

30/100

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 65/2004

R.A/C.P No.

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Org. App/ Misc. Petn/ Cont. Petn/ Rev. Appl. 65/04

In O.A. _____

Name of the Applicant(s) K-K Roy & ORS.

Name of the Respondent(s) H-O-I & ORS.

Advocate for the Applicant R.C. Barpatragohain, B.B. Sohain

Counsel for the Railway/ C.G.S.C. _____

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
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This application is in form
 is filed in Form No. 40/-
 deposited vide No. 119,328,567
 Date 12.3.04

16.3.2004

Heard Mr.R.C.Barpatragohain,
 learned counsel for the applicant and
 also Mr.B.C.Pathak, learned Addl.C.G.
 S.C. for the respondents.

List the case after two weeks.

In the meanwhile, respondents will
 take action as directed in judgment
 and order dated 27.2.2004 passed in
 O.A.50/2004.

List on 31.3.2004.

Dy. Registrar

Steps taken

K.P. Bhowmik
 Member (A)

bb

31.3.2004 present: The Hon'ble Shri Kuldip Singh
 Member (J).

The Hon'ble Shri K.V.Prahladar
 Member (A).

Heard learned counsel for the
 parties. Order passed separately.

K.P. Bhowmik
 Member (A)

K.V. Prahladar
 Member (J)

bb

Pt. commg order dated
 16/3/04.

18/3/04

N.S.
 16/3/04

Notice is prepared and sent
 to Despatch Section for
 issuing to the respondents
 NO. 1 to 5.

N.S.
 18/3/04

~~Received / copy copy~~
~~for the respondent.~~

~~[Signature]~~
~~[Signature]~~

19.4.04

Copy of the Indst
has been sent to the
Office for Review
The same to the applicant
as well as to the
Addl. C & S C.

ST

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~XXXX~~ No. 65 of 2004.

DATE OF DECISION 31.3.2004.
.....

..... Shri Krishna Kanta Roy & 13 Others. APPLICANT(S).

..... Mr.D.C.Mahanta, R.C.Barpatraghain & ADVOCATE FOR THE
B.Buragohain. APPLICANT(S).

- VERSUS -

..... Union of India & Others. RESPONDENT(S).

..... Mr.B.C.Pathak, Addl.C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE SHRI KULDIP SINGH, JUDICIAL MEMBER.

THE HON'BLE SHRI K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

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 Ho'ble Member (J).

[Signature]

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.65 of 2004.

Date of Order : This, the 31st Day of March, 2004.

THE HON'BLE SHRI KULDIP SINGH, JUDICIAL MEMBER.

THE HON'BLE SHRI K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Shri Krishna Kanta Roy
2. Sri Nripen Kakati
3. Shri Jatin Chandra Das
4. Shri Munindra Chandra Das
5. Shri Bosanta Kumar Boro
6. Shri Narendra Nath Sarma
7. Shri Bongshidhar Bayan
8. Shri Puna Ram Murari
9. Shri Sankar Basfore
10. Shri Nayan Baba Singh
11. Shri Ramesh Chandra Daimary
12. Sri Ramesh Ch. Sarma
13. Sri Dwijen Das
14. Sri Bapan Ch. Nath.

All the applicants have been working under the Office of the Commissioner (Border), Govt. of India, Ministry of Home Affairs, Bhangagarh Guwahati-5. . . . Applicants.

By Advocate Mr.D.C.Mahanta, R.C.Barpatragohain, B.Buragebain.

- Versus -

1. The Union of India
Represented by the Joint Secretary
to the Government of India (15-11 & BM)
Ministry of Home Affairs
North Block, New Delhi - 110 001.
2. The Joint Secretary, Border Management
Ministry of Home Affairs
North Block, New Delhi-110 001.
3. The Under Secretary to the
Government of India
Ministry of Home Affairs
North Block, New Delhi-110001.
4. The Commissioner (Border)
Represented by the Deputy Commissioner (Border)
Bhangagarh, Guwahati-5.
5. The Administrative Officer
Office of the Commissioner (Border)
Govt. of India, Ministry of Home Affairs
Bhangagarh, Guwahati-781005. . . . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

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O R D E R (ORAL)

KULDIP SINGH, MEMBER (J) :

We have heard Mr.D.C.Mahanta, learned counsel for the applicants and also Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents.

2. The applicants were engaged as casual labourer by the respondents for a project of construction of wire fencing of Indo-Bangladesh Border. Their services have been disengaged since that project is handed over to Border Security Force. Therefore, respondents are unable to keep the applicants engaged now.

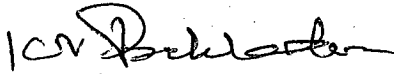
3. The applicants earlier filed an ^{O.A.50/2004} O.A. seeking regularisation. The said O.A. was disposed vide order dated 27.2.2004 wherein the respondents were directed to decide the representation of the applicant and also to explore the possibility if the applicants can be engaged in some other departments under the control of the respondents. But by communication dated 10.3.2004 the respondents informed the concerned officer that they are unable to keep the applicants engaged and they will not be able to pay the salary to the applicants after 29th February, 2004 and their services have to be dispensed with after 29.2.2004. The applicants still have grievances that their representation dated 27.2.2004 regarding exploring possibility to depute them in some other departments is still undecided.


In view of these circumstances we find that for
4. The O.A. can be disposed of at the admission stage itself with a direction upon the respondents to dispose of the representation of the applicant. Accordingly, respondents are directed to dispose of the representation of the applicants within a period of one month from the date of receipt of the order and also to explore the possibility to accommodate the applicants in some other departments under the control of the

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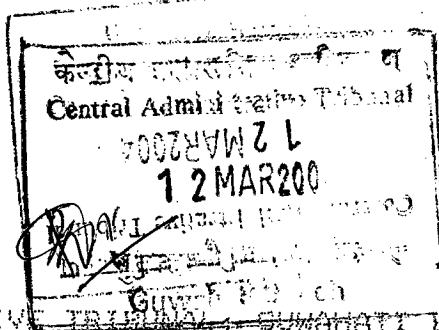
respondents as early as possible.

The O.A. is accordingly disposed of.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(KULDIP SINGH)
JUDICIAL MEMBER

bb



THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

AT GUWAHATI

G. A. NO. 65 /2004

Shri Krishna Kanta Roy & Others

...Applicants

-Versus-

Union of India & Others

...Respondents

LIST OF DATES AND SYNOPSIS OF THE CASE

DATE SYNOPSIS OF PARTICULARS IN THE APPLICATION

The applicants were appointed as UDC, LDC, peon and Chowkidar etc. at the office of the Commissioner (Border) Govt. of India, Ministry of Home Affairs, Bhangagah, Guwahati, as per Assam Accord for construction of Indo Bangladesh Border Road Fences and sanction for continuation of temporary posts accorded on year to year basis. Their appointment were made in the year 1984 onwards.

