

CENTRAL ADMINISTRATIVE TRIBUNAL
GWALIATI BENCH.

ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

Contempt Petition No. 26/05 in O.A. 32/04

Review Application No. _____

Applicant(s): Smt. P. M. Hazarika -----

Respondent(s): U.O.I. Govt. -----

Advocate for the Applicant(s): - M. Chanda, S. Naith
Mr. M.U. Ahmed,

Advocate for the Respondent(s): Adv. C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt petition has been filed by the counsel for the petitioner praying for initiation of a Contempt proceeding against the alleged contemnor for non-compliance of the order dt. 29.3.05 passed by this Hon'ble Tribunal in O.A. 32/04.</p>	<u>16.9.2005</u>	<p>Mr. M. Chanda, learned counsel for the applicant is present.</p> <p>Issue notice to the respondents to show cause as to why contempt pro- ceeding shall not be taken against him for non compliance of the direc- tion issued in the order dated 29.3. 2005 in O.A. 32/2004.</p> <p>Post on 7.11.2005. Personal app- pearance of the alleged contemnor is dispensed with for the time being.</p>
<p>Laid before the Hon'ble Court for further order.</p>	<u>7.11.2005</u>	<p>Mr. M. Chanda, learned counsel for the applicant is present. Mr. M.U. Ahmed, learned Adv. C.G.S.C. for the respondents submits that counter is being filed today. Mr. M. Chanda, learned counsel for the applicant submits that the applicant wants to file reply. Post on 16.11.2005.</p>
<p><u>No. 9.9.05</u> Section officer</p>		

P.W.

Pl. copy of order dated

16.9.05 NS 19.9.05

mb

Q.Jay

Vice-Chairman

16.11.05. Mr. S. Nath learned counsel for the applicant submits that this is a Division Bench matter. Since written statement has already been filed.

Post the matter on 1.12.05.

Q. S. Nath
Vice-Chairman

Notice & order
sent to D/Section
for issuing to
desp. Nos. 1&2 by
regd. A/I post.

lm

(cas
21/9/05) /No 1431,
1432
Dt= 22/9/05.

7-3-06

Mr. M. U. Ahmed, learned counsel for the respondents submits that the matter is pending before the Hon'ble Gauhati High Court and therefore he could not comply with the order of this Tribunal. However, we grant four weeks time to obtain a stay order from the High Court otherwise the matter will proceed.

Post on 10.4.06 for order.

3-10-05
Received A/I card
after duly served on
Contempt No. 2.

M. S. Nath
3/10/05

3/11/05
1. Notice duly served
on R. no. 2.
2. No reply received.

pg
1/11/05

Vice-Chairman (J) Vice-Chairman (A)

1.5.2006

Post the matter on 17.5.2006.

10-11-05

① Abdikarite bailed on
behalf of the R. No. 1.

bb
Vice-Chairman

② Wls. bailed on behalf
of the R. No - 2.

17.5.2006 Present: The Hon'ble Shri K. N. Banerjee, Vice-Chairman.

WLS
Wls. bailed on behalf
of the R. No - 1 & 2.

WLS
Reply bailed on behalf
of the R. No - 1 & 2.

This Contempt Petition has been filed praying for initiation of contempt proceeding against the alleged contemners for non-compliance of the order dated 29.3.2005 passed in O. No. 32 of 2004. This Tribunal in the said O.A. 32/2004 had directed the respondents that "If the applicant had completed 240 days or 205 days in a five days a week continuously even after the date of the scheme, respondents will immediately pass an order conferring 'temporary status' to the applicant and the same

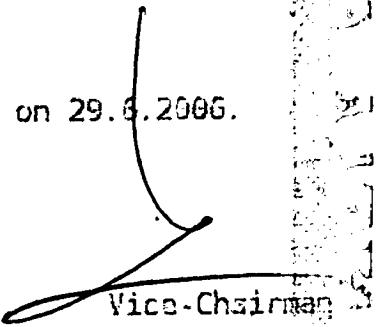
WLS
10.11.05

Contd. P/2

17.5.2006 therein the proceeding of this Tribunal should be "on slow basis".

This Tribunal had granted more than five opportunities to the alleged contemners as discussed above and their personal appearance was dispensed with for the time being and the matter had been adjourned from time to time. Considering the entire aspects and the fact that no order of stay has been obtained from the Hon'ble High Court, this Tribunal is of the view that personal appearance of second contemner is called for. Therefore, second contemner is directed to appear before this Tribunal on the next date i.e. 29.6.2006. adt

Post the matter on 29.6.2006.


Vice-Chairman

22.6.06

bb

The Hon'ble High Court has stayed the impugned order passed by this Hon'ble Tribunal on 5.6.2006 in M.P. 3277/05, W.P.(C) No 4521/05 at flag 'A'.

Laid before the Hon'ble Court for favour of orders.

ad

4.7.06

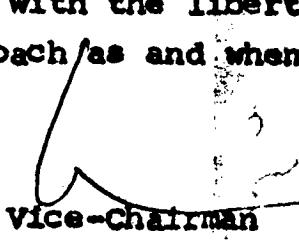
Copy of the order handed over to the L/Adm for the party.

et

29.6.2006

When the matter came up today Mr. M.U.Ahmed, learned Addl. C.C.S.C. has produced a copy of the order dated 5.6.2006 staying the operation of order of this Tribunal passed in Misc Case No. 3277/05 in WP(C) No. 4521/05. Mr. M.Chanda learned counsel for the applicant submit that in view of the said order of stay he is not pressing the C.P. with the liberty to approach as and when required.

The C.P. is closed with the liberty to the applicant to approach as and when required.


Vice-Chairman

bb

Contd

17.5.2006 will be communicated to her. This exercise will be done at any rate within a period of six weeks from the date of receipt of the order."

When the matter came up before this Tribunal on 16.9.2005, this Tribunal had passed an order that "Issue notice to show cause as to why contempt proceeding shall not be taken against him for non compliance of the direction issued in the order dated 29.3.2005 in O.A. 32/2004.

Post on 7.11.2005. Personal appearance of the alleged contemner is dispensed with for the time being."

On 7.11.2005 Mr. M.U.Ahmed, learned Addl C.G.S.C. was granted time for filing counter affidavit and the case was posted on 1.12.2005. Again the matter has been adjourned on two occasions and was posted for today. In the meantime the contemners 1 & 2 had filed their Affidavits. The main contention in the said affidavit is that W.P.(C) No.4521 of 2005 has been filed before the Hon'ble High Court and, therefore the alleged contemners could not comply with the orders of this Tribunal. On 9.3.2006 this Tribunal had granted time to the contemners to obtain stay from the Hon'ble High Court and stated that otherwise the matter will be proceeded accordingly.

