

30/100

4

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A.T.A No. 70/2004

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SECTION OFFICER (Judl.)

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

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

70/04

In O.A.

Name of the Applicant(s) Atul Koliata

Name of the Respondent(s) U.O.I. Jans

Advocate for the Applicant M. Chanda, G.K. Chakraborty, S. Nath

Counsel for the Railway/ C.G.S.C. ✓

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

22.3.2004

Heard Mr. M. Chanda, learned counsel for the applicant.

The application is admitted, call for the records. Issue notice to the parties.

List on 10.5.2004 for orders.

Pendency of this application shall not be a bar to consider the case of the applicant.

119 378 546

9.3.04

Here

AD

JS  
19/3/04

Steps not taken

AD

mb

KD Basukumar  
Member (A)

Notice & order dt. 22/3/04  
sent to D/Section for  
issuing to respondent  
nos 1 to 4.

26/3/04

04 70/06

2

10.5.2004 Present: The Hon'ble Shri Mukesh Kumar Gupta, Member (J).

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

Mr.B.C.Pathak, learned Addl.C.G.S.C appearing on behalf of Mr.A.Deb Roy, learned Sr.C.G.S.C. stated that Mr.Deb Roy is unwell. Reply has not been filed. Adjourned for 14.6.2004 for filing of reply.

Notice sent by memo  
NO. 576-579 dated  
29.3.04.

WJ  
8/4/04

7.5-04

Amra Reports awaited.

Member (A)

Member (J)

bb

14.6.04.

The learned counsel for the applicant prays for adjournment to get instructions from his Sr.counsel. Let this case be listed on 16.6.04 for orders.

Member(A)

Member (J)

lm

16.6.2004 Present: The Hon'ble Smt. Bharati Roy Member (J)

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

Mr.A.Deb Roy, learned Sr.C.G.S.C. seeks four weeks time to file counter reply and for production of records. Matter be posted on 16.7.2004 for orders.

Member (A)

Member (J)

bb

22.7.2004 Present: The Hon'ble Shri K.V.Sachidanandan Member (J).

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

When the matter came up for hearing, Mr.A Deb Roy, learned Sr.C.G.S.C. submitted that he would like to have three weeks more time file reply statement. Let it be done. List on 17.8.2004 for orders.

Member (A)

Member (J)

bb

A/D card return  
from resp. No. 1,3,4.  
10/6/04.

21-7-2004

counter reply  
has not filed.

17.8.2004

Four weeks time is given to the respondents to file written statement. List on 22.9.2004 for orders.

30.8.04

W/s filed by the respondents.

*KV Dutt*  
Member (A)

mb

22.9.04.

The learned counsel for the parties is present.

The applicant may file rejoinder in case they so desires, if any. The matter be listed for hearing after Puja Vacation. Stand over to 16th Nov.2004.

*KV Dutt*  
Member

*R*  
Vice-Chairman

lm

1.12.04

Heard counsel of both sides. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No costs.

*KV Dutt*  
Member

*R*  
Vice-Chairman

pg

17.12.04

Copy of the Judgment has been sent to the Dy. Sec. for issuing the same to the applicant.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A./R.A.No. **\* 70 of 2004**

DATE OF DECISION **1-12-2004.**

**Shri Atul Kalita**.....APPLICANT(S)

**Sri S.Nath**.....ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS -

**Union of India & Ors.**.....RESPONDENT(S)

**Sri A.Deb Roy, Sr.C.G.S.C.**.....ADVOCATE FOR THE  
RESPONDENT(S).

THE HON'BLE MR. **R.K.BATTA, VICE CHAIRMAN.**

THE HON'BLE MR. **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 Hon'ble **Vice-Chairman**

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 70 of 2004.

Date of Order : This the 1st Day of December, 2004.

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

The Hon'ble Mr K.V.Prahladan, Administrative Member

Shri Atul Kalita,  
Vill. Indira Nagar, Tezpur,  
P.O. & P.S. Tezpur,  
Dist. Sonitpur, Assam

... Applicant

By Advocate Sri S.Nath.