31.3.99 - Letter issued by the Administrative Officer, Guwahati for absorption of the staff against regular post in other offices of the Ministry of Home Affairs.

3.7.99 - Absorption of temporary staff of the office of Commissioner (Border), Ministry of Home Affairs, Bhangagah, Guwahati.

24.11.00 - Letter issued by the Deputy Secretary's (NEC) Ministry of Home Affairs, New Delhi to the Commissioner (Border), Bhangagarh, Guwahati in the matter of regularisation of services of 14 Nos group C & D staff. As the office of the Commissioner (Border) has been created temporarily for supervising the Indo Bangladesh Border Roads and Fence construction project work, which is scheduled to be completed by March 2007, it may not be possible to declare the services of 14 Group C & D temporary staff as permanent.

9.9.2003- Order passed by this Hon'ble Tribunal in G.A. No. 298/2002.

24.2.2004 - Order issued by the Under Secretary to the Govt. of India in respect of closing the office of the Commissioner (Border) Bhangagarh, Guwahati.

24.2.2004 - Letter issued by the Under Secretary to the Govt. of India, in respect of close down of the office of the Commissioner (Border) and not to offer any extension beyond 28.2.2004 and directed to handed over charge including the records of the office to BSF.

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27.2.2004 - Order passed by this Hon'ble Tribunal in OA 50/2004 whereby directed the Respondents to consider the possibility of accomodating locally recruited staff by detailed speaking order to be passed within two weeks from the date of receipt of this order till a decision is arised by the Ministry of Home Affairs, Status quo of the working of the employees shall be maintained.

27.2.2004 - Representation filed by the applicant in pursuance of order passed by this Hon'ble Tribunal.

2.3.2004 - Letter issued by Deputy Commissioner, Guwahati to the Joint Secretary, Ministry of Home Affairs, New Delhi.

10.3.2004- Impugned letter issued by the Joint Secretary, Ministry of Home Affairs, New Delhi to the Deputy Commissioner (Border) Guwahati in respect of close down of the office.

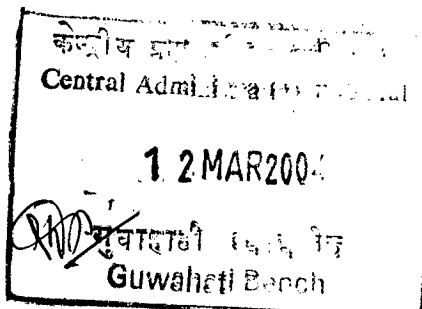
B. RELIEF SOUGHT FOR:

Under the and circumstances of the case as stated in the application the applicants host humbly and respectfully prays that your

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Lordships be pleased to grant the following reliefs:

- B.1 That the office order dtd. 24.2.2004 issued by the Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi may be declared void and illegal.
- B.2 That the impugned office order dated 10.3.2004 (Annexure -) may be declared void and illegal.
- B.3 That the applicants may be allowed to continue in service and direct the respondents to pay regular salaries thereof.
- B.4 That the direction may be issued to the Respondents to declare the office of the Commissioner (Border) Bhangagarh, Guwahati as a permanent establishment.



THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

GUWAHATI

(Application under Section 19 of the Central
Administrative Tribunal Act, 1985)

D.A. No. 65 of 2004

Sri Krishna Kanta Ray & Drs.

..Applicants

-Versus-

Union of India & Drs.

.....Respondents.

Krishna Kanta Ray

I N D E X

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Date of filing

Filed by:

Bisnu Dasgupta
Advocate
12/3/04

Filed by:-
through:-
Bishnu Borgeh
Administrative
19/8/04
3
Krishna Kanta Roy

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
AT GUWAHATI

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

O. A. NO. _____ /2004

Shri Krishna Kanta Roy & Others

...Applicants

-Versus-

Union of India & Others

...Respondents

1. PARTICULARS OF THE APPLICANTS:

1. Shri Krishna Kanta Roy,
Son of Late Priya Nath Roy,
Village Botaghuli, P.O. Panjabari,
Guwahati - 781037.

2. Shri Nripen Kakati,
Son of Late Rajen Kakati,
Village & P.O. Pub Borka,
District- Kamrup, Assam.

3. Shri Jatin Chandra Das,
Son of Late Joy Ram Das,
Village Pandu Bazar,
P.O. Pandu Bazar, Guwahati-781012.

Contd..P/-

11. Shri Ramesh Chandra Daimary,
Son of Late Tarani Daimary,
Village Lahoripar, P.O. Rupohi.
12. Sri Ramesh Ch. Sarma,
S/o Late Someswar Sarma,
Vill. Barpratima, P.O. Baker Hati,
Dist. Kamrup, Assam.
(Working as LDC since 18.3.1985)
13. Sri Dwijen Das,
S/o Late Ghana Kanta Das,
Bergaon, Dist. Solaghas, Assam.
(Working as driver since 9.11.87)
14. Sri Bapan Ch. Nath,
S/o Late Juran Ch. Nath,
Vill. Dekargaon, Dist. Darrang, Assam.
(Working as driver since 1.8.2000)

All the applicants have been working under the office of the Commissioner (Border) Govt. of India, Ministry of Home Affairs, Bhangagarh, Guwahati-5.

2. PARTICULARS OF THE RESPONDENTS:

1. The Union of India, represented by the
Joint Secretary to the Government of India
(13-11 & BH), Ministry of Home Affairs,
North Block, New Delhi-110001.

Contd..P/-

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Mrs. Anura Kumari Roy

2. The Joint Secretary, Border Management,
Ministry of Home Affairs,
North Block, New Delhi-110001.
3. The Under Secretary to the Govt. of India,
Ministry of Home Affairs,
North Block, New Delhi-110001.
4. The Commissioner (Border), represented
by the Deputy Commissioner (Border),
Dhangagari, Suwahati - 5.
5. The Administrative Officer,
Office of the Commissioner (Border),
Govt. of India, Ministry of Home Affairs,
Dhangagari, Suwahati-781005.

3. PARTICULARS FOR AGAINST WHICH THE
APPLICATION IS MADE:

- I. An order dtd. 8.8.2003 passed by this Hon'ble
Tribunal in Original Application No.298/2002.
- I. Letter No. 14011/22/(00)94-CB dated 30.10.96
issued by the Commissioner (Border) to the
Joint Secretary (NE), Ministry of Home Affairs,
Govt. of India.
- II. An office order dtd. 24.2.2004 issued by Under
Secretary to the Govt. of India, Ministry of
Home Affairs, New Delhi.