Mr. M. U. Ahmed, learned Addl. C.G.S.C. appearing for the alleged contemners submits that there is no willful disobedience of the order of this Tribunal and since the matter is pending before the Hon'ble High Court and also the applicant has appeared

Central Administrative Tribunal
Guwahati Bench

26/6/2006

(Copy to be sent)

10/2006 dated

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA:

MIZORAM & ARUNACHAL PRADESH)

MISC CASE NO. 3277/05

W. P(C) No. 4521/05

Union of India ... Petitioner

-Vs-

Smt. Padmarani Mudai Hazarika ... Respondent

P R E S E N T

THE HON'BLE THE CHIEF JUSTICE B.S.REDDY

THE HON'BLE MRS .JUSTICE A.HAZARIKA

For the petitioner: Mr. H. Rahman, Adv.
Asstt. S.G.

For the respondent: Mr. M. Chanda,
Mr. S. K. Ghose,
Mr. I. Choudhury, Advs.

Date O R D E R

5.6.2006

Reddy, C.J:

There shall be stay of operation of the
impugned order passed by the Tribunal.

Sd/- A. Hazarika
Judge

Sd/- B. S. Reddy
Chief Justice

Memo No. 3.204 /W. P. Dtd. 16.6.06

Copy forwarded for information and necessary action to:

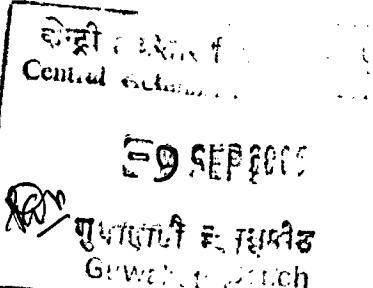
2. The Central Administrative Tribunal Guwahati Bench,
Guwahati-5.

This has reference to A.A. No. 32/2004.

By Order

Asstt. Registrar (I & E)

16/6/06



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An Application under Section 17 of the Administrative Tribunals Act, 1985)

6

Filed by the petitioner
Lokendra Nabi
Loknayak Jyoti
09.09.05

Contempt Petition No. 26 /2005

In O.A. No. 32 of 2004.

In the matter of:

Smti Padmarani Mudai Hazarika.

... Petitioner.

- Versus -

Union of India and Others.

... Alleged Contemnors.

-And -

In the matter of:

An application under Section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a Contempt proceeding against the alleged contemnors for non-compliance of the order dated 29.03.2005 passed in O.A. No. 32/2004.

-And -

In the matter of:

1. Smti Padmarani Mudai Hazarika
Wife of Shri Ballav Hazarika
Chandmari Colony
Nizarapur,
Guwahati- 781003.

... Petitioners.

- Versus -

1. Shri C. Babu Rajeev,
Director General,
Archaeological Survey of India,
Janapath,
New Delhi- 110 011.

2. Shri P.K. Mishra,
Superintending Archaeologist,
In-Charge,
Archaeological Survey of India,
Guwahati Circle, Ambari,
Guwahati- 781 001, Assam.

... Alleged Contemnors.

The humble petitioners above named-

Most respectfully sheweth: -

1. That your petitioner approached this Hon'ble Tribunal through O.A. No. 32/2004, against the impugned order dated 27.01.2004, whereby the claim of the applicant for grant of temporary status has been rejected and also praying for a further direction upon the respondents for grant of temporary status to the applicant with all consequential service benefits in the light of the direction contained in the judgment and order dated 12.08.2003.
2. That the Hon'ble Tribunal after hearing both the parties was pleased to dispose of the Original Application vide order dated 29.03.2005 passed in O.A. No. 32 of 2004 directing the respondents as follows: -

“ 4. I have considered the rival submissions. I do not find any merit in the submission of Mr. A.K. Choudhuri, learned Addl. C.G.S.C. for the reason that this issue is already concluded by the decision of this Tribunal in O.A. No. 245 of 2002 (vide Annexure XI). It is an admitted position that the respondents have not challenged the said order of the Tribunal before the higher forums and thus the

order has become final. This order clearly states that it is not necessary for the applicant to fulfill the latter condition, namely, completion of 240 days or 206 days, as the case may be continuously as on the date of the scheme i.e. on 10.9.1993 and that it is sufficient that the applicant is having continuous service for 240 days or 206 days, as the case may be, even subsequent to the date of the scheme. In this view of the matter the impugned order dated 27.1.2004 is illegal, arbitrary and unjustified. The said order is accordingly quashed and the respondents are directed to verify as to whether the applicant had completed 240 days or 206 days in a five days a week continuously irrespective of the date of the scheme. It is made clear that for the counting of continuous period of service Sundays and holidays will be treated as on duties. If the applicant had completed 240 days or 206 days in a five days a week continuously even after the date of the scheme, respondents will immediately pass an order conferring 'temporary status' to the applicant and the same will be communicated to her. This exercise will be done at any rate within a period of six weeks from the date of receipt of the order.

5. The application is disposed of as above."

(Copy of the Judgment and order dated 29.03.05 is annexed hereto for perusal of Hon'ble Tribunal and marked as Annexure-I).

3. That your petitioner approached the alleged contemners through representation dated 22.04.2005 alongwith a copy of the order dated 29.03.05 passed in O.A No. 32/04, praying for implementation of the judgment and order dated 29.03.05 passed in O.A. No. 32/04, but to no result.

(Copy of the representation dated 22.04.05 is annexed hereto for perusal of Hon'ble Tribunal and marked as Annexure-II.)

4. That the humble petitioner beg to state that more than 5 (five) months time have elapsed since the passing of the order dated 29.03.2005 by this Hon'ble Tribunal, whereas this Hon'ble Tribunal directed the respondents/ alleged contemnors to complete the exercise of conferring temporary status to the petitioner within a period of six weeks from the receipt of the order of the learned Tribunal but the alleged contemnors have not initiated any action for implementation of the Judgment aforesaid.
6. That it is stated that the alleged contemnors deliberately and willfully did not initiate any action for implementation of the Judgment and Order dated 29.03.2005, which amounts to Contempt of Court. Therefore, the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order of the Hon'ble Tribunal dated 29.03.2005 in O.A. No. 35/2004 and further be pleased to impose punishment upon the alleged contemnors in accordance with law.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the Alleged Contemnors for willful non-compliance of the order dated 29.03.2005 in O.A. No. 32/2004 and be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Court.

And for this act of kindness the petitioner as in duty bound shall ever pray.

AFFIDAVIT

I, Smti Padmarani Mudai Hazarika, wife of Shri Ballav Hazarika, resident of Chandmari Colony, Nizarapur, Guwahati- 781003, aged about 43 years, petitioner in the instant contempt petition, do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1 to 6 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 29.03.2005 passed in O.A. No. 32/04.