- Versus -

1. Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Finance, Deptt. of Revenue,  
New Delhi.

2. The Commissioner,  
Central Excise,

Shillong.

3. The Assistant Commissioner,  
Central Excise,  
Tezpur Division, Tezpur,  
Dist. Sonitpur, Assam.

4. The Superintendent,  
Central Excise, Mangaldai Range,  
Mangaldai,  
Dist. Darrang, Assam

... Respondents

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

O R D E R

BATTA. J.(V.C)

Heard Sri S.Nath, learned counsel for the applicant  
and Sri A.Deb Roy, learned Sr.C.G.S.C for the respondents.

2. The applicant is seeking directions to set aside the  
termination of his service and for re-engagement as casual  
labourer as also regularisation. In para 4.6 of the  
application it is stated that the applicant submitted  
representation on 9.10.2003 and another representation on  
23.10.2003 but the same have not been decided. In our view the  
application can be disposed of with a direction to dispose of

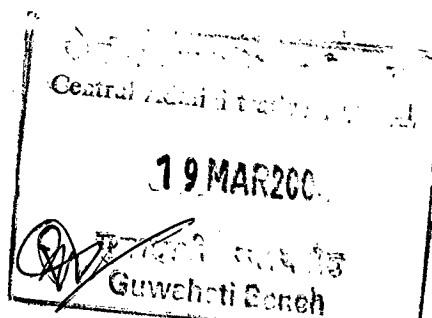
Q -

the said representations and in case the applicant wants to make any further representation, the same be filed within one month from today. The said representations dated 9.10.2003, 23.10.2003 and any further representation filed within one month from today be considered and disposed of by reasoned and speaking order by the respondents. *within 4 months of receipt of this order without fail.*

The application stands disposed of in the aforesaid terms.

*K.V. Prahladan*  
( K.V.PRAHLADAN )  
ADMINISTRATIVE MEMBER

*R.K. Batta*  
( R.K.BATTA )  
VICE CHAIRMAN



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

O.A. No. 70 /2004

**Shri Atul Kalita**

vs-

**Union of India & Ors.**

**LIST OF DATES AND SYNOPSIS OF THE APPLICATION**

- 05.02.1999- Applicant was interviewed for being engaged as Casual Worker.
- 22.02.1999- Pursuant to the selection in interview, order dated 22.02.1999 was issued by the Respondents engaging the applicant as casual worker for an initial period of three months which was subsequently extended from time to time.
- 01.03.1999- Applicant joined as Casual worker on 01.03.1999 at Tezpur. Prior to that he served as Canteen Manager of Central Excise Divisional Office, Tezpur.
- 01.09.1999- Applicant joined under Mangaldoi Range, Mangaldoi in the Respondent Department, since he was transferred from Tezpur to Mangaldoi. Since his joining in the respondent department, he had been working continuously w.e.f 01.09.1999, although in different spells.
- 28.05.2003- Order issued by the Respondents engaging the applicant as Casual Worker in the last spell

Sri Atul Kalita



for a period of 88 days from 28.05.03 to 22.08.03.

23.08.2003- Service of the applicant was terminated by a verbal order of the Respondent No.4, whereas the applicant was appointed by the Respondent No.3.

09.10.2003- Applicant submitted representations praying

23.10.2003- for his re-engagement and regularization of service but with no result.

Hence this Original Application before the Hon'ble Tribunal.

#### P R A Y E R S

##### Relief(s) sought for:

Under the facts and circumstances stated in the application the applicant humbly prays 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 termination of service of the applicant be declared as illegal and void.
2. That the respondents be directed to re-engage the applicant as Casual labour and to further regularize his service.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Sri Atul Kalita

10

Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar to the respondents for considering the representations of the applicant.
- 

sri Atul Kalita

**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. 70 /2004  
Shri Atul Kalita : Applicant  
- Versus -  
Union of India & Others: Respondents.