Contd..P/-

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K. S. Mani Kauld

- III. An order dtd. 27.2.2004 passed by this Hon'ble Tribunal in Original Application No.50/2004.
- IV. A representation dated 27.2.2004 given by the recruited staff of Commissioner(Border) Office, Guwahati through the Deputy Commissioner, Border to the Joint Secretary, Border Management, Govt. of India, MHA, North Block, New Delhi-1, for accommodating the staff (IG) against the vacancies in the NEC, Govt. of India, MHA, Takation Building, Shillong.
- V. A Fax Message dtd. 27.2.2004 from the Section Officer (Desk), Office of the Commissioner, Border, MHA, Guwahati to the Secretary, North Eastern Council, Secretariat, Ministry of Home, 501 Takation Building, Shillong-3.
- VI. Letter dated 2.3.2004 from the Deputy Commissioner Border to the Joint Secretary (BM)-III, Govt. of Indian, MHA, North Block, New Delhi-1 a clarification of the Windup of Office of the Commissioner Border, MHA, Guwahati.
- VII. Letter dated 10.3.2004 issued by the Joint Secretary to the Commissioner (Border), Guwahati, regarding the recruitment of 14 employees who recruited by erstwhile office of the Commissioner (Border), Guwahati.

Contd. F/-

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Mrs. Anu Karabi Das

Atul Kumar Kaur

4. LIMITATION:

The applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

5. BRIEF FACTS OF THE CASE:

I. That the applicants are the citizens of India and as such they are entitled to all the rights, protections and safeguards granted under the Constitution of India and the laws framed thereunder.

The all the applicants are working in the Office of the Commissioner, (Border) Govt. of India, Ministry of Home Affairs, Bhangagarh, Suwahati and their grievances and sub matters are similar in nature and hence they crave leave of this Hon'ble Tribunal to join together in a single application invoking the power under Rule-4(3)(2) of Central Administrative Tribunal (Procedure) Rule of 1999.

II. That the applicants state that the Govt. of India, Ministry of Home Affairs was pleased to pass an order on 11.5.84 whereby accorded sanction to declaration of Commissioner (Border with Headquarters at Suwahati as Head of the Department in terms of the Rule 3 (1)(F) of the Delegation of Financial Power Rules, 1978 and the said order was issued with the approval of Financial Adviser (Home) vide Diary No.1401 dated

Contd..P/-

26.3.84. In pursuance of the said order the applicants were appointed under the establishment of Commissioner (Border) at Guwahati.

A. photo copy of the said order dtd. 11.5.84 is annexed herewith and marked as Annexure-A.

III. That the applicants beg to state that the Administrative Officer, Govt. of India, Ministry of Home Affairs, addressed to the Desk Officer (BF-Desk) Govt. of India for regularisation of their services, in the said letter the applicants name were appeared for regularisation of their services under the establishment of Commissioner (Border) Guwahati.

A copy of the letter dtd. 31.3.79 is annexed herewith and marked as Annexure -B.

IV. That the applicants beg to state that again the Administrative Officer, Govt. of India, MHA, Guwahati issued a letter dated 3.9.79 indicating the anxiety of 14 Nos. of Adhoc Staff and by the said Communication it was also requested in the event of winding up of the Office on completion of work to initiate absorption of the Staff against regular posts in other offices of the Ministry of Home Affairs.

A copy of the letter dtd. 3.9.79 is annexed herewith and marked as Annexure -C.

Contd..P/-

Mr. Anura Kauli Puri

V. That the applicants beg to state that on 24.11.2000 the Deputy Secretary (NEC), Govt. of India, MHA, New Delhi issued a letter to the Commissioner, Border, Guwahati, in the said letter it is interalia stated that the office of the Commissioner, had been treated temporarily for Supervising the Indo Bangladesh Border Roads and Fence, construction Project Work which is schedule to completed by March, 2007, it may not be possible to declare the services of 14 Nos. Group C and D temporary staff as permanent.

A copy of the letter dtd. 24.11.2000 is annexed herewith and marked as Annexure -D.

VI. That the applicants state that the Govt. of India set up an establishment i.e. Office of the Commissioner (Border) on 25.4.1984 following Assam accord for construction of Indo Bangladesh Border Roads, Fences and sanction for continuation of temporary posts accorded on year to year basis. Accordingly the applicants were duty appointed under the said establishments as U.D.A., LDC, Peon, Chowkidar, drafty Safaiwala and Driver respectively i.e. group C and D staff in the year 1984.

VII. That the applicants state that since the date of joining in service they have been rendering sincere service to the satisfaction of all concerned without any

Contd..P/-

Mr. Anil Kumar

Krishna Venkatesh

blemish whatsoever in the entire period. But till today their services have not been regularised.

VIII. That the applicants state that they preferred several representations together as well as individually to the authority concerned for regularisation of their services but they have been denied by the concerned authority and their problems has not been taken seriously subjecting as to mental agony and security of life.

IX. That the applicants being aggrieved and finding no way out approached this Tribunal by filing an application in Original Application No. 298/2002 for declaring the Office of the Commissioner, Border, Suwahati, Assam permanent establishment and regularisation of the services of the employees.

X. That the applicants state that considering all these above aspects of the matter the Hon'ble Tribunal, Suwahati Bench was pleased to dispose of the matter on 6.6.2003 with a direction that the respondents to take care of the situation and the authority will continue to take the same case as it bestowed already on these persons for keeping the pot boiling. The scheme is likely to be completed by 2007. Before drawing of the curtain and things fall apart, the respondents are to explore all possible measures to mitigate the situation

Contd..P/-

with a healing touch either by devising a scheme or other suitable arrangements as it deem fit and proper.

A copy of the said Judgment dtd. 8.8.2003 is annexed herewith as Annexure - E.

XI. That the applicants state that after passing the said judgment by this Hon'ble Tribunal the applicants submitted the said Judgment before the Respondents by registered post on 14.8.2003. The applicants further state that they have expecting that the respondent authority will take favourable action against them in view of the judgment passed by this Hon'ble Tribunal.

XII. That the applicants state that on 24.2.2004 the Under Secretary to the Govt. of India issued an office order whereby decided to close the office of the Commissioner (Border) and not to offer any extension beyond 28.2.2004 and also directed the Deputy Commissioner (Border) to coordinate in the matter of closing the office and handing over the entire office assets including the records of the office of BSF. the applicants after getting the said information are very much shock and surprise that their services will be end on 28.2.2004 but as per letter dtd. 24.11.2000 issued by the Deputy Secretary (NEC) their services will be completed by March, 2007 without regularisation of their services. That being aggrieved the applicants preferred

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Krishna Venki Pr

an appeal before the Tribunal which was numbered as DA 298/2002 for regularisation of their services and accordingly this Hon'ble Tribunal also explore all possible measures to mitigate the situation with a healing touch either by devising a Scheme or other suitable arrangements.