And I sign this Affidavit on this 9th day of September 2005.

Identified by

Surajit Choudhury
Advocate.

Padmarani Mudai Hazarika.
Deponent

The above named deponent solemnly affirmed and verified by me affiant before Shri Subrata Nath, Advocate, who is identified by Shri Surajit Choudhury, Advocate on my the 9th day of September 2005.

Subrata Nath
Advocate
9/9

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 29.03.2005 passed in O.A. No. 32/2003 and to impose punishment upon the alleged contemnors for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's order dated 29.03.05.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. ✓

Original Application No. 32 of 2004.

Date of Order: This, the 29th day of March, 2005

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

Smti Padmarani Mudai Hazarika
Wife of Shri Ballav Hazarika
Chandmari Colony
Nizarapur
Guwahati-781003.

..... Applicant.

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

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Art and Culture
New Delhi.
2. The Director General
Archaeological Survey of India
Janapath
New Delhi - 110 011.
3. The Superintending Archaeologist
Archaeological Survey of India
Guwahati Circle, Ambari
Guwahati - 781 001, Assam
..... Respondents.

By Mr.A.K.Chaudhuri, Addl.C.G.S.C.

ORDER (ORAL)

SIVARAJAN, J.(V.C.):

The applicant was initially appointed as a casual worker on 14.7.1993 (Annexure-1). The Central Government introduced a scheme as a one time measure for conferment of 'temporary status' to casual workers

9/1/

After 1st Rehearsal

as per the O.M. dated 10.9.1993 (Annexure IV). Since the applicant has not been conferred with 'temporary status' as provided in Annexure-IV, he approached this Tribunal by filing O.A. No.245 of 2002 which was disposed of by order dated 12.8.2003 (vide Annexure-XI). This Tribunal held that the applicant is entitled for conferment of 'temporary status' if that she was in service under the respondents as on the date of issuance of the scheme i.e. on 10.9.1993 and had continuous service of at least one year i.e. at least 240 days service (206 days in a five days week) irrespective of whether it is prior to or after the date of the notification. The respondents were accordingly directed to consider the case of the applicant for conferment of temporary status in the light of the scheme, findings and observations made therein. The grievance of the applicant is that notwithstanding such direction respondents have issued an order dated 27.1.2004 (Annexure-XIII) taking a view that the applicant is not entitled to the conferment of 'temporary status' for the reason that he did not complete 240 days service (206 days in a five days a week) on the date of the O.M. i.e. 10.9.1993.

2. Mr. M. Chanda, learned counsel for the applicant submits that the question regarding the applicability of the scheme in the case of the applicant was considered by the Tribunal with reference to the scheme dated 10.9.1993 (Annexure-IV), the clarification issued in O.M. dated 10.3.1998 (Annexure-IVA) and the decision of the Hon'ble Supreme Court in Union of India & another vs. Mohan Pal and held that it is not necessary, under the scheme, for the applicant to complete 240 days or 206 days, as the case may be, as on the date of the O.M. and that it is sufficient

9/24

that the applicant has got 240 days of continuous service even subsequently. Mr. M. Chanda further submits that the respondents have, in fact, flouted the direction issued by the Tribunal which will amount to contempt of Court.

3. I have also heard Mr. A. K. Chaudhuri, learned Addl. C. G. S. C. for the respondents. The standing counsel with reference to the averments made in the counter affidavit states that the applicant did not complete 240 days or 206 days, as the case may be, in the first year and that the averments made in Paragraphs 4.18 and 4.20 are incorrect and misleading. Mr. Choudhuri further submits that the scheme is made as a one time measure and that unless the applicant satisfies the two conditions, namely, the applicant was in service on 10.9.1993 (date of the scheme), and completed 240 days or 206 days, as the case may be, as on the date of the scheme, she cannot be conferred with 'temporary status' in view of the classification of the scheme in Annexure-IV A and the decision of the Hon'ble Supreme Court mentioned above.

4. I have considered the rival submissions. I do not find any merit in the submission of Mr. A. K. Chaudhuri, learned Addl. C. G. S. C. for the reason that this issue is already concluded by the decision of this Tribunal in O.A.245 of 2002 (vide Annexure XI). It is an admitted position that the respondents have not challenged the said order of the Tribunal before the higher forums and thus the order has become final. This order clearly states that it is not necessary for the applicant to fulfill the latter condition, namely, completion of 240 days or 206 days, as the case may be continuously as on the date of the scheme i.e. on 10.9.1993 and that it is

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sufficient that the applicant is having continuous service for 240 days or 206 days, as the case may be, even subsequent to the date of the scheme. In this view of the matter the impugned order dated 27.1.2004 is illegal, arbitrary and unjustified. The said order is accordingly quashed and the respondents are directed to verify as to whether the applicant had completed 240 days or 206 days in a five days week continuously irrespective of the date of the scheme. It is made clear that for the computing of continuous period of service Sundays and holidays will be treated as on duties. If the applicant had completed 240 days or 206 days in a five days a week continuously even after the date of the scheme, respondents will immediately pass an order conferring 'temporary status' to the applicant and the same will be communicated to her. This exercise will be done at any rate within a period of six weeks from the date of receipt of the order.

5. The application is disposed of as above.

sd/VICE CHAIRMAN

certified to be true copy

Section Officer (D)
C.A.T. CHENNAI BRANCH

19/4/05

To,

The Superintending Archeologist,
 Archaeological Survey of India
 Guwahati Circle, Ambari,
 Guwahati, Assam.

(Through Proper channel)

Sub: - Prayer for implementation of the Judgment and Order dated 29th day of March, 2005 passed in O.A. No. 32 of 2004.

Respected Sir,

Enclosed please find herewith a copy of the Judgment and Order dated 29.03.2005 passed in O.A. No. 32/2004 by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati. It is relevant to mention here that the undersigned is continuously working since 1993 in the local office at Guwahati. My service was terminated by the order dated 30.08.2002. However, the said order of termination was stayed by the Hon'ble Tribunal and thereafter I am working without any artificial break during the operation of the stay order. However, the Original Application was disposed of by the Hon'ble Tribunal on 29th March 2005 with a direction to consider my case for conferment of temporary status under the relevant scheme. It is categorically submitted that the undersigned has completed more than 206/240 days in each calendar year since my initial engagement in the year 1993. It is specifically submitted that from the date of passing of the stay order by the Hon'ble Tribunal, I have completed more than 206/204 days in each calendar year. Thereby the undersigned attained eligibility for conferment of temporary status under the 1993 scheme.

Therefore, you are requested to pass necessary order conferring temporary status to the undersigned in terms of Judgment and order dated 29.03.2005 passed in O.A. No. 32/2004.