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04.	II	Copy of the certificate dated 31.03.1998.	-13-
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06.	IV	Copy of the representation dated 09.10.2003.	16-18.
07.	V	Copy of the representation dated 23.10.2003.	-19-

Filed by

*Sanjit Choudhury*

Advocate

Date: 19.3.2004.

*Shri Atul Kalita*

Filed by the Applicant  
through Sanjit Choudhury  
Advocate  
19.3.2004

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

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

O. A. No. \_\_\_\_\_/2004

**BETWEEN**

**Shri Atul Kalita**

Vill. Indira Nagar, Tezpur.

P.O and P.S Tezpur.

Dist. Sonitpur, Assam.

Applicant

**-AND-**

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Finance, Department of Revenue  
New Delhi.
2. The Commissioner,  
Central Excise,  
Shillong.
3. The Assistant Commissioner,  
Central Excise,  
Tezpur Division, Tezpur.  
Dist. Sonitpur, Assam.
4. The Superintendent,  
Central Excise, Mangaldai range,  
Mangaldai  
Dist. Darrang, Assam

... Respondents.

Sri Atul Kalita

DETAILS OF THE APPLICATION

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

This application is made not against any particular order but against the dismissal of the applicant from his services as Casual Labour, whereas his juniors have been retained in the service.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant was initially appointed as Casual Worker in the respondent department vide order No. II (3) 4/ET/ACT/97/173-79 dated 22.02.1999, pursuant to

Soci Atul Kalita

which he joined on 01.03.1999 in the office of the Assistant Commissioner, Central Excise, Tezpur. Subsequently he was posted at Mangaldoi under the Mangaldoi Range, Central Excise and he joined at Mangaldoi on 01.09.1999.

(Copy of the order dated 22.02.1999 is annexed hereto as ANNEXURE-I).

- 4.3 That prior to his joining as Casual Worker, the applicant was working as Canteen Manager of Central Excise, Divisional Office, Tezpur for three years where he rendered good service as evident from the Certificate dated 31.03.1998 issued by the Assistant Commissioner, Central Excise, Tezpur.,

(Copy of the certificate dated 31.03.1998 is annexed hereto as ANNEXURE- II).

- 4.4 That the applicant was appointed as Casual Worker w.e.f 01.03.1999 as stated in para 4.2 above through a formal selection process. The applicant having applied for the job, was formally interviewed on 05.02.1999 and was selected following which he was appointed vide order dated 22.02.1999 (Annexure-I) for an initial period of three months. Thereafter his terms of engagement was extended from time to time and was lastly engaged for a period of 88 days from 28.05.2003 to 22.08.2003 vide order No. II (3)4/ET/ACT/99/755 dated 28.05.2003.

(Copy of the initial interview call letter dated 21.01.1999 and last engagement order dated

Soe Ateel Kalita

28.05.2003 are annexed hereto as ANNEXURE- III  
(Series).

4.5 That it is stated that the applicant served as Canteen Manager in the respondent department for long three years till 1998 and thereafter served as Casual labour w.e.f 01.03.1999 to 22.08.2003 as stated herein above. As Casual worker, the applicant rendered his service continuously although in different spells, and as such he had rendered his service for years together and that too with satisfaction of all concerned.

4.6 That surprisingly, the Superintendent of Central Excise, Mangaldoi Range, by a verbal order, terminated the services of the applicant w.e.f 23.08.2003 without any reason and without giving any reasonable opportunity to the applicant. The applicant thereafter submitted representation on 09.10.2003 praying for his re-engagement as casual labour and further submitted another representation on 23.10.2003 with the same prayer but with no result.

(Copy of representations dated 09.10.2003 and dated 23.10.2003 are annexed hereto as ANNEXURE-IV and V respectively).