A copy of the said office order dtd. 24.2.04 is annexed herewith as Annexure - F.

XIII. That the applicants state that being shocked, surprised and aggrieved by the Order dtd. 24.2.04 they preferred an application before the Central Administrative Tribunal, Guwahati Bench, Guwahati, Assam being Original Application No. 50/2004 to stay the impugned order dtd. 24.2.2004 till final disposal of the appeal and further be directed the respondent authority not to oust the applicants from services till final disposal of the matter by the Hon'ble Tribunal.

The applicants further state that this Hon'ble Tribunal was pleased to pass a judgment and order dtd. 27.2.2004 in OA 50/2004 to direct the respondents to treat the original application as supplementary representation of the applicants and dispose of the representation and consider the possibility of accommodating locally recruited staff by a detailed and speaking order to be pleased within two weeks from the date of receipt of the order dtd. 27.2.2004.

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Mr. Shri Nanda Pr

A photo copy of the judgment and order dtd. 27.2.04 is annexed hereto as Annexure -G.

XIV. That the applicants state that after the judgment and order dtd. 27.2.04 passed by this Hon'ble Tribunal the applicants preferred a representation dtd. 27.2.2004 in the light of the judgment dtd. 27.2.04 through the Deputy Commissioner (Border), to the Joint Secretary, Border Management, Govt. of India, MHA North Block, New Delhi for accommodating the staff (14) against the vacancies in the NEE, Govt. of India, MHA Taxation Building, Shillong. The applicants in its representation earnestly prayed to do the needful in their favour so that conscionable justice as done in the light of the directions made by this Hon'ble CAT on 6.8.2003 and 27.2.2004.

A photo copy of the representation dtd. 27.2.2004 is annexed hereto as Annexure -H.

XV. That the applicants state that on 27.2.04 a Fax Message issued by the Section Officer (Desk) from the office of the Commissioner (Border) MHA, Shillong, Bhangagarh, Guwahati-5 was sent to the Secretary North Eastern Council Secretariat, Ministry of Home SOI Taxation Building, Shillong-3 enclosing the representation dtd. 27.2.04 given by the applicants.

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Upd. In Karli Me

A photo copy of the Fax message dtd. 27.2.04 is annexed hereto as Annexure - I.

XVI. That the applicants state that vide his letter dtd. 2.3.04 issued by the Deputy Commissioner (Border) to the Joint Secretary, (BM-III) Govt. of India, Ministry of Home Affairs, North Block, New Delhi stating therein for a clarification regarding the wind up of the office of the Commissioner (Border) MHA at Guwahati. He stated that the court has imposed stay order on the closure of the office instructing to maintain status quo.

A photo copy of the letter dtd. 2.3.04 is annexed hereto as Annexure - I.

XVII. That the applicants state that vide his letter dtd. 10.2.2004 issued by the Joint Secretary to the Deputy Commissioner (Border), Bhangagarh, Guwahati stating therein that CAT has issued orders asking them to give speaking orders in respect of 14 employees who were recruited by erstwhile office of the Commissioner (Border) Guwahati and he has sent his comments to the standing council (Mr. Pathak) at Guwahati and also clarified that (i) no salary will be paid after 29th February, 2004 (ii) Regarding deputationists the Deputy Commissioner is directed to surrender them to their

Contd..P/-

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Kishore Kumar Das

respective departments (iii) to hand over files etc. to the BSF and also the other office infrastructure, equipments to the BSF.

A photo copy of the letter dtd. 10.3.2004 is annexed hereto as Annexure -K.

6. RELIEF SOUGHT FOR:

In facts and circumstances the applicants prays for the following reliefs:

- a) That the applicants being appointed after going through the due selection process under the establishment of Commissioner (Border) MHA, Govt. of India, Bhangagarh, Guwahati and they have been rendering 15/17 years services on temporary basis and their services should be regularised by declaring the office of the Commissioner (Border) Guwahati as permanent establishment.
- b) That the applicants be extended all the facilities and services and benefits as have been provided to other employees similarly situated.
- c) That the office of the Commissioner (Border) MHA, Guwahati should not be closed and the same may be declared permanent establishment in the light of the notification dtd. 11.5.1984 or the services of the appellants may be continued until and unless they may be absorbed against permanent vacancies lying vacant in the CPWD Office or other parent establishments.

Contd..P/-

Utkal Kumar Pr...

d) That the services of the applicants may not be thrown out but they may be protected in the light of the judgment and order dtd. 27.2.2004 by giving all service benefits like as HBA and NCA etc.

The above reliefs are sought for on the following amongst other-

GROUND

1. For that the Respondent Government totally ignored the direction issued by this Hon'ble Tribunal vide order dtd. 27.2.2004 in D.A. No. 50/2004.

2. For that the respondents government vide letter dtd. 10.3.04 have stated that no salary will be paid after 29th February, 2004 to the applicants.

3. For that the respondents government totally ignored the notification dtd. 11.5.94 and concealing for more than 20 years about the President's declaration of Commissioner (Border) with Headquarters at Gushati.

4. For that the decision of the government about the possibility of accommodating the locally recruited staff of the office of the Deputy Commissioner (Border) being examined separately is a fact overlooking completely above the scheme of absorbing the locally recruited staff before drawing of the curtain and things fall apart, the respondents are to explore all

Contd..P/-

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K. S. Kumbhojkar

possible measure to mitigate the situation with a healing touch either by devising a scheme or other suitable arrangements as it deem fit and proper.

5. For that the security of the applicants herein have been jeopardise by the action of the respondents govt. in closing the office of the Commissioner (Border) is arbitrary unreasonable and violative of the rules of natural justice.

6. For that the applicants have demanded justice and the same have been refused by the respondent government.

7. For that the concealment of the notification dtd. 11.5.1984 and closing down of the office by denying extension of the office of Commissioner (Border) which is already declared by the President of India with Headquarter at Guwahati as Head of the Department has hit the applicants below their belt which is violative of the provisions of Article 21 of the Constitution of India.

8. For that the applicants have already rendered 20 years service and they have been given a discriminatory treatment by denying regularisation of their services of similarly locally recruited persons who are much junior to the applicants in other permanent department.

Contd..P/-

Mr. S. M. Khandi

Umeshwar Kumar Singh

7. INTERIM RELIEF SOUGHT FOR:

The impugned office order dtd. 10.3.2004 issued by the Joint Secretary to the Govt. of India may kindly be stayed till final disposal of the appeal and further be directed the respondent authority not tooust the appellants from services by the above impugned order till final disposal of the matter by this Hon'ble Court. And their salary shall be paid regularly.