A copy of the Judgment and order dated 29.03.2005 is enclosed herewith for your ready reference.

Enclo: Copy of the judgment and order dated
 29.03.05.

Yours faithfully

Date:22.04.05

(PADMARANI MUDAI HAZARIKA)

*Affected
by
Advocate.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI

IN the matter of

In Contempt Petition no. 26/2005

In O.A. No.- 32/04

Smt. Padmarani Mudai Hazarika

Wife of Shri Ballav Hazarika

Chandmari Colony

Nizarapara,

Guwahati-781003

7 NOV 2005

Guwahati Bench

Guwahati Bench

filed
7/11/01

M. V. Ahmed, Addl. C.R.

-Petitioners.

-Versus-

1. Shri C. Babu Rajeev,
Director General
Archaeological Survey of India
• Janpath
New Delhi-110011

2. Shri P. K. Mishra
Superintending Archaeologist
In-Charge
Archaeological Survey of India
Guwahati Circle, Ambari,
Guwahati-781001, Assam.

Alleged Contemnors.

AFFIDAVIT OF RESPONDENT NO.1

I Shri C. Babu Rajeev, Director General Archaeological Survey of India, Govt. of India Janpath, New Delhi-110011, do hereby solemnly affirm and contended as follows:

- (1) That I am the Director General, Archaeological survey of India, Govt. of India Janpath, New Delhi-110011 and respondent No. 1, and controlling authority of respondent No. 2 in the said Contempt Petition and as such fully acquainted with the facts and circumstances of the case. I have gone through the copy of the contempt Petition and have understood the contents thereof save and

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except whatever it specifically admitted in this Written statement, the other contentions and statements made in the petition may be deemed to have been denied.

(1 A) That the Respondent has not willfully floated the Order dated 29.3.05 passed in O.A. No. 32/04 by this Hon'ble Tribunal as alleged by the applicant.

(1 B) That, there is no any willful or deliberate and reckless disobedience of the aforesaid order by the Respondents. The Respondents has highest regards for this Hon'ble Tribunal and hence there is no question of showing any contempt to the orders of this Tribunal.

(1 C) That on being aggrieved by the order dated 29.3.05, the Respondents preferred to exercise the right of appeal, which is a substantive, vested valuable right and a creature of the statute. The Respondents preferred the appeal within time prescribed for filling and accordingly it was admitted by the Hon'ble High Court vide W.P. (C) No.- 4521/05, dated 20.06.05 and notices served on the parties on 22.06.05, and as such it is a continuation of the O.A. 32/04. Therefore the above statutory right can not be curtailed by the petitioner by way filling the instant contempt petition since the Hon'ble Courts are also zealous in guarding the aforesaid Statutory Right.

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(2) In regards to statement Sl. No. 1 of the Contempt Petition the respondent beg to state that the respondents No. 1, 2 and 3 in O.A. No. 32/2004 have submitted written statement and made humble submission in the Hon'ble CAT Bench Guwahati that the petitioner is not eligible for grant of Temporary Status as per the scheme for Grant of Temporary Status to Casual workers and regularization of their services vide Office Memorandum No. 52016/2/90/Estt. (C) dated 10.9.1993 issued by the Govt. of India, Ministry of Personnel, PG and Pensions, Department of Personnel and Training, New Delhi and subsequent clarifications / advice issued by the DOPT from time to time in this regard. Although the applicant was working under the respondent No. 3 from 14.7.1993 and thereafter from time to time as per availability of work and funds under the respondent. The applicant has not completed the required number of days in her casual service on the date of issue of the said O.M., as under the said scheme casual workers must have rendered at least 206 days or 240 days as the case may be of continuous service on the date of issue of this scheme as on 10.9.93, the applicant has completed only 41 days of service from 14.7.93 to 10.9.93. (Annexure-I)

(3) As in regards to statement Sl.No. 2 of the contempt petition the respondent beg to state that the humble submission of facts in the O.A. No. 32/04 by the respondents the Hon'ble Central Administrative Tribunal, Guwahati Bench,Guwahati has passed an order dated 29.03.2005 in O. A. No. 32/04 directing the respondents to verify as to whether the applicant had completed 240 days or 206 days in a five days a week

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continuously irrespective of the date of the scheme. If the applicant had completed 240 days or 206 days in a five days a week continuously even after the date of the scheme, respondents will immediately pass an order conferring temporary status to the applicant within a six week time from the date of receipt of the order. Being the controlling authority of respondent No. 2 and as such there was no other efficacious, alternative remedy available to the respondents filing of writ petition has been preferred and accordingly respondent No 2 has been directed to file writ petition in the Hon'ble High Court Gauhati under Article 226 of the Constitution of India within a valid period of time on behalf of respondents No. 1,2, and 3 in O.A. No. 32/04 and seek enforcement of the fundamental, legal and constitutional rights of the respondents under Part-III of the Constitution of India and the Laws made there under. (Annexure -II)

(4) As in regards to statement Sl. No. 3 of the contempt petition the respondent beg to state that as there was no other efficacious, alternative remedy available to the respondents, writ petition (c) No. 4521/2005 Union of India and others Vrs. Smt. Padmarani Mudai Hazarika and Another has been filed in the Hon'ble High Court Gauhati under Article 226 of the Constitution of India and seek enforcement of the fundamental, legal and constitutional rights of the respondents under Part-III of the Constitution of India and the Laws made there under as the impugned order dated 29.03.05 passed by the Learned Tribunal in O.A. No. 32/04 is not tenable in law, as such this is liable to be set aside and quashed.

Contd...

(5) As regards to statement Sl. No. 4 of the contempt petition the respondent beg to State that as there was no other efficacious, alternative remedy available to the respondents, and as such respondent No. 2 has been asked to file writ petition in the Hon'ble High Court Gauhati on behalf of respondents No. 1,2 and 3 in OA. No. 32/04 under Article 226 of the Constitution of India and seek enforcement of the fundamental, legal and constitutional rights of the respondents under part-III of the Constitution of India and the Laws made there under within a valid period of time, which would be just, adequate and complete.

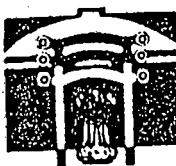
(6) As regards to the statement Sl.No. 6 of the contempt petition the respondent beg to state that the respondents pay high regards and honour to Court of Law and there is no any deliberate or willful disobedience from the part of the respondents in respect of implementation of the judgment and order dated 29.03.2005, as the respondents have no other efficacious, alternative remedy available and that prefer to prayed for writ petition in the Hon'ble High Court Gauhati under Article 226 of the Constitution of India and seek enforcement of their statutory, substantive, vested valuable Right of the respondents under part-III of the Constitution of India and the Laws made there under which would be just, adequate and complete, as such the impugned order dated 29.03.05 passed by the Hon'ble Tribunal in O.A. No. 32/04 is not tenable in law as such, this is liable to be set aside and quashed. The Writ petition (C) No. 4521/2005 Union of India and others Vrs. Smt. Padmarani Mudai Hazarika and Another filed by the respondents has been admitted in the Hon'ble High Court Gauhati for decision.(Annexure-III).