4.6 That the applicant most respectfully begs to submit that he is the only earning member in his family and his son and daughter have been appearing in the H.S.L.C examination, 2003-04. Sudden termination of his services after satisfaction performance for years

Sree Atul Kalita

together, has thrown his family into extreme distress. The applicant hails from a very poor family and with no earning now; he is finding it extremely difficult to maintain and support his family and not to speak of the education of his children.

4.7 That it is stated that the persons who were engaged as casual labour much later than the applicant and who are pretty junior to the applicant in terms of joining the department, have been retained by the Respondents whereas the services of the applicant have been terminated without any reason. It is relevant to mention here that Shri Sanjib Kumar Nath and Smti Mili Das who joined on 30.01.2002 and 30.11.2002 respectively in the respondent department have been retained by the Respondents, whereas the applicant in spite of his joining as back as on 01.03.1999 has been terminated which is arbitrary, unjust, illegal, malafide and violative of all principles of law and natural justice.

4.9 That it is a settled position of law that a senior person cannot be terminated, retaining junior persons which is one of the elementary principles of service jurisprudence and as such the respondents acted in an arbitrary and discriminatory manner which is violative of the Article 14 and 16 of the Indian Constitution.

4.10 That due to illegal termination of his service, the applicant is not in a position to earn the livelihood

Sri Atul Kalita.



for his family and the entire family has plunged into a complete wretched condition. As such finding no other alternative, the applicant is approaching this Hon'ble Tribunal for protection of his legitimate rights and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the rights and interests of the present applicant directing the Respondents to re-engage the applicant as a casual worker and to further regularize his services.

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

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

5.1 For that, the applicant has served continuously for more than three years as Casual labour and as such has acquired a valuable right for continuation and further regularization of his service in the respondent department.

5.2 For that, the applicant was engaged as Casual labour following formal interview and selection and in terms of the appointment letter dated 22.02.1999 (Annexure-I).

5.3 For that, termination of his service by a verbal order of the Superintendent of Central Excise is illegal, malafide and arbitrary when the applicant was appointed by the Assistant Commissioner of Central Excise.

Sri Atul Kalita

- 5.4 For that, the persons junior to the applicant were retained in service whereas the applicant in spite of being senior has been terminated which is violative of the principles of natural justice and against the settled principles of law.
- 5.5 For that, the action of the respondents is discriminatory and violative of the Article 14 and 16 of the Constitution of India.
- 5.6 For that, the applicant hails from a very poor family and is the sole bread earner for his family and at this age he will not be able to get a new job elsewhere.
- 5.7 For that the applicant submitted representations praying for his re-employment but failed to get justice.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him 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 applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of

Sri Atul Kalita.

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 applicant humbly prays 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 termination of service of the applicant be declared as illegal and void.

8.2 That the respondents be directed to re-engage the applicant as Casual labour and to further regularize his service.

8.3 Costs of the application.

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

**9. Interim order prayed for.**

During pendency of this application, the applicant prays for the following relief: -

Sri Atul Kalita

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar to the respondents for considering the representations of the applicant.

10. ....

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No.	: JJ G 378546.
ii) Date of Issue	: 9.3.04.
iii) Issued from	: G.P.O. Guwahati.
iv) Payable at	: G.P.O. Guwahati.

12. List of enclosures.

As given in the index.

Sri Atul Kalita

**VERIFICATION**

I, Shri Atul Kalita, S/o Late Dandiram Kalita, aged about 30 years, resident of Vill- Indira Nagar, Dist- Tezpur, P.O & P.S- Tezpur, 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 19<sup>th</sup> day of March, 2004.

Sri Atul Kalita.

## OFFICE OF THE ASSISTANT COMMISSIONER

CENTRAL EXCISE :: TEZPUR.

O R D E R. Dated, Tezpur, the 22nd Feb/99.

The Assistant Commissioner, Central Excise, Tezpur is pleased to engage the following candidates as Casual Workers on daily wage basis (8 hours per day) for 3 (three) months with effect from 1st March '99 on contract basis. The duties are not of regular nature, but on "NO WORK NO PAY" basis.