8. DETAILS OF REMEDIES:

This Hon'ble Tribunal may be pleased to declare the impugned office order dtd. 10.3.04 issued by the Joint Secretary to the Govt. of India is void and illegal and the same may kindly be set aside and/or quashed. And further be pleased to direct the Respon-dents to declare the office of the Commissioner (Border) Guwahati as a permanent establishment and regularised the services of the applicants by giving all benefits and/or such other or further orders as to this Hon'ble Tribunal may deem fit and proper on the above facts and circumstances of the matter and/or to direct the respon-dents to permanently absorb the applicants in any other parents department forth with.

9. MATTERS FILED IN ANY OTHER COURT:

No application or petition have been filed before any other court.

10. PARTICULARS OF THE POSTAL ORDERS:

- 1. List of documents - As per index

Contd..P/-

8

VERIFICATION

I, Shri Krishna Kanta Ray, aged about 41 years, Son of Late Priya Nath Ray, resident of Panjabari, P.O. Panjabari in the district of Kamrup, Assam do hereby verify that the statements made in paragraphs

5(i)&(ii) are true to the best of my knowledge, those made in paragraphs 5(iii), (iv), (v), (vi), (xi), (xii), (xiii), (xvi) & xvii are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 12th day of March, 2004 at Guwahati.

Krishna Kanta Ray

Signature

Krishna Kanta Ray

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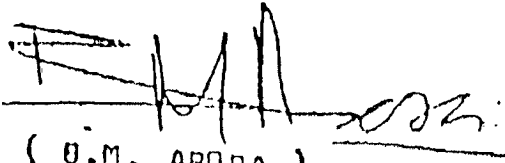
No. A-43020/5/84-Ad.I(A)
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, dated the 11th May, 1984.

O R D E R

Sanction of the President is hereby accorded to the declaration of Commissioner (Border) with Headquarters at Gauhati, as Head of the Department in terms of Rule 3(1) (r) of the Delegation of Financial Powers Rules, 1978.

This issues with the approval of Financial Advisor (Home) vide Diary No. 1402 dated the 26th March, 1984.



(O.M. ARORA)
UNDER SECRETARY TO THE GOVT. OF INDIA
Tel: 375698

*Certified to be
true copy.
@S*

40/22-20 ANNEXURE-B 32

भारत सरकार
GOVERNMENT OF INDIA

Office of the Commissioner (Border)
Bhongagarh, GUWAHATI-781005

गृह मंत्रालय
Ministry of Home Affairs

No. 14013/29/(00)93-CB.

दिनांक Date... 31-03-99

द्वारा प्रामाणिक
द्वारा-७८१००५
Telephone 560411
560316

TO

The Desk Officer (BF-Desk),
Government of India,
Ministry of Home Affairs,
North Block, New Delhi-110001.

SUB:- ABSORPTION OF TEMPORARY STAFF OF THE OFFICE OF THE COMMISSIONER (BORDER), MINISTRY OF HOME AFFAIRS, BHONGAGARH, GUWAHATI-5.

Sir,

I am directed to invite a reference to the Agenda item No.9 of the 33rd H.L.E.C. Meeting and to state that in the event of the winding up of the Office on completion of the work of the on-going I.B.B. Project by March '2001, the fate of the 14 Nos. of adhoc staff of this Office will be uncertain. To initiate the absorption of these staff against regular posts in other Offices of the Ministry of Home Affairs, bio-data and service particulars are forwarded herewith for further necessary action at your end.

Yours faithfully,

(Handwritten signature)

(L. P. Das)
Administrative Officer.

20A
31-3-99

*Certified to be true
copy*

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ANINDXURJ
C
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पुस्तक (संयोजित) का कार्यालय
45-277-2-651-02
दूरभाष Telephone (560411
560316

भारत सरकार
GOVERNMENT OF INDIA.

गृह विभाग
Ministry of Home Affairs

SPEEDPOST
Office of the Commissioner (Border)
Dhangraah, GUWAHATI-781005

No. 14013/29/(00)93-CB.

Date 03-9-99

To

The Desk Officer (D.F.),
Government of India,
Ministry of Home Affairs,
North Block, New Delhi-110 001.

Sub:-

Absorption of temporary Staff of the O/o the
Commissioner (Border), Ministry of Home Affairs,
Dhangraah, Guwahati-7.

Sir,

I am directed to invite a reference to this office letter No.14013/29/(00)93-CB dt. 31-3-99 on the subject cited above and to state that there is a strong resentment among the 14 nos. of direct recruited temporary staff (Gr-C and Gr.D) of this office, for non-declaring their services as Permanent though they have completed more than 13/14 years of services and pressing hard for regularisation of their services to enable them to get promotion and other benefits.

It is requested that the proposal for absorption of temporary staff as detailed in the office letter dt. 31-3-99 may kindly be taken up on priority.

The outcome of the action initiated in this regard may kindly be informed to this office.

Yours faithfully, . .

(¹⁻⁶⁻¹
3/9/99
L.P. Das)
Administrative Officer.

Certified to
be true copy
D.

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GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

New Delhi, Dated the 24.11.2000.

To

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The Commissioner(Border),
Bhongagarh,
Guwahati.

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

Sir,


I am directed to refer to your letter No.14013/29(00)93-CB dated the 13th November, 2000 on the above subject and convey that a proposal for continuation of the 29 posts in the Office of Commissioner(Border) including the 14 Group 'C' & 'D' staffs, beyond February, 2001, to March 2007, was referred to the Finance Division.

2. The Finance Division have opined that as the present approval expires on 28.2.2001 the proposal for continuation of the temporary posts may be taken up next year.

3. As the Office of the Commissioner(Border) has been created temporarily for supervising the Indo-Bangladesh Border Roads and Fence Construction Project Work, which is scheduled to be completed by March 2007, it may not be possible to declare the services of 14 Group 'C' & 'D' temporary staff as permanent.

With regards,

Yours sincerely,



(D.K. SINGH)

DEPUTY SECRETARY(NEC)

*Authenticated to be
true copy
[Signature]*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 298 of 2002.