As such the above, the said contempt petition is not tenable and liable to be dismissed. and for this act of kindness the respondent , as in duty bound, shall ever pray.

कार्यालयः
भारतीय पुरातत्त्वविद्
भारतीय पुरातत्त्व सर्वेक्षणे
गुवाहाटी मण्डल,
सी. एन. बी. रोड, आमबारी
गुवाहाटी-781001, असम

रात्रि 200

भारत सरकार
GOVERNMENT OF INDIA



प्रलक्षितिमपावृणु

OFFICE OF THE
SUPERINTENDING ARCHAEOLOGIST
ARCHAEOLOGICAL SURVEY OF INDIA
GUWAHATI CIRCLE
G.N.B. ROAD, AMBARI
GUWAHATI - 781001, ASSAM

No. 133/8002-Adm. 932
Dated the 26/6/2003

To,

Shri Arunesh Deb Roy,
Sr. C.G.S. Counsel, CAT,
Guwahati

Sub : Submission of total number of working days of Smt. P.M. Hazarika during 1993
in O.A. No.245/2002 – Reg.

Sir,

In pursuance of your request to my representative on 25.6.03 in the CAT, I am to inform you that Smt. Hazarika was engaged on 14.7.1993 and the total number of her working days during 1993 is furnished below for your perusal and onward submission to the Court, if necessary.

1. The total no. of days from 14.7.1993 to 10.9.1993	41 days.
2. The total no. of days from 11.9.1993 to 31.12.1993	75 days
Total	116 days

Yours faithfully,

(R. D. Singh)

Superintending Archaeologist

Encl : As above.

Attendance Register

for the month of JULY.

1993.

19-VII-Attendance Register

for the month of August, 1993 (27)

Sl. No.	Name	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Remarks
1.	Rakesh Yadav Counsel (Charkhaar)																																
2.	Paraswam Lal Kaur (Casual Skilled Labour)																																
3.	Shobha Kirti Pathak (Casual Skilled Labour)																																
4.	Mrs. Hemani Thakur Casual Worker																																
5.	Miss Ranju Dahi (Casual Labour)																																
6.	Miss Padmavati Mukhi																																

19 + 1
20 days

891

20

Attendance Register

for the month of SEPTEMBER 1993.

25

Sl. No.	Name	Remarks	Date																																	
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31			
1.	Rekesh Yadav (Casual)		10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM				
			10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM				
			10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM				
			10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM				
			10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM	10 AM	12 PM	2 PM	4 PM	6 PM	8 PM				
2.	Parsumam Lal Karm (Casual skilled laboress)		9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
			9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
			9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
			9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
3.	Shri Brijendra Karm (Casual skilled laboress)		9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
			9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
4.	Shri Himani Shukla (Casual Worker)		9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
			9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
5.	Mrs. Ranju Devi (Casual Worker)		9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
			9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM
6.	Miss. Palmarani Mudali		9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM

22 days

29 days

29 days

22 days

DISTRICT : KAMRUP

IN THE GAUHATI HIGH COURT

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

(CIVIL EXTRA - ORDINARY JURISDICTION)

W.P.(C) No. 4521 /2005.

CODE NO. :

Category of Case :

Union of India & Ors. .. Petitioners

- Vs -

Smt. Padmarani Mudai Hazarika

& another

.. Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Writ Petition	1 - 14
2.	Affidavit	15
3.	Annexure - I	
4.	Annexure - II	
5.	Annexure - III	
6.	Annexure - IV	
7.	Annexure - V	
8.	Annexure - VI	
9.	Annexure - VII	
10.	Annexure - VIII	
11.	Annexure - IX	
12.	Annexure - X	
13.	Annexure - XI	
14.	Vakalatnams	

Filed by -

22

22

DISTRICT : KAMRUP

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA :
MANIPUR : TRIPURA : MIZORAM AND ARUNACHAL PRADESH)

(CIVIL EXTRA - ORDINARY JURISDICTION)

WRIT PETITION (C) NO. _____ OF 2005.

CODE NO.

CATEGORY OF CASE :

To

The Hon'ble Sri Binod Kumar Roy, M.A., B.L.,
Chief Justice of the Hon'ble Gauhati High Court
and His Lordship's companion Justices of the
said Hon'ble Court.

IN THE MATTER OF :

An Application under Article 226
of the Constitution of India for
issue of a Writ in the nature of
MANDAMUS and/or CERTIORARI and/or
any other appropriate Writ, Direction
or Order of the like nature

- A N D -

IN THE MATTER OF :

Enforcement of the fundamental,
legal and constitutional rights

- 2 -

of the petitioner guaranteed under
Part-III of the Constitution of India
and the laws made thereunder

- A N D -

IN THE MATTER OF :

Violation of Articles 14, 16 and 21 of
the Constitution of India

- A N D -

IN THE MATTER OF :

Judgment and order dated 29-3-2005
passed by the learned Central Adminis-
trative Tribunal, Guwahati Bench,
Guwahati in O.A. No. 32/2004 quashing
the order dated 27-1-2004 passed by
the petitioner No.3 and directing the
petitioners to pass an order conferring
temporary status to the applicant
(Respondent No.1)

(Annexure - XI)

- A N D -

IN THE MATTER OF :

1. The Union of India,
represented by the Secretary to
the Govt. of India, Ministry of
Art & Culture, New Delhi.
2. The Director General, Archaeological
Survey of India, Govt. of India,
New Delhi.

- 3 -

3. The Superintending Archaeologist,
Archaeological Survey of India,
Govt. of India, Guwahati Circle,
Ambari, Guwahati, Assam.

.... PETITIONERS

- Versus -

1. Smt. Padmarani Mudai Hazarika,
W/o Sri Ballav Hazarika,
Chandmari Colony, Nizarapar,
Guwahati.

2. The Central Administrative Tribunal,
Guwahati Bench, Guwahati - 5.

.... RESPONDENTS

The humble petition of the
petitioners above-named -

MOST RESPECTFULLY SHEWETH :

- 1) That the petitioner No.1 is the Union of India, represented by the Secretary to the Govt. of India, Ministry of Art & Culture, New Delhi and petitioner Nos. 2 and 3 are the respective Officers of the Archaeological Survey of India, serving under the petitioner No.1.
- 2) That the petitioners beg to state that the respondent No.1 was engaged as casual worker on and from 14.7.1993 under the petitioner No.3 on daily wage basis and thereafter

- 4 -

she was engaged as casual worker from time to time subject to availability of work and necessary funds at the disposal of the petitioners.

