by them in the above mentioned O.A. After examining the various aspects of the matter we have made certain directions to the respondents for considering whether the benefit of 1993 Scheme "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India" can be extended to the applicants and have also directed to pay minimum pay scale. Mr Chanda submits that the applicants will be satisfied if similar orders will be passed in the instant O.A's. Mr G.Sarma, the learned Addl.C.G.S.C submits to the orders.

3. In the result following order is passed :

i) The respondents are directed that if the posts of Conservancy/Safaiwalas have been sanctioned by this time for Station Headquarter, Rangiya then the regularisation of the applicants be done in accordance with the rules against those posts.

ii) If there are no sanctioned posts then we direct the respondents No.3 and 4 to move the respondents 1 and 2 for sanctioning the posts of Safaiwalas at Rangiya Station, Headquarter to facilitate the regularisation of the applicants.

iii) Alternatively we direct that the benefit of 1993 Scheme (mentioned above) may be considered to be extended to the applicants, if found eligible or steps may be taken to prepare a similar scheme for the employees

contd. 3...



like applicants serving under the respondents if the said scheme is not found applicable to them and extend the benefit of the scheme as may be framed to the applicants.

iv) We recommend to the respondents to take the aforesaid steps as early as practicable and extend the benefit thereof to the applicants to the extent possible. It is hoped that the respondents will take the aforesaid steps within a period of six months from the date of communication of this order and deal with the question of regularisation of the applicants in the light of the same.

v) The respondents are also directed to pay the minimum of pay scale to the applicants from the date of their present reengagement i.e. 1.8.94 till date. Arrears from 1.8.1994 of the difference of pay upto the end of November, 1995 to be paid and future payment to be continued from 1st December, 1995 at the rate of minimum of the pay scale for Class-IV category of Safaiwalas.

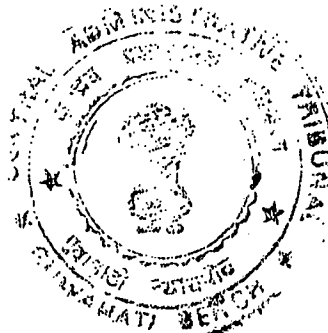
O.A. is disposed of in terms of the aforesaid order.
No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

TRUE COPY

22/6/96
Section officer (Judicial)
Central Administrative Tribunal
Guwahati Bench, Guwahati



(23)

Annexure - VI

16

CENTRAL ADMINISTRATIVE TRIBUNAL

COWAHATI BENCH

63

Original Application No. 248 of 1994.

Date of decision : This the 10th day of November, 1995.

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

The Hon'ble Shri G.L.Sanglyine, Member (A).

1. Md. Syed Islam Ali (Ahmed)
S/o Syed Makib Ali
Village - Nakul No. 2
P.O. 1 P.S. Rangia
District-Kamrup

2. Syed Abdul Ali,
S/o Syed Azmad Ali
Village - Pub Kahan
P.O. 4 P.S. - Rangia
District-Kamrup

3. Md. Taher Ali
S/o Md. Nomin Ali
Village - Bongali Kuchi
P.O. 4 P.S. Rangia
District- Kamrup

..... Applicants

By Advocate Mr. B.K.Sharma.

-versus-

1. Union of India
Through the Secretary, Govt of India,
Ministry of Defence
New Delhi

2. Additional Director General of Staff
Duties (SDGE) General Staff Branch
Army Headquarters DHG
P.O. New Delhi-110011.

3. Administrative Commandant
Purav Kaman Mukhalaya
Headquarters, Eastern Command,
Fort William
Calcutta-700021

4. Administrative Commandant
Station Headquarters,
Rangiya,
C/o 99 A.P.O.

....Respondents

By Advocate Mr. S.Ali, Sr. C.G.S.C.

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23(A)

ORDER

Continued from page 1

The 3 applicants have been engaged as Safaiwala/Mazdoor in the Para Brigade under Station Headquarters of the Administrative Commandant and at the time of filing of the application they were posted at R.T. Brigade, Kangiya. They were employed through the Employment Exchange on daily wage basis at the rate of Rs. 30 per working day on No Work No Pay Basis. Their engagement was on periodic basis with artificial breaks. They were however disengaged finally from the respective dates mentioned in Para 6. vi of the application. Presently they are out of employment.