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

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

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

1. Sri Krishna Kanta Roy
S/o Late Priya Nath Roy
Vill: Botaghuli, P.O:- Panjabari
Guwahati - 781 037.
 2. Sri Nripen Kakati
S/o Late Rajen Kakati
Vill. & P.O:- Pub Borka
District:- Kamrup, Assam.
 3. Sri Jatin Chandra Das
S/o Late Joy Ram Das
Vill: & P.O:- Pandu Bazar
Guwahati - 781012.
District: Kamrup, Assam.
 4. Sri Munindra Chandra Das
S/o Late Chuni Ram Das
Vill: Deharkuchi, P.O:- Shanikuchi
District:- Nalbari, Assam.
 5. Sri Basanta Kumar Boro
S/o Late Bela Ram Boro
Vill: Bokrapara, Khanapara
District: Kamrup, Guwahati- 781 022.
 6. Narendranath Sarma
S/o Late Rama Nath Sarma
P.O. & Vill:- Bongshar
District:- Kamrup, Assam.
 7. Sri Bongshidhar Bayan
S/o Late Laghana Ram Bayan
Vill: & P.O:- Mugdi
District:- Nalbari, Assam.
 8. Sri Puna Ram Murari
S/o Late Vhenda Ram Murari
Vill:- Tangabari Kalaigaon
P.O: Tangahari
District: Darrang, Assam.
 9. Sri Sankar Basfore
S/o Late Bhuzan Basfore
Vill: & P.O: Kamlal
District: Darbhanga, Bihar.
 10. Sri Nayan Baba Singh
S/o Late Hera Singh
Vill: & P.O:- Kamranga
District:- Cachar, Assam.
 11. Sri Ramesh Chandra Daimary
S/o Late Tarani Daimary
Vill:- Lahoripar, P.O:- Rupohi
District: Darpeta, Assam.
- All the applicants have been working under the Office of the Commissioner (Border), Govt. of India, Ministry of Home Affairs, Bhangagarh, Guwahati-781005. . . . Applicant.

Contd./2

Copy to
be made
D.

: 2 : 24

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

- Versus -

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

O R D E R

CHOWDHURY, J. (V.C.):

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

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

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

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

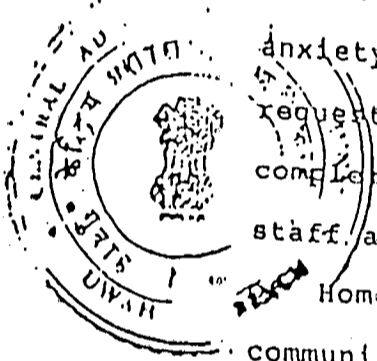
To

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

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

Sir,

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



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

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

Yours faithfully,

Commissioner (Border)

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


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

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



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

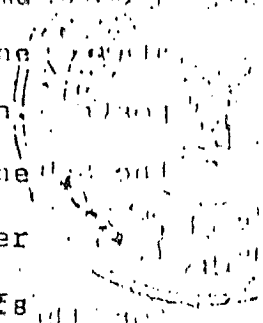
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ground realities and submitted that the applicants were appointed purely on temporary basis against project work. The posts are inextricably connected with the Scheme and since the project is temporary, question of creating permanent posts and for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

4. From the conspectus the following facts emerge:

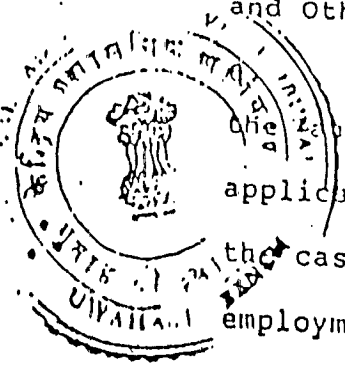
The ten applicants were appointed during the period from 1.10.1984 to 24.11.1986. The applicant No. 8 Sri Puna Ram Murari was appointed on 28.4.1987. The applicant Nos. 7, 8 and 10 are ex-Home Guard personnels. Their recruitments were made through Employment Exchange. The persons were recruited for the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



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

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



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

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

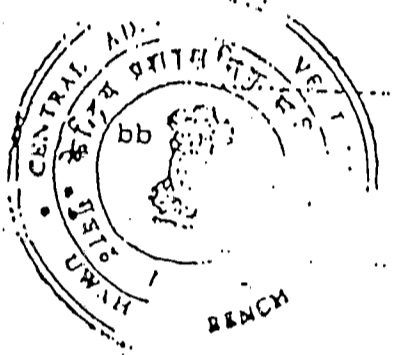
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situation. We hope and trust that the authority will continue to take the same care as it bestowed already on these persons for keeping the pot boiling. The Scheme is likely to be completed by 2007. Before drawing of the curtain and things fall apart,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

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

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



certified to be true copy

সত্যি সত্যি

[Handwritten Signature]
13/06/03

Section Officer (J)

C.A.T. GUWAHATI BANCH

Guwahati-781005

[Handwritten Signature]
13/06/03

(Through Fax at No.0361-2529421)

No.11013/11/2002-BM-III
 Government of India/Bhurat Sarkar
 Ministry of Home Affairs/Grih Mantralaya

North Block, New Delhi
 Dated the 24th February, 2004

OFFICE ORDER

The office of the Commissioner (Border) was created vide Office Order No.VI-17019/8/84-G&O/FP-1V dated the 29th September, 1984 on temporary basis to look after the construction of border roads/fence along Indo-Bangladesh Border. It has been decided to close the office of the Commissioner (Border) and not to offer any extension beyond 28th February, 2004.

2. Deputy Commissioner (Border) is requested to coordinate in the matter of closing the office and handing over the entire office assets including the records of the office to BSF. The possibility of accommodating the locally recruited staff of the office of the Commissioner (Border) is being examined separately.

Sushil Kumar

(Sushil Kumar)

Under Secretary to the Govt. of India

To,

Shri P.K. Deb,
 Deputy Commissioner (Border),
 Office of the Commissioner (Border),
 Bhangagrah,
GUWAHATI.

*certified to be
 true
 [Signature]*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.
Original Application No.50 of 2004.

Date of Order : This, the 27th Day of February, 2004.

THE HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER.

THE HON'BLE SHRI K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

- 1. Shri Krishna Kanta Roy
- 2. Shri Nripen Kakati
- 3. Shri Jatin Chandra Das
- 4. Shri Munindra Chandra Das
- 5. Shri Bosanta Kumar Boro
- 6. Shri Narendra Nath Sarma
- 7. Shri Bangahidhar Bayan
- 8. Shri Puna Ram Murali
- 9. Shri Sankar Basfore
- 10. Shri Nayan Baba Singh
- 11. Sri Ramesh Ch. Sarma
- 12. Sri Dwijen Das
- 13. Sri Bapan Ch. Nath
- 14. Shri Ramesh Chandra Daimary.

All the applicants have been working under the Office of the Commissioner (Border), Govt. of India Ministry of Home Affairs, Bhangagarh Guwahati-5.

By Mr.D.C.Mahanta, R.C.Barpatragohain & B.Buragohain.