Each of the party can terminate the contract without assigning reason. The contract does not lead to establishment of any relationship with the employer.

NAME & ADDRESS.

1. Sri Atul Kalita.  
Vill:- Indira Nagar.  
P.O.-Tezpur.  
Dist:-Sonitpur,
2. Sri Gourmoni Singha.  
C/O.Sri Sri Kanta Sharma.  
Hem Nagar. P.O.-Maha Bhairab.  
Dist :- Sonitpur(Assam)
3. Md. Mamataj Ali.  
C/O;-Late Ajijur Ali.  
Harigon.  
P.O:-Nikamol(Tezpur.)  
Assam.

Sd/-  
(B.K.ROY.)  
ASSISTANT COMMISSIONER  
CENTRAL EXCISE, TEZPUR.

C.No.II(3)4/ET/ACT/97/ 173-79

Dated:- 22/2/99

Copy forwarded for information and necessary

action to :-

1, The Deputy Commissioner(P&amp;V)

Customs &amp; Central Excise, Shillong.

2. Sri Atul Kalita. Vill:- Indira Nagar. P.O. Tezpur, Dist:-X Sonitpur. He is posted at Mangaldai Range under Tezpur Division.

3. Sri Gourmoni Singha. C/O Sri Srikanta Sarmah. Hem Nagar. P.O. Maha Bhairab. Dist:-Nikamol. (Tezpur). He is posted to Central Excise Divisional Office Tezpur.

Attested  
by  
19.3.99

4. Md. Mamataj Ali. C/O. Late Ajijur Ali. Hemnagar.  
P.O. Nizamol. (Tezpur.) He is posted at the Central Excise  
Divisional Office, Tezpur.

5. The Cash Branch, Central Excise, Tezpur.

6. The A.R.R.O. Central Excise, Tezpur.

7. The Superintendent, Central Excise, Mongalsai Range.

(B.K.ROY.)

ASSISTANT COMMISSIONER

CENTRAL EXCISE: TEZPUR.

22.2.99.

ANNEXURE - IITO WHOM IT MAY CONCERN

Certified that Sri Atul Kalita S/o Late Dandiram Kalita, inhabitant of Indira Nagar, Tezpur, Dist. Sonitpur (Assam) has been working as Canteen Manager of Central Excise, Divisional Office, Tezpur for the last 3 (three) years.

I found him a good moral character and wishes him a successful life.



*[Signature]*  
31-3-58  
Asstt. Commissioner  
Central Excise Tezpur  
ASSISTANT COMMISSIONER  
CENTRAL EXCISE :: TEZPUR

*[Signature]*  
Surgit Khanday  
Advocate  
on 19.3.2009



OFFICE OF THE ASSISTANT COMMISSIONER

CENTRAL EXCISE :: TEZPUR.

ANNEXURE-III (series)

C.NO.II(12)ET/ACT/93/153-59

Dated :- 21-1-99

To,

Sri *Atul Katiya*,  
Vill:- *Indira Nagar*.  
P.O.:- *Tezpur*  
Dist.:- *Sorigpur (Assam)*.

Sub:- Appointment of Casual Worker.

Please refer to your application dated, *12.1.99* on  
the above mentioned subject.

You are requested to attend before the Assistant Commi-  
-ssioner, Central Excise, Tezpur for intefview on *05.02.99* at  
11.00 hours positivly with all certificate/documents.

*(A.B.DUTTA.)*  
( A.B.DUTTA. )

ADMINISTRATIVE OFFICER  
CENTRAL EXCISE: TEZPUR.