3) That the petitioners beg to state that on 10th September, 1993, an Office Memorandum bearing No. 52016/2/93/Eatt.(C) was issued by the Govt. of India, Ministry of Personnel, Pensions and Pensions, Department of Personnel and Training, New Delhi for the purpose of grant of temporary status and regularization of casual workers engaged on daily wage basis in various Central Govt. Offices as per the Scheme enclosed therewith, which is/called the "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993". The said Scheme came into force with effect from 1-9-1993. As provided in Clause 4 (k) of aforesaid Scheme, temporary status was to be conferred on all casual labourers who were in employment on the date of issue of the said O.M. and who had rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (266 days in the case of offices observing five days week). Clause 4 of the said Scheme reads as follows :-

4. Temporary Status :

- 1) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240

days (206 days in the case of offices observing 5 days week).

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

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

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

A copy of the said O.M. alongwith the Scheme is enclosed herewith as
Annexure - I.

4) That the petitioners beg to state that by letter dated 10-3-98 issued by the Director (Administration), Archaeological Survey of India, Govt. of India, New Delhi, it was made clear that the aforesaid Scheme for grant of temporary status to the casual workers was a one time affair and was applicable in respect of those casual employees who were in service on the date of its notification i.e. 10-9-93, and had rendered at least one year of continuous

service, i.e 240 days or 206 days as the case may be, on the date of the Notification.

A copy of the said letter dated 10-3-98 is enclosed herewith as Annexure - II.

5) That the petitioners beg to state that by Office Memorandum No.40011/2/2002-Estt(C) dated 12-4-2002 issued by the Govt. of India, Ministry of Personnel, PG & Pensions, Department of Personnel and Training, a further clarification in this regard was provided for the purpose of deciding cases for grant of temporary status to the eligible persons. It was provided therein that - (1) Temporary status would be conferred on all casual labourers who were in employment on the date of issue of the aforesaid O.M. ; and (2) such persons should have rendered continuous service of at least one year.

A copy of the said O.M. dated 12-4-2002 is enclosed herewith as Annexure-III.

6) That it may be mentioned here that the Hon'ble Supreme Court in Civil Appeal No. 3168 of 2002 (Union of India & Ors. - Vs - Mohan Pal and others, dtd. 29-4-2002) has been pleased to hold that the aforesaid Scheme of 1993 is not an ongoing Scheme and that in order to acquire "temporary " status, the casual labourers should have been in employment as on the date of commencement of the Scheme and he should have also rendered continuous service of at least one year, which means that he should have been

engaged for a period of at least 240 days in a year or 206 days in case of Offices observing five days a week. It has further been observed that from Clause 4 of the said Scheme it does not appear to be a general guideline to be applied for the purpose of giving "temporary" status to all the casual workers as and when they complete one year of continuous service.

7) That the petitioners beg to state that by letter dated 25-6-2002 issued by the Director (Administration), Archaeological Survey of India, Govt. of India, New Delhi, while forwarding the copies of aforesaid O.M. dated 12-4-2002 and the judgment dated 29-4-2002 passed by the Hon'ble Supreme Court in Civil Appeal No. 3163 of 2002 (Union of India - Vs - Mohan Pal and others), it has been clarified as follows :-

- (i) Temporary status would be conferred on all casual labourers who were in employment on the date of issue of DoPT letter dated 10-9-1993 quoted above ; and
- ii) Should have rendered a continuous service of at least one year as on the date of issue of above O.M. which means that they must have been engaged for a period of at least 240 days (206 days in case of offices observing 5 days week).
- iii) The scheme of grant of temporary status was one time scheme and not an ongoing scheme

- 8 -

applicable to those daily wage workers who satisfy the conditions at (i) and (ii) above on the date of issue of DoPT O.M. dated 10.9.1993.»

A copy of the said letter dated 25-6-2002 is enclosed herewith as Annexure - IV.

8) That the petitioners beg to state that as stated above, the respondent No.1 was engaged as casual worker by the petitioner No.3 with effect from 14.7.1993 and according to the relevant records available in the Office of the petitioner No.3, she had completed only 41 days of service from 14.7.1993 to 10.9.1993, i.e., upto the date of issue of the aforesaid O.M. It may further be mentioned here that in paragraph 4.20 of the application filed by the respondent No.1 before the Hon'ble Central Administrative Tribunal in O.A. No.32/2004, the respondent No.1 stated that she had completed 114 days of service in the Calender Year 1993.

From the above, it will appear that although the respondent No.1 was engaged as casual worker on the relevant date, i.e., 10.9.1993, she had rendered service only for a period of 41 days till the date when the said O.M. dated 10.9.1993 had been issued. The respondent No.1, therefore, had not rendered continuous service for a period of one year, as is required under Clause 4(1) of the aforesaid Scheme for the purpose of conferring "temporary" status on her and, as such, the respondent No.1 was not at all entitled to the conferment of "temporary" status in terms of the aforesaid Scheme of 1993.

- 9 -

9) That the petitioners beg to state that in the meantime the respondent No.1 submitted an application dated 3.8.2001 praying for grant of temporary status to her in accordance with the aforesaid Scheme. The said application was not found to be tenable in terms of Clause 4(i) of the said Scheme since the respondent No.1 did not fulfil the mandatory requirements as laid down in Clause 4 of the aforesaid Scheme.

A copy of the said application dated 3.8.2001 is enclosed herewith as Annexure - V.

10) That the petitioners beg to state that since the respondent No.1 was not considered for grant of "temporary" status in terms of the said Scheme, she filed an application before the learned Central Administrative Tribunal, Guwahati Bench, Guwahati, which was registered as O.A. No. 245 of 2002. The learned Tribunal, however, by its order dated 12.8.2003, was pleased to allow the said application directing the petitioners to consider the case of the respondent No.1 for conferment of temporary status in the light of the scheme and the findings and observations made therein.

A copy of the said order dated 12.8.2003 is enclosed herewith as Annexure - VI.

11) That the petitioners beg to state that in compliance with the aforesaid direction made by the Hon'ble Tribunal, the petitioner No.3, after due consideration of

the entire matter in the light of various O.Ms, guidelines and decisions of the Hon'ble Supreme Court, by a reasoned order dated 27.1.2004, dismissed the prayer made by the respondent No.1 for grant of temporary status as the respondent No.1 was not found to be entitled to the said benefit in terms of the aforesaid Scheme of 1993.

A copy of the said order dated 27.1.2004 is enclosed herewith as Annexure - VII.