- Versus -

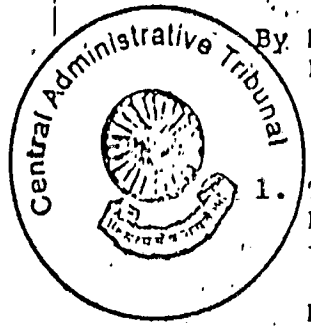
- 1. The Union of India
Represented by the Joint Secretary to the Government of India (15-11 & DM), Ministry of Home Affairs North Block, New Delhi-110 001.
- 2. The Joint Secretary, Border Management Ministry of Home Affairs North Block, New Delhi-110 001.
- 3. The Under Secretary to the Government of India Ministry of Home Affairs North Block, New Delhi-110 001.
- 4. The Commissioner (Border) Represented by the Deputy Commissioner (Border) Bhangagarh, Guwahati-5.
- 5. The Administrative Officer Office of the Commissioner (Border) Govt. of India, Ministry of Home Affairs Bhangagarh, Guwahati-781005.

By Mr.B.C.Pathak, Addl.C.G.S.C.

ORDER (ORAL)

In view of office order dated 24.2.2004, it has

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certified to be true copy

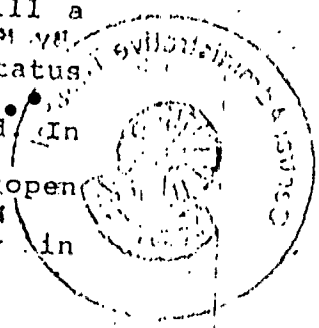
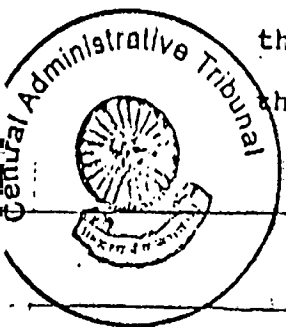
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been decided by the Ministry of Home Affairs that Office of the Commissioner (Border) would be closed and no further extension would be accorded beyond 28.2.2004. However, it is also stated that the possibility of accommodating the locally recruited staff is being examined separately. The apprehension of the applicants are that in the event, BSF takes control, they would not take them as there is no terms and conditions to decide about the future of this employees.

Keeping that view of the matter the respondents are directed to treat this O.A. as supplementary representation of the applicants. The respondent Nos. 1, 2 & 3 are directed to take a decision and dispose of the representation of the applicants and consider the possibility of accommodating locally recruited staff, by a detailed and speaking order to be passed within two weeks from the date of receipt of copy of this order. Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents, is to be provided with a copy of this order enabling him to further communicate with the official respondents. Till a decision is arrived by the Ministry of Home Affairs, status quo of the working of the employees shall be maintained. In the event, the applicants are still aggrieved, it is open to them to seek redressal of their grievances in appropriate forum.

The O.A. stands disposed of accordingly. Copy of this order be sent to the respondents alongwith the copy of the O.A.



Sd/MEMBER (J)

Sd/MEMBER (Adm)

Certified to be true Copy
प्रमाणित प्रतिलिपि

Secy (Adm) Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

[Signature]
27/2/04

[Signature]
27/2/04

To

The Joint Secretary
Border Management
Government of India, MHA,
North Block,
New Delhi-1.

Subject: Through Dy. Commissioner (Border)
Representation for accomodating the staff(IG) against the
vacancies in the NEC, Govt. of India, MHA, Taxation Building,
Shillong.

Ref: 1. The Judgement and order dtd. 8.8.2003 passed by the Hon'ble
Central Administrative Tribunal in Original Application No.
298/2003.
2. The Judgement and order dtd. 27.2.2004 passed by the Hon'ble
Central Administrative Tribunal in Original Application
No.50/2004.

Sir,

With reference to the above we would like to lay before you the following few points for your information and sympathetic consideration.

1. That we are serving in this office as UDA/LDA/Driver/Peon for last 18/20 years and we were duly selected and apponted by the concerned authority and we have been rendering sincere services to the fullest satisfaction of all concerned without any blemish what soever in the entire period.
2. That the Office of the Commissioner(Border) Guwahati, Assam created for the Construction as well as Maintenance and requires to be made a permanent establishment and as such we have been time and agan making our earnest request to the concerned authorities, Ministry of Home Affairs, Government of India, through proper channel for making the Office of the Commissioner(Border) Guwahati, Assam a permanent establishment and to regularize our services in the said office.
3. That we have requested the concern authorities by submitting several representative both individually and jointly but up-till now our representations have not been considered subjecting to us to mental agony and insecurity in services.

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4. That, finding no other alternative remedy we approached the Hon'ble Central Administrative Tribunal by filing an Original application which was numbered as No. 298/2002 for declaring the office of the Commissioner(Border) Guwahati, Assam permanent establishment and regularization of the services of the employees nothing therein.
5. That considering the above aspects the Hon'ble Tribunal Guwahati Bench was pleased to dispose of the matter on 8.8.2003 with a direction to the Respondents to take care of the situation and that authority will continue to take same case as it bestowed already on these persons for keeping the pot boiling as the scheme is likely to be completed by 2007
A photo copy of the Judgement dtd. 8.8.2003 as annexed and marked Annexure-A.
6. That after passing the said Judgement we submitted an application on 14.8.2003 expecting that the respondent authority will take favourable action against us but no initiative had been done till-to-day.
7. That after about 7 months of passing of the said Judgement by this Hon'ble Tribunal without considering our case on 24.2.2004 the Under Secretary to the Govt. of India issued an office order whereby it is decided to close the Office of the Commissioner(Border) and not to offer any extension beyond 28.2.2004 and also directed the Deputy Commissioner(Border) to coordinate in the matter of closing the Office and handing the entire office assets including the records of the office to BSF.
8. That we were very much shocked and surprised that our services will end on 28.2.2004 as per letter dtd. 24.2.2004 issued by the Under Secretary to the Govt. of India to close the office of the Commissioner(Border) and not to offer any extension beyond 28.2.2004.
9. That being aggrieved by the order dtd. 24.2.2004 we preferred an application before the Central Administrative Tribunal Guwahati Assam bearing Original application No. 50/2004 to stay the impugned order dtd. 24.2.2004 till final disposal of the appeal and further be directed the respondent authority not to oust the applicants from services till final disposal of the matter by the Hon'ble Tribunal.

10. That the Hon'ble Tribunal was pleased to pass a judgement and order dtd. 27.2.2004 in O.A. 50/2004 to direct the respondents to treat the original application as supplementary representation of the applicants and dispose of the representation and consider the possibility of accommodating locally recruited staff by a detailed and speaking order to be pleased within two weeks from the date of receipt of the order dtd. 27.2.2004.

A copy of the Judgement and order dtd. 27.2.2004 is annexed herewith and marked as Annexure-B.