*21.1.99*

*Atul Katiya*  
*Gurgitehady*  
*Advocate*  
*on 19.3.2009*

OFFICE OF THE ASSISTANT COMMISSIONER  
CENTRAL EXCISE: TEZPUR

## ORDER

Dated: - 27.5.03

The undersigned is pleased to re-engage Sri Atul Kalita  
Son of late D.B. Kalita of village Indra Nagar  
P.O. Mahabharib Dist. Sonit-pur Assam as a ~~casual~~  
~~worker i.e. farash~~ on contract basis for 8 (eight) hours work day for  
a period of 88 days w.e.f. 27.5.03 to 22.8.03  
at Divisional Office Central Excise, Mangaldai Range on 'NO WORK  
NO WAGES' basis. He /she will be paid @ Rs. 88.00 per day for on  
his/her works. This re-engagement is on purely temporary basis.  
His/her engagement may be terminated at any prior notices him/her.

This order stands valid upto 22.8.03 unless terminated  
earlier.

Sd/- (S.K. DAS)  
ASSISTANT COMMISSIONER  
CENTRAL EXCISE: TEZPUR.

C.NO. II(3)4/ET/ACT/99/AD

Dated: - 28.5.03

Copy for information and necessary action to:-

1. The Additional Commissioner(P&V), Customs & Central Excise,  
Shillong.

2. Sri. Atul Kalita vill/ten Mangaldai Range  
P.O. Mangaldai Dist. Darrang

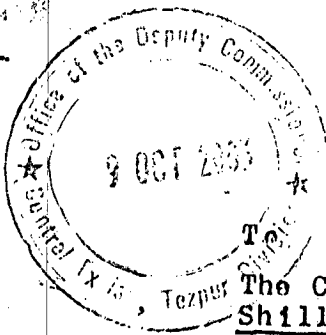
3. The Cash Branch, Rxx Central Excise, Tezpur.

4. The A.P.R.O. Central Excise, Tezpur.

5. To The Superintendent Mangaldai

(S.K. DAS)  
ASSISTANT COMMISSIONER  
CENTRAL EXCISE: TEZPUR.

Atul  
Advocate  
19.03.04



The Commissioner of Central Excise,  
Shillong.

Through proper channel.

Sir,

Subject: Representation for re-engagement  
and regularisation of Service as  
Casual labour.

Most respectfully and humbly, I beg to submit  
the following representation for favour of your kind  
and sympathetic consideration.

2. THAT I was appointed as Deputy Assistant  
order dated 22/2/99 issued by the Assistant  
Commissioner of Central Excise, Tezpur and I joined  
on 1.3.99 in the Office of the Assistant Commissioner  
Central Excise, Tezpur. Since the copy of the order  
has been lost, a copy of my application duly forwarded  
by the Supdt. Central Excise, Mangaldai Range for  
the purpose of returner to the date of 01-3-1999 is  
inclosed as Annexure I.

3. That subsequently I was posted to Mangaldai  
Range, Central Excise vide order dated 10-9-1999  
and I joined there on 01-9-1999. A Photocopy of the  
order is annexed hereto as (Annexure I)

4. Since the date of my appointment i.e. from  
1.3.99 I am serving in the department continuously  
although time to time my service were re-engaged by  
the Assistant Commissioner of Central Excise, Tezpur.

Contd.....2..

*Advised  
Sujit Choudhary  
Advocate  
on 19.3.2007*

5. The guide lines for recruitment of casual worker in Central Govt. offices were given vide Govt. of India's O.M.No. 49014/2/86-Estt.(c) dated 7.6.1988. It has been further reviewed in view of the Judgement of the CAT principal Bench, New Delhi on 10.2.1990 and it has been decided that the existing guide lines contained in O.M. dated 7.6.1988 may continue and in addition to that casual employees who have rendered one year continuous service in Central govt. offices except Telecom, Post and Railways may be regulated by the scheme "Casual labourers (Grant of temporary status and regularisation) scheme of Government of India 1990" as introduced by the P.T.F. vide O.M. No. 51016/2/90-Estt.(c) dated 10.9.93.