2. The applicants seek a direction to the respondents to reappoint them with all consequential benefits including monetary benefits from the respective dates of engagement and to pay them regular salary and allowances in the appropriate scale from the date of engagement. The applicants contend that they have worked for more than 240 days and they have therefore become eligible to be regularised in Group D posts.

3. The respondents contend that the service of the applicants was on casual basis and neither they are entitled to claim regularisation as a matter of right nor to claim regular pay scale. It is also their contention that there are no regular posts authorized in the field units and that is why the applicants were appointed on casual basis and cannot be regularised against any posts. The respondents therefore urge that the application may be dismissed. Mr. S. Ali, the learned Sr. C.G.S.C. for the respondents reiterated these submissions.

...4. Similar

4. Similar question arose for our consideration in O.A. 56/94 decided on 19.9.1995 and prior thereto in O.A. 264/93 decided on 5.9.1995. Since the case of the present applicants is similar to those applicants and as the contentions of the parties are also same as in those applications it is not necessary to repeat those reasons once again and it would be sufficient to pass an order similar in nature in the instant application also. Mr. B.K.Sharma submitted that according to his instructions there are posts lying vacant at places other than Rangiya and that there should be no difficulty for the respondents to regularise the applicants and that the applicants would not insist for posting at Rangiya but are willing to accept appointment elsewhere where the vacancies are available. He also submitted that the benefit of the scheme for regularisation of casual labourers is also required to be considered.

5. Mr. Ali, Sr. C.G.S.C. submits that according to his instructions there are no posts presently available. We would only say in this connection that if there are any posts available not necessarily at Rangiya but at other places it would be open to the respondents to sympathetically consider whether the applicants may be regularised against those posts.

Subject to the above observations following order is passed :

1. The respondents are directed to consider extending the benefit of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1993 of the Government of India and benefit of guidelines under O.M. dated 7.6.1988 to the

... 4. ...
... on them and thereafter
regularisation against the posts as may be available
subject to their eligibility and availability of
posts wherever available.

2. The respondents No. 3 & 4 may, if necessary, seek
regularisation for the posts to enable consideration of
regularisation of the applicants if they are
otherwise found eligible for the same under the
Scheme.
3. The circumstance of disengagement of the applicants
may be considered in the light of the Scheme and
guidelines respectively if applicable as stated
above.
4. The respondents to examine the cases of the
applicants in the light of above directions as
expeditiously as possible but in any case within a
period of three months from the date of receipt of
this order and intimate their decision to the
applicants accordingly.
5. The question of consequential benefits, if any,
available to the applicants under the Scheme/
Guidelines in the event of their being considered for
regularisation may be extended to them.
6. The respondents may not confine their consideration
in respect of the applicants for the aforesaid
purpose only at Rangiya Field Station but may
consider if they can be accommodated at any other
place.

... 7. It

File

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It will be open to the respondents to offer casual engagement to the applicants when possible.

The O.A. is disposed of in terms of the aforesaid directions. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

Certified to be true Copy

WATSON WATSON

W. Watson
6/1/96

Section Officer (A)

General Assistant (A) (Office Secy.)
Central Administrative Tribunal

Ex-Officio Secretary
Governing Body, Government
of India, New Delhi

and

(26) Annexure - 101
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 100 of 1996.

Date of decision : This the 19th day of March, 1997.

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

Hon'ble Shri G.L.Sanglyine, Administrative Member.

Shri Uttam Nath and 11 Ors.
Son of Sri Siva Ram Nath,
Village-Balai Bill,
P.O. & P.S. Changsari,
District-Kamrup,
Assam

.....Applicants

By Advocate Mr. J.L.Sarkar with Mr. M.Chanda.

-versus-

1. Union of India
Through the Secretary,
Government of India
Ministry of Defence
New Delhi.
2. Additional Director General of Staff Duties
(SDGE), General Staff Branch,
Army Headquarters, DHG,
P.O. New Delhi-110011.
3. Administrative Commandant,
Purv Kaman Mukhyalaya
Headquarters, Eastern Command,
Fort William,
Calcutta-700021.
4. Administrative Commandant,
Station Headquarters,
Rangiya,
C/o 99 APO

Respondents

By Advocate Mr. S.Ali, Sr. C.G.S.C.