12) That the petitioners beg to state that being aggrieved by the said order dated 27.1.2004 passed by the petitioner No.3, the respondent No.1 preferred another application before the Hon'ble Tribunal, which was registered as O.A. No.32/2004. The petitioners have also duly contested the said application by filing Written Statement and Additional Written Statement. The Hon'ble Tribunal was however, pleased to quash the said order dated 27.1.2004 passed by the petitioner No.3 and to direct the petitioners to pass appropriate orders immediately conferring "temporary" status on the respondent No.1, if it is found that the respondent No.1 had completed 240 days or 206 days in five days a week continuously even after the date of commencement of the Scheme, vide order dated 29.3.2005.

Copies of the application filed by the respondent No.1, written statement and additional written statement filed by the petitioners as well as the order passed by the Hon'ble Tribunal dtd. 29.3.2005 in O.A. No.32/2004 are enclosed herewith as Annexures - VIII, IX, X and XI respectively.

13) That being highly aggrieved by the aforesaid order dated 29.3.2005 passed by the Hon'ble Tribunal in O.A. No. 32/2004 (Annexure-XI) the petitioners beg to prefer this Writ application under Article 226 of the Constitution of India, before this Hon'ble Court, on the following, amongst other -

-: G R O U N D S :-

- I) For that the impugned order dated 29.3.2005 passed by the learned Tribunal in O.A. No. 32/2004 is not tenable in law and, as such, the same is liable to be set aside and quashed.
- II) For that the learned Tribunal erred in law in holding that it is not necessary for the respondent No.1 to fulfil the latter condition, namely, completion of 240 days or 206 days, as the case may be, continuously as on the date of commencement of the Scheme, i.e. 10.9.1993 and that it is sufficient that the respondent No.1 is having continuous service for 240 days or 206 days, as the case may be, even subsequent to the date of the scheme, and, as such, the impugned order passed by the learned Tribunal is liable to be set aside and quashed.
- III) For that the learned Tribunal erred in law in directing the petitioners to pass an order conferring "temporary" status to the respondent No.1, if the

respondent No.1 had completed 240 days or 206 days in a five days a week continuously even after the date of the Scheme, and, as such, the impugned order is liable to be set aside and quashed.

For that the learned Tribunal erred in holding that the issue regarding the applicability of the aforesaid O.M. dated 10.9.1993 to the case of the respondent No.1 has already been decided in favour of the respondent No.1 by the learned Tribunal by order dated 12.6.2003 passed in O.A. No.245/2002 and that the said order has become final and that in view of the above, the matter cannot now be reopened. The said finding of the learned Tribunal, being contrary to the decisions made by the Hon'ble Supreme Court of India, is liable to be set aside and quashed by this Hon'ble Court.

For that the learned Tribunal erred in law in overlooking the decision of the Hon'ble Supreme Court passed in Civil Appeal No.3168/2002 (Union of India and ors. - Vs - Mohan Pal and others), dated 29.4.2002, wherein it has been held that in terms of Clause 4 of the Scheme of 1993 for conferment of "temporary" status a casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service of at least one year, which means that he should have been engaged for

a period of at least 240 days in a year or 206 days in case of Offices observing 5 days a week.

VI) For that in any view of the matter, the impugned order passed by the learned Tribunal is liable to be set aside and quashed.

14) That the petitioners submit that there is no other efficacious, alternative remedy available to them and that the relief prayed for in this writ petition would be just, adequate and complete.

15) That the petitioners demanded justice, which has been denied to them.

16) That this petition has been made bonafide and in the interest of justice.

In the premises aforesaid, it is respectfully prayed that Your Lordships may be graciously pleased to admit this petition, call for the records and issue a Rule calling upon the respondents to show cause as to why a writ in the nature of Mandamus and/or Certiorari and/or any other appropriate Writ, Direction or Order should not be passed setting aside the impugned order dated 29.3.2005 passed by the

- 14 -

learned Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No. 32 of 2004 (Annexure-XI) and/or why such further or other orders should not be passed as to this Hon'ble Court may deem fit and proper ; and after hearing the parties and on perusal of records, Your Lordships may be pleased to make the Rule absolute.

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- A N D -

Pending disposal of the instant writ petition, Your Lordships may be pleased to pass an interim order staying the operation of the impugned order dated 29.3.2005 (Annexure-XI).

And for this act of kindness, the humble petitioners, as in duty bound, shall ever pray.

... Affidavit ... 15

AFFIDAVIT

I, Sri Ram Das Singh son of Ghurey Lal
aged about 59 years, presently serving as Superintendent
Archaeologist

do hereby solemnly affirm and state as follows :-

1. That I am the Petitioner No. 3 in this instant Writ petition and I am fully conversant with the facts and circumstances of the case and hence, I am competent to swear this affidavit.
2. That the statements made in this affidavit and in paragraphs 1, 2, 6, 8, 13 _____ of the petition are true to my knowledge, those made in paragraphs _____ 3, 4, 5, 7, 9, 10, 11, 12 - being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I sign this Affidavit on this the _____ th day
of May, 2005 at Guwahati.

Identified by me :

Ram Das Singh
D E P O N E N T.

Advocate's clerk.

IN THE SAUHATI HIGH COURT



Ref. - W. P. (C) No 4521/05

Union of India & Ors

-VS- Petitioner

Smti Padmarani Mehta Hazarika

- Respondent

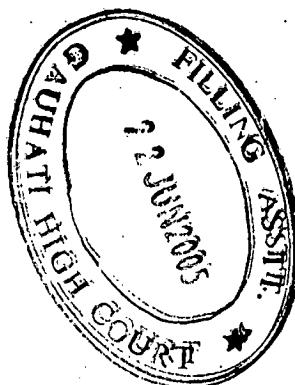
1510.

As per Hon'ble High court order dated 20/6/05
exhort two copies serve upon you to be served by
ordinary telegram upon the respondents No. 1 and
2 only.

Kindly acknowledge receipt of the same.

Yours faithfully

Mr. J. C. Chakraborty
Advocate



38-
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

In Contempt Petition no. 26/2005
IN the matter of in O.A. 32/04

Smt. Padmarani Mudai Hazarika
Wife of Shri Ballav Hazarika
Chandmari Colony
Nizarapara,
Guwahati-781003

-Petitioners.

-Versus-

1. Shri C. Babu Rajeev,
Director General
Archaeological Survey of India
Janpath
New Delhi-110011

2. Shri P. K. Mishra
Superintending Archaeologist
In-Charge
Archaeological Survey of India
Guwahati Circle, Ambari,
Guwahati-781001, Assam.

Alleged
Contemnors/Respondents.