6. The circular referred to above stipulates that the casual labourers should have rendered continuous service of at least one year ( vide para 4(1) of the scheme) and it is further clarified by expression "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 day week" Nowhere it is mentioned that the service should be continuous without any break.

7. The Range Office observes 5 day week. From that plain reading of the circular, it appears that the casual labourers are required to have rendered 206 days of services in the last one year. In one year except Saturdays and Sundays total number of days are about 261 days taking into account 52 weeks a year. So the actual engagement of working days is possible to a maximum period of 261 days.

Contd....P/3.

It would appear from para 4.1 of the Circular " which means that they have been engaged at least for a period of 240 days or 206 days as the case may be " that it is reasonable to infer that I should have been engaged 206 days and it can not be directly presumed from the circular that this engagement should be continuous without any break.

8. The above mentioned circulars is relevant in my case. The inner significance of the circular is that if a casual worker has been engaged for a period of 206 day in a year, he should be considered for grant of temporary status in terms of the above mentioned circular.

9. That I was engaged for more than 206 days in the year 1999, 2000, 2001, 2002, 2003 up till now and I am entitled to be considered for regularisation and grant of temporary status in the light of the above mentioned scheme.

10. That I served the department for long period and thereby I have become older and at this old age I am not in a position to seek job elsewhere. If I am not re-engaged and regularised in the service, the expectation of my family members who are solely dependent on me, shall be shattered and the livelihood of the family members will be in jeopardy.

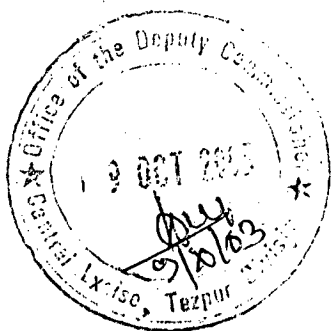
In the circumstances stated above, I most fervently appeal to your kindness to consider my case and re-engaged me as casual worker for regularisation and save the life of my family members and for this act of kindness, I shall remain ever grateful to you.

Yours faithfully

Sri Atul Kalita  
9/10/2003  
(SRI ATUL KALITA)

Casual Worker.

CENTRAL EXCISE ; MANGALDAI  
RANGE.



19

ANNEXURE - V

30

To  
The Commissioner,  
Central Excise, Shillong.  
(Through Deputy Commissioner, Central Excise, Tezpur)

Subject:- Apply for Re-Engagement of Casual worker at  
Central Excise, Tezpur Division.

Dated Tezpur 28-10-03.

Respected Sir,

Most respectfully, I beg to request you that, I have been engaged in this Department as per Interview Basis on 12.1.99 at office of the Asstt. Commissioner Central Excise, Tezpur, vide your Establishment order No. II/(3)4/ET/ATE/173-79 dated 22-2-99 on the above subject.

That Sir, Suddenly, The Superintendent of Central Excise Monglaidi Range as per verbal order engagement is suspense on 23-8-03.

That Sir, before engaged of casual worker, I was working 3 (Three) years as a Canteen Manager, Central Excise Office Tezpur, Rubar Bagan, Certificate enclosed.

That Sir, I am also very poor family member beside my son and daughter are going to appear the H.S.L.C Examination on the year of 2003-04 and I am also earning member of my family.

That Sir, I request you that kindly to appoint me in any post under your Department at Asstt. Commissioner Office, Central Excise, Tezpur.

This is for favour of your kind consideration is request and obliged.

Enclosed:-

1. Application = 2 Nos.
2. Order copy = 2 ..
3. Canteen Manager Certificate = 1 No.

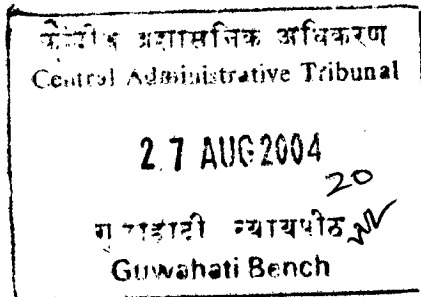
Yours Faithfully,

Sri Atul Kalita

(Sri Atul Kalita)  
Vill:- Indira Nagar, Tezpur  
P.O./P.s:- Tezpur.  
Dist:- Sonitpur (Assam) 78401

*Attested  
Sri Atul Kalita  
Advocate  
29.3.2004*

(P)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 70 OF 2004

Shri Atul Kalita

- Vs - ..... Applicant.