11. That if the Office of the Commissioner(Border) Guwahati is not made a permanent establishment and also if our services are not regularised we shall suffer an irreparable loss and hardship and shall have to face huge financial hardship.

12. That we have come to know recently that there are number of vacancies in the offices under the NEC, Secretariat Govt. of India, MHA, Taxation Building, Shillong and therefore considering uncertain position of our services, the concerned authority may consider our matter sympathetically in absorbing against the said vacancies in the offices under the NEC, Secretariat Govt. of India, Shillong.

37

Under the above circumstance it is therefore earnestly prayed that your honour would be pleased to look into the matter with a pious mind and to be needful in our favour so that conscientious justice is done in the light of the directions made by the Hon'ble CAT, on 8.8.2003 and 27.2.2004 and for which we shall ever pray.

With due regards.

Dated 27-02-2004

Yours faithfully,

Recruited Staff of Commissioner(Border)
Office, Guwahati.

Copy to:-

The Secretary, NEC, MHA, Taxation Building Shillong for favour of information and kind necessary action.

38

ANNEX - I

5

FAX MESSAGE

FROM : OFFICE OF THE COMMISSIONER(BORDER),
M.H.A., BHANGAGARH,
GUWAHATI-5.

TO : THE SECRETARY,
NORTH EASTERN COUNCIL SECRETARIAT,
MINISTRY OF HOME, G.O.I.,
TAXATION BUILDING, SHILLONG-3.

NO. 14010/2/(00)86-CB-PT.II

DATE: 27-02-2004.

KINDLY FIND ENCLOSED HERewith A REPRESENTATION DATED 27TH FEBRUARY,2004 RECEIVED FROM THE STAFF OF THE OFFICE OF THE COMMISSIONER(BORDER), GUWAHATI REGARDING ACCOMODATING THEM AGAINST THE VACANCIES IN THE NORTH EASTERN COUNCIL SECRETARIAT, SHILLONG FOR YOUR KIND INFORMATION AND NECESSARY ACTION PLEASED.

[Signature]
SECTION OFFICER(DESK)

*Certified to be
true copy
[Signature]*

आन्ध्र प्रदेश (सोमनाथ) का कार्यालय
भद्रा गङ्गा, गुवाहाटी - ७८१ ००५
दूरभाष Telephone { 529421
529516

39 ✓
भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय
Ministry of Home Affairs

Office of the Commissioner (Border)
Bhangagarh, GUWAHATI - 781 005

No,14010/2/(00)86-CB.Pt.II

दिनांक Date..... 02-03-2004.

6

To

✓ The Joint Secretary, (BM-III)
Government of India
Ministry of Home Affairs
North Block, New-Delhi-1.

Sub:- Wind up of Office of the Commissioner (Border) MHA, at
Guwahati – regarding clarification.

Ref.:-No.11013/11/2002-BM-III. Dtd. 24-2-2004

Sir,

With reference to your letter under reference directing to wind up the office of the Commissioner (Border), Guwahati, I am to say that in accordance with the office manual as obtaining at present, three months prior notice is to be served to the department before finally ordering for its closure to ensure smooth and transparent settlement of assets and liabilities whereas only three to four days were given to complete the uphill job. It has also not been categorically spelt out as to how, when and where the permanent staff of the office will be accommodated. And this has made them insecure and as such compelled them to move court for protecting their basic rights the corollary of that is that the court has imposed stay order on the closure of the office instructing to maintain status quo. Moreover, I am looking after the works of the office in addition to my original works of NEC, stationed in Shillong. And the nature of my works in NEC demands frequent travelling at the work sites to assess the progress of works of various projects. So, it may not be possible for me to station at Guwahati to personally monitor settlement of assets and liabilities of the office. Moreover, I was on tour to Silchar and Kolkata from 24th February, 2004 to 2nd March, 2004.

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[Signature]

In view of these facts noted above, I would like to seek clarification on the following points.

- (i) In the absence of budget allocation, how the salary of the staff from march onwards, building rent, electricity bill, telephone bill, etc. from February, 2004, onwards will be paid.
- (ii) Whether to direct the deputationists i.e. one S.O.(Desk) and two Assistants to report for duties in their respective departments.
- (iii) If yes in case of (ii) above, who will list out the office files, documents and vehicles etc, for handing over to the BSF as specified in the letter vide reference in case of non-cooperation from the permanent staff which can not be completely ruled out.
- (iv) Monitoring of surrender of some items mentioned in (i) above and settlement of post-wind up items, if any.

An early reply is highly appreciated.

Yours faithfully,


(P. K. Deb.)

9/1
Deputy Commissioner(Border).

22
DATE 2/8/04
-ital of lareo clerb. 1/2

MP-2004 15:59 FROM:

TO: 03612529421

P: 1

H.S. Brahma (Through And 140. 0361-2529421)

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

North Block, New Delhi 110001

e-mail : harisankar@nic.in

March 10, 2004

संयुक्त सचिव
JOINT SECRETARY

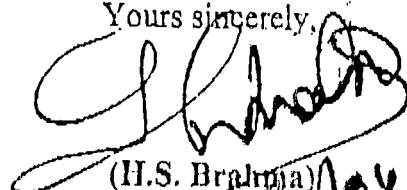
D.O. No. 11013/11/2002-BM.III

Dear Shri

In response to your letter No. 14010/2(00)-86-CB.Pl.II dated 2.3.2004 I have to clarify that CAT has issued orders asking us to give speaking orders in respect of 14 employees who were recruited by erstwhile Office of the Commissioner (Border) Guwahati. We have sent our comments to the Standing Counsel (Mr. Pathak) at Guwahati. Meanwhile I would like to clarify the following points:-

- (i) We have already mentioned very clearly that no salary will be paid after 29th February, 2004;
- (ii) Regarding deputationists, you are directed to surrender them to their respective departments;
- (iii) Kindly hand over the office files, documents and vehicles etc. to the BSF;
- (iv) You are also directed to surrender and hand over all the vehicles and other office infrastructures, equipments etc. to the BSF without further loss of time.

Yours sincerely,



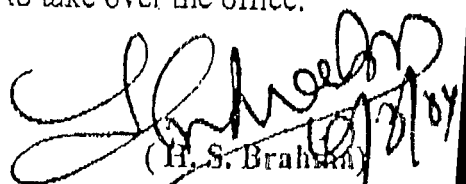
(H.S. Brahma)

Shri P.K. Deb,
Deputy Commissioner (Border),
Bhangagarh, Guwahati-781005.

Copy to:-

Shri S.C. Srivastava, Inspector General, BSF, Shillong to take over the office.

certified to be
true copy
B.



(H.S. Brahma)