O R D E R

BARUAH J. (V.C.).

In this application, the applicants have prayed interalia for regularisation of their services in the pay scale of Rs. 750-940 per month with all consequential service benefits including monetary with immediate effect in the cadre of Conservancy Safaiwala

direction to pay minimum of the pay scale with effect from August 1994 till the services of the applicants are regularised and also for other appropriate orders. The facts for the purpose of disposal of this application are :

The applicants are employees of the Regional Station Headquarter, Rangiya as Conservancy Safaiwalas. They have been working on various dates commencing from 1975 till 1993. Though they have been working for such long time their services have not been regularised till date. Hence the present application.

2. According to the applicants the services rendered by them are of permanent nature and they are entitled to be regularised in their services. Written statement has been filed after expiry of the time allowed and therefore the respondents have filed an application for acceptance of the written statement. In para 2 of the written statement the respondents have stated that they have been regularised in their services except the applicant No. 6. Applicant No.6 is overged by 14 years. Mr. J.L.Sarkar submits that a separate application is pending before this Tribunal. Therefore we do not pass any order in respect of respondent No. 6. As the main grievance of the other applicants have been accepted by the respondents it is for the respondents to consider whether the consequential benefits such as the monetary as claimed by the applicants sould be given or not in the light of Judgement and order passed by this Tribunal in similar other cases.

3. In view of the above, we dispose of the application with direction to the respondents to consider whether the present applicants are entitled to get the other benefits as claimed in the application. The respondents shall consider the same in the light of the

.....decision

(27)

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decision of the Tribunal passed in O.A. No. 228 of 1993. This may be done as early as possible at any rate within a period of two months from today.

With the above observations the application is disposed of. Considering the entire facts and circumstances of the case we do not make any order as to costs.

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)

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[Signature]
28-1-97

Section Officer (J)

आनुमान अविभागी (म. व. २) इकाई
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati
गुवाहाटी न्यायालय, गुवाहाटी-६

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.451 of 1999.

Date of Order : This the 26th Day of April, 2001.

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

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

1. Md. Abed Ali,
 2. Md Makbul Hussain,
 3. Md. Maznur Ali,
 4. Mainul Ali, and
 5. Majib Ali
- . . . Applicants.

By Advocate Sri A.Ahmed.

- Versus -

1. Union of India
represented by the Secretary to
the Govt. of India,
Ministry of Defence,
New Delhi.
 2. The Additional Director General
of Staff Duties (SDGE)
General Staff Branch,
Army Head Quarters B.H.Q.,
New Delhi-11.
 3. The Administrative Commandant,
Purav Kaman Mukhayala, Hqr.
Eastern Command, Fort William,
Calcutta-700021.
 4. The Administrative Commandant,
Station Headquarter,
Rangia, C/o 99 APO.
- . . . Respondents.

By Advocate Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

The subject matter pertains to ^{bestowing} extend the benefit of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme formulated by the Government of India. From the materials on record it appears that applicant No.1, Md. Abed Ali and applicant No.5, Md.Majib

contd..2

Ali have completed 240 days ignoring the artificial break. The applicants No.2 and 3, namely, Md. Makbul Hussain and Md. Maznur Ali however is not covered by the scheme since they have not rendered the 240 days of service. As per records it appears that applicants No.2 and 3 were served only for two months.

2. In the pleadings the respondents denied about the appointment of applicant No.4, Md. Mainul Ali. Therefore his case is also goes out of the purview of the scheme. As per records the case of the applicants No.1 and 5 is squarely covered by the decision rendered by this Tribunal in O.A.249 of 1995 disposed of on 10.11.1995 and in O.A. 98 of 1997 and 99 of 1997 disposed of on 17.11.1997 followed by O.A.301 of 1998 disposed of on 22.3.2001. The applicant No.1, Md. Abed Ali and applicant No.5, Md. Majib Ali are squarely covered by the aforementioned decisions and accordingly the following order is passed.