WRITTEN STATEMENT OF RESPONDENT NO.2

I Dr. P. K. Mishra, Superintending Archaeologist (In-Charge), Archaeological Survey of India, Ambari, G. N. B. Road, Guwahati-781001, Assam, do hereby solemnly affirm and deposed as follows:

1) That I am the Superintending Archaeologist (In-Charge), Archaeological survey of India, Guwahati Circle, Guwahati Circle, Guwahati-1 and respondent No. 2 , working under the control of respondent No. 1 in the said Contempt Petition and as such fully acquainted with the facts and circumstances of the case. I have gone through the copy

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of the contempt Petition and have understood the contents thereof save and except whatever it specifically admitted in this Written statement, the other contentions and statements made in the petition may be deemed to have been denied.

- 1 A) That the Respondent has not willfully floated the Order dated 29.3.05 passed in O.A. No. 32/04 by this Hon'ble Tribunal as alleged by the applicant.
- 1 B) That, there is no any willful or deliberate and reckless disobedience of the aforesaid order by the Respondents. The Respondents has highest regards for this Hon'ble Tribunal and hence there is no question of showing any contempt to the orders of this Tribunal.
- 1 C) That on being aggrieved by the order dated 29.3.05, the Respondents preferred to exercise the right of appeal, which is a substantive, vested valuable right and a creature of the statute. The Respondents preferred the appeal within time prescribed for filling and accordingly it was admitted by the Hon'ble High Court vide W.P. (C) No.- 4521/05, dated 20.06.05 and notices served on the parties on 22.06.05, and as such it is a continuation of the O.A. 32/04. Therefore the above statutory right can not be curtailed by the petitioner by way filling the instant contempt petition since the Hon'ble Courts are also zealous in guarding the aforesaid Statutory Right.

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(2) In regards to statement Sl. No. 1 of the Contempt Petition the respondent beg to State that the respondents No. 1, 2 and 3 in O.A. No. 32/2004 have submitted written statement and made humble submission in the Hon'ble CAT Bench Guwahati that the petitioner is not eligible for grant of Temporary Status as per the scheme for Grant of Temporary Status to Casual workers and regularization of their services vide Office Memorandum No. 52016/2/90/Estt. (C) dated 10.9.1993 issued by the Govt. of India, Ministry of Personnel, PG and Pensions , Department of Personnel and Training, New Delhi and subsequent clarifications / advice issued by the DOPT from time to time in this regard. Although the applicant was working under the respondent No. 3 from 14.7.1993 and thereafter from time to time as per availability of work and funds under the respondent. The applicant has not completed the required number of days in her casual service on the date of issue of the said O.M., as under the said scheme casual workers must have rendered at least 206 days or 240 days as the case may be of continuous service on the date of issue of this scheme as on 10.9.93, the applicant has completed only 41 days of service from 14.7.93 to 10.9.93.

(3) As in regards to statement Sl.No. 2 of the contempt petition the respondent beg to state that the humble submission of facts in the O.A. No. 32/04 by the respondents the Hon'ble Central Administrative Tribunal, Guwahati Bench,Guwahati has passed an order dated 29.03.2005 in O. A. No. 32/04 directing the respondents to verify as to whether the applicant had completed 240 days or 206 days in a five days a week

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41

continuously irrespective of the date of the scheme. If the applicant had completed 240 days or 206 days in a five days a week continuously even after the date of the scheme, respondents will immediately pass an order conferring temporary status to the applicant within a six week time from the date of receipt of the order.

After receiving the said order the respondent No. 2 has communicate the same to the respondent No. 1 being the controlling authority for necessary action and prefer to prayed for writ petition in the Hon'ble High Court Gauhati under Article 226 of the Constitution of India, as no other efficacious, alternative remedy available to the respondents and seek enforcement of the fundamental, legal and constitutional rights of the respondents under Part-III of the Constitution of India and the Laws made there under within a valid period of time.

(4) As in regards to statement Sl. No. 3 of the contempt petition the respondent beg To state that as there was no other efficacious, alternative remedy available to the respondents, writ petition has been filed in the Hon'ble High Court Gauhati under Article 226 of the Constitution of India and seek enforcement of the fundamental, legal and constitutional rights of the respondents under Part-III of the Constitution of India and the Laws made there under as the impugned order dated 29.03.05 passed by the Learned Tribunal in O.A. No. 32/04 is not tenable in law, as such this is liable to be set aside and quashed.

(5) As regards to statement Sl. No. 4 of the contempt petition the respondent beg to State that with due consent of the respondent no. 1 being the controlling authority, that there was no other efficacious, alternative remedy available to us and that to

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Seek their Statutory, substantive, vested and valuable Right enforcement of the fundamental, legal and constitutional rights of the Respondents under Part-III of the Constitution of India and the Laws made there under which would be just, adequate and complete. The Writ Petition (C) No. 4521/2005 Union of India and others Vrs. Smt. Padmarani Mudai Hazarika and Another submitted by the Respondents has been admitted in the Hon'ble High Court Gauhati for decision.

(6) As regards to the statement Sl.No. 6 of the contempt petition the respondent beg to state that the respondents pay high regards and honour to court of Law and there is no any deliberate or willful disobedience from the part of the respondents in respect of implementation of the judgment and order dated 29.03.2005, as the respondents have no other efficacious, alternative remedy available and that prefer to prayed for writ petition in the Hon'ble High Court Gauhati under Article 226 of the Constitution of India and seek enforcement of their statutory, substantive, vested And valuable Right and the Laws made there under which would be just, adequate and complete. The Writ petition (C) No. 4521/2005 Union of India and others Vrs. Smt. Padmarani Mudai Hazarika and Another submitted by the respondents has been admitted in the Hon'ble High Court Gauhati for decision.

6 43 - A

PRAYER

In the light of submission made above, your Lordship would be pleased to admit this petition/Affidavit and pass an order dismissing the Contempt Petition against the petition for the ends of justice and equity and also to pass other/s order/s as your Lordship may deem fit and proper.

- AND -

For this act of kindness your petitioners/Respondents shall ever pray.

AFFIDAVIT

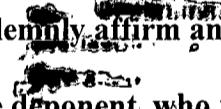
I, Dr. P. K. Mishra aged about 35, working as Superintending Archaeologist (Incharge), Archaeological Survey of India, Ambari, G.N.B. Road, Guwahati-1 do hereby solemnly affirm and state as follows:

- (1) I am fully conversant and acquainted with the facts and circumstances of the instant case and authorized to swear this affidavit.
- (2) That the statements made hereinabove are true to my knowledge, belief and information based on records and nothing material has been concealed therefrom.

I sign this affidavit on this 7/11 day of ^{November} October/2005 at Guwahati
Identified by 

(Advocate)

SIGNATURE (Deponent)


Solemnly affirm and declared before me by
the deponent, who is identified by Motin Uddin Ahmed, Advocate at Guwahati.

On 7/11 the day of November, 2005.