Union of India & Ors.

..... Respondents.

In the matter of :

Written Statement submitted by  
the respondents.

The humble respondents beg to submit the parawise  
written statement as follows :-

1. That with regard to the statement made in  
para 1, of the application the respondents beg to state  
that as per terms of engagement of casual workers, such  
engagement is purely temporary and for a fixed period of  
time. As such, claim of seniority over any other casual  
worker is not correct.

2. That with regard to the statement made in  
para 2, of the application the respondents beg to state  
that the applicant is not a Government employee and his  
service was not controlled by the rules meant for Govt.  
employees. He was a purely casual worker engaged to  
perform some works for a fixed period of time and was

paid wages on daily basis as recommended by the Department of Labour of the State Government. As such, the subject matter of the O.A. is beyond the jurisdiction of the Hon'ble Tribunal.

3. That with regard to the statement made in para 4.2, of the application the respondents beg to state that the applicant was engaged as a casual worker and not 'appointed' as claimed.

4. That with regard to the statement made in para 4.3, of the application, the respondents beg to state that there is no, and never was, office canteen in the Central Excise Divisional Office Tezpur. The staff strength of the Divisional office is not sufficient to run an office canteen as per existing norm. Notwithstanding the purported certificate of the then Divisional Assistant Commissioner, the applicant was not a Canteen Manager as claimed.

5. That with regard to the statement made in para 4.6, of the application the respondents beg to state that casual workers are engaged for a fixed period of time as mentioned in the engagement orders. As such, there can be no question of termination of service of a casual worker. In the instant case, the applicant was engaged for the period from 28.05.03 to 22.8.2003 and worked for the entire period. He was not engaged for any further period as his services was not considered necessary.



6. That with regard to the statement made in para 4.7, of the application the respondents beg to state that among casual workers, engaged for a specific period, there can be no seniority . Casual workers are engaged for a particular office to do a certain unskilled job for a particular period only. The other casual workers, whose names have been mentioned by the applicant were engaged for other offices. They did not 'join' the Department but were merely engaged by the Department. <sup>are</sup> They ~~did~~ not employees of the Department.

7. That with regard to the statement made in para 5.2, of the application the respondents beg to state that the engagement letter dated 22.2.99, the following conditions were laid down :-

1. That the engagement was on contract basis.
2. The duties were not of regular nature, but on "NO WORK NO PAY" basis.
3. Either of the parties could terminate the contract without assigning reason.
4. The contract did not lead to establishment of any relationship with the employer.

That the applicant served continuously for more than three years is a mis-statement. There were many breaks in his service.

8. That with regard to the statement made in para 5.3, of the application the respondents beg to state that the service of the applicant was not terminated. The fact is that he was not re-engaged.

9. That with regard to the statements made in para 5.4, of the application the respondents beg to state that thw workers were engaged to do certain unskilled work for a particular period only on ' No Work No Pay Basis', For such workers no seniority list is maintained.

Verification.....

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

I, Anwar Hossain, Deputy Commissioner  
of Police, - Guwahati. Duxa do hereby  
verify that the statements made in paragraph 1 to 9  
of the written statement are true to my knowledge, those  
made in paragraphs being matter of records  
are true to my information derived therefrom which I  
believe to be true and those made in the rest are humble  
submissions before the Hon'ble Tribunal. I have not  
suppressed any material facts.

And I signed this verification on this the day  
of 2004, at Guwahati.

Anwar Hossain  
Deponent.