- 1) The respondents are directed to consider extending the benefit of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1993 of the Government of India and benefit of guidelines under O.M. dated 7.6.1988 to the applicants and the question of conferring temporary status on him and thereafter regularisation against the post as may be available subject to his eligibility and availability of posts wherever available.
- ii) The respondents No.3 & 4 may, if necessary, seek sanction for the posts to enable consideration of regularisation of the applicant if he is otherwise found eligible for the same under the scheme.

contd..3

- iii) The circumstance of disengagement of the applicant may be considered in the light of the scheme and guidelines respectively if applicable as stated above.
- iv) The respondents to examine the cases of the applicants in the light of above directions as expeditiously as possible but in any case within a period of three months from the date of receipt of a certified copy of this order and intimate the decision to the applicants accordingly.
- v) The question of consequential benefits, if any, available to the applicants under the Scheme/Guidelines in the event of his being considered for regularisation may be extended to him.
- The respondents may not confine their consideration in respect of the applicants for the aforesaid purpose only at Raingiya Field Station but may consider if they can be accommodated at any other place.
- vii) It will be open to the respondents to offer casual engagement to the applicants when possible.

3. The application is allowed to the extent indicated so far applicants No.1 and 5 are concerned and the application is rejected so far the applicants No.2, 3 and 4 are concerned.

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

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प्रतिनिधि

W. S. 15/5/2007

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Section Officer (J)

आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गुवाहाटी - ब. ब. ब. ब. गुवाहाटी

KS 14/5/2007

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Annexure - 1x

23

**SANCTION OF COMMANDER 51 SUB AREA FOR REGULARISATION OF
SERVICE OF CONSERVANCY SAFAIWALAS EMPLOYED IN
STATION HEADQUARTERS RANGIYA**

Sanction of Commander 51 Sub Area is hereby accorded for regularisation of service of the following conservancy safaiwals employed in Station Headquarters Rangiya and grant temp status to them with the rules prescribed for the posts :-

- (a) Md Abed Ali
- (b) Md Majib Ali

Station : C/O 99 APO

Dated : 30 Sep 2001


Officer/51 Sub Area
Station/Cdr
51 Sub Area

**STATEMENT OF CASE FOR GRANT OF TEMPORARY STATUS TO AFFECTED
PERSONNEL OF ORIGINAL APPLICATION NO 451 OF 99**

INTRODUCTIONS

1. Station Headquarters, Rangiya was raised in April 1979 and it has jurisdiction cover the area from Rangiya to Darranga, Tamulpur and Changsari covering all Military/Non Military units. Conservancy Safaiwalas were employed as casual workers and paid daily nerrick rates as fixed by labour commission of Assam from time to time. Conservancy Safaiwals serving at this Station Headquarters on casual daily wages have filed a case in the Central Administrative Tribunal Bench Guwahati in OA No 451 of 99. As per the Hon'ble CAT order/judgement this Headquarters has been directed that Md Abed Ali and Md Majib Ali be given temporary status as per 1993 scheme issued by Govt of India letter No 51016/2/90-Est (c) dated 10 Sep 93. The other applicants of OA No 451 of 99 can not be given temporary status as they were not in employment on the date of commencement of the scheme.

PROPOSAL

2. It is proposed to grant temporary status as per the 1993 scheme issued by the Govt of India letter No 51016/2/90-Est(c) dated 10 Sep 93 and in difference to the Hon'ble CAT order/judgement of OA No 451 of 99 to Md Abed Ali and Md Majib Ali.

OUTLINE OF JUSTIFICATION

3. Md Abed Ali and Md Majib Ali were employed as casual labour with Stations Headquarters Rangiya and have fulfilled the stipulated conditions for grant of temporary status as per the 1993 scheme issued by the Govt of India Min of Pers PG pension department of Pers & Trg letter No 51016/2/90-Est (c) dated 10 Sep 93. It has also been directed by the Hon'ble CAT order/judgement that the above applicants be given temporary status as per contents of letter quoted.

DETAILED JUSTIFICATION OF THE CASE

4. Out of the two casual safaiwalas directed to be given temporary status by the Hon'ble CAT order/judgement in case No OA 451 of 99 dated 26 Apr 2001, it is recommended that Md Abed Ali and Md Majib Ali be granted temporary status as they fulfil the eligibility conditions of the 1993 scheme as laid down in Govt of India Min of Pers PG pension department of Pers & Trg letter No 51016/2/90-Est (c) dated 10 Sep 93.

SUMMARY

5. As per the directions of the Hon'ble CAT order/judgement and the fulfilment of eligibility conditions of the 1993 scheme as laid down in Govt of India Min of Pers PG pension department of Pers & Trg letter No 51016/2/90-Est (c) dated 10 Sep 93, it is recommended that Md Abed Ali and Md Majib Ali be granted temporary status.

32/5

In lieu of IAFD-931

Proceedings of a - Board of Officers
Assembled at - Stn HQ, Rangiya
On the day of - 12 Aug 2001 & subsequent days
By the order - Stn HQ Rangiya convening order No 3004/1/CC-17/Q dated 10 Aug 2001.
for the purpose of - To carry out to scrutinise and finalise the existing documents of affected person of original application No 451/99 for grant of temporary status.
Presiding Offr - IC- 47894 M Maj CJS Gill, OC FSD, Rangiya.
Members - 1. SC-00182Y Capt Rajpal Singh, 21 Mtn Div Sig Regt
2. IC-58380 Capt R Barthwal, AWD, Rangiya

1. The bd proceedings assembled pursuant to order proceeded to peruse the under mentioned orders/letters in order to examine the eligibility of conservancy safaiwalas for grant of temporary status.

(a) Original application No 451 of 99.

(b) The Hon'ble Central Administrative Tribunal Guwahati Bench order dated 26 Apr 2001.

(c) Govt of India Department of personnel and Trg letter No 51016/2/90-Est (C) dated 10 Sep 93.

(d) Govt of India Deptt of personnel and Trg OM No 49014/2/86-Estt (C) dated 07 Jun 88.

2. In the original application No 451 of 99, the casual worker have asked for grant of temporary status :-

(a) Md Abed Ali

(b) Md Makbul Hussain

(c) Md Maznur Ali

(d) Md Mainul Ali

(e) Md Majib Ali

3. The Hon'ble Central Administrative Tribunal Guwahati Bench Order dated 26 Apr 2001 in DA No 451/99 has directed that temporary status be granted as per 1993 scheme issued by Govt of India department of personnel and Trg letter No 51016/2/90-Est(c) dated 10 Sep 93 as they have fulfilled the stipulated conditions to the following casual workers :-

- (a) Md Abed Ali
- (b) Md Majib Ali

4. The hon'ble Central Administrative Tribunal Guwahati Bench order dated 26 Apr 2001 has not considered the case of other casual workers i.e. Md Makbula Hussain, Md Maznur Ali and Md Mainul Ali as they were not in employment on the date of commencement of the scheme and hence they can not be given temporary status under the scheme.

The board scrutinised the existing documents available and pay slips and it is seen that the following casual workers are eligible for grant of temporary status under the 1993 scheme issued by the Govt of India department of personnel & Trg letter No 51016/2/90-Est(c) dated 10 Sep 93 :-

- (a) Md Abed Ali
- (b) Md Majib Ali

In view of the above and in the light of Hon'ble CAT Order dated 26 Apr 2001 and the applicants fulfilling the eligibility conditions the board recommends the grant of temporary status to the following :-

- (a) Md Abed Ali
- (b) Md Majib Ali

Presiding Officer

IC- 47894 M Maj CJS Gill, OC FSD, Rangiya.

Members

1. SC-00182Y Capt Rajpal Singh, 21 Mtn Div Sig Regt.

2. IC-58380 Capt R Barthwal, AWD, Rangiya

D.A.

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**RECOMMENDATIONS OF THE STATION COMMANDER, RANGIYA ON THE BOARD
PROCEEDINGS TO SCRUTINISE AND FINALISE THE EXISTING DOCUMENTS OF
AFFECTED PERSONNEL OF ORIGINAL APPLICATION ON NUMBER 451 OF 99 FOR
GRANT OF TEMPORARY STATUS**

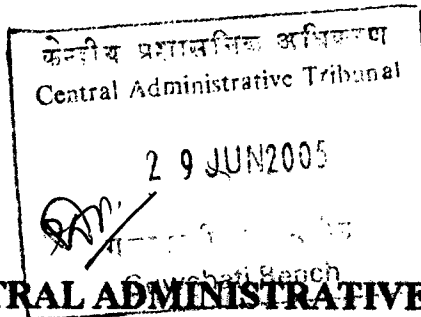
1. I agree with the recommendation of the Board.
2. I recommend that sanction be accorded for grant of temporary status to the applicants namely Md Abed Ali and Md Majib Ali on PRIORITY.

Station : Rangiya

Dated : 14 Aug 2001



(PG Bhat)
Brig
Stn Cdr



78
Filed by me applicants
through Subrata Nath.
Advocate
29.06.05

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

In the matter of:

O. A. No. 331 /2004

Md. Karimuddin Ahmed and Ors.

-Versus -

Union of India & Others:

-And-

In the matter of:-

**Rejoinder submitted by the petitioner against the
written statement submitted by the respondents.**

The above named applicants most humbly and respectfully beg to state as under: -

1. That with regard to the statements made in paragraph 1(b), 1(c), 2 and 4, the applicants denies the correctness of the same and further beg to say that so far allegation of complete ban of recruitment of conservancy of staff has been issued by the H.Q letter dated 27.09.2004, indicating the ban on recruitment has no relevancy with the pleading and prayer of the applicants as because applicants were granted temporary status way back in the year December, 2002 in terms of the casual labourer temporary status scheme 10.09.1993. Since the temporary status has already been granted to the applicant vide order dated 14.12. 2002, as such ban on recruitment has no relevancy as alleged in paragraph 2 of the written statements. Here in this application the specific grievance of the applicants that even after granting of temporary status to the applicants, they were not engaged in the employment whereas the subsequent recruits whose names are indicated in paragraph 4.4 has been kept in continuous engagement after granting temporary status. Therefore applicants are aggrieved for nonconsideration of their engagement in work. It is categorically submitted that there is no ban for

engagement in work, ban is imposed for recruitment only. Whereas applicants are already recruited long back as per their own statement as indicated in para 4 of the written statement. It is further submitted that all the 17 casual workers whose names are indicated in para 4.4 of the original application, they were subsequently recruited in the respondents department but they have been kept continuously in work but the applicants have been discriminated in the matter of engagement in work even after temporary status.

It would evident from the service records of the casual workers who are junior to the applicants that they have appointed at a later point of time in the respondent department. Therefore Hon'ble Tribunal be pleased to produce all the service records of 17 casual labourers whose names are indicated in para 4.4 to ascertain the correct factual position and also for proper adjudication of the case. The contention of the respondents that the 17 casual workers whose names are indicated in para 4.4 were also temporary status following the direction of this Hon'ble Tribunal and the applicants are not disputing the said facts rather admitting the same, but the applicants are discriminated in the matter of engagement of work, temporary status has already been granted as such there is no disputed on that point, the respondents themselves admitted in para 4 itself that the applicants were granted temporary status under 1993 scheme.

2. That with regard to the statements made in paragraph 5A, 5B, 5C, 5D, 6, 7 and 9 of the written statements, the applicants beg to say that the employment of those workers indicated in para 5 are not disputed to the effect that the same has been done following the direction passed by this Hon'ble Tribunal.

It is not disputed that the present applicants are granted temporary status following the direction of this Hon'ble Court but even though the applicants are senior they have not been engaged in work and as such applicants are meted out with hostile discrimination. It is also relevant to mention here that temporary status has been granted without reference/creation of the post as per the 1993 Scheme. Hence non-consideration of the case of the applicants for engagement is highly arbitrary, unfair and illegal. In paragraph 6 of the written statement it is fairly submitted by the respondents union of India that the total authorized strength of workers is 100 against the same 84 workers are posted, therefore, it

appears that there is no difficulty on the part of the respondents to engage the present applicants in work. The statement of paragraph 9 is categorically denied and correctness of the same could be ascertained from the service book of the 17 workers.

3. That with regard to the statements made in paragraph 10, 11, 12, 13, 14 and 16 of the written statements and further beg to say that junior of the applicants are continuously retained in work without engaging the applicants in works and thereby the applicants are discriminated in the matter of engagement in work.

In the facts and circumstances stated above application deserves to be allowed with cost.

VERIFICATION

I, Shri Manzil Ghori, S/o Sri Azizan, aged about 38 years, resident of Village- & P.O- Changmaguri, P.S- Rangia, Dist-Kamrup, Assam do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the ____ day of June, 2005.

Manzil Ghori.