

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

ORDERSHEET

Original Application No. _____
Misc. petition No. _____
Contempt petition No. _____
Review Application No. 5/05 in O.A 137/04
Applicant(s) Chimmoy Das
Respondents h.o.I 9ers
Advocate(s) for the Applicant(s) Adil Ahmed
Advocate(s) for the Respondents case.

Notes of the Registry	Date	Order of the Tribunal
<p>A. Review application has been filed by the counsel for the petitioner w/c (4) of Sub-Section (3) of Section 22 of the CAT Act, 1985 read with Rule 17 of the CAT (Procedure) Rule, 1987.</p> <p>The matter may be laid before the Hon'ble Member (A) for circulation before placing the same before the Hon'ble Court.</p> <p>Recd for circulation before the Hon'ble Member (A).</p> <p><u>[Signature]</u> for Section Officer</p>	<p>17.6.2005</p> <p>mb</p>	<p>Judgment delivered in app open Court, kept in separate sheets. The R.A. is dismissed. No costs.</p> <p><u>[Signature]</u> Member</p>

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24.6.05

Copy of the final
order has been
sent to the Office.
The istadaf 1st line
to the applicant
as well as to the
Respd No. 2 & 3.
by Post.

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CENTRAL ADMINISTRATIVE TRIBUNAL ::: GUWAHATI
BENCH.

Review Application No. 5 of 2005 (In O.A.137/2004)

DATE OF DECISION: 17-6-2005

Sri Chinmoy Das

APPLICANT(S)

Mr. A. Ahmed

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

None for the respondents

ADVOCATE FOR THE
RESPONDENT(S)

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

- NO
5. Whether Reporters of local papers may be allowed to see the judgment?
 6. To be referred to the Reporter or not?
 7. Whether their Lordships wish to see the fair copy of the judgment?
 8. Whether the judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Administrative Member.

6/10/05

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Review Application No. 5 of 2005.(In O.A.137/2004)

Date of Order: This, the 17th Day of June, 2005.

HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Chinmoy Das,
Son of Shri Chittaranjan Das,
Chowkidar (Casual Worker)
In the Office of the Anthropological
Survey of India, North East Regional Centre,
Mawblei Block-B, Madanrting, Shillong-79021. ... Applicant

By Advocate Sri Adil Ahmed.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India, Ministry of
Human Resource, New Delhi.

2. The Director,
Anthropological Survey of India,
27th Jawaharlal Nehru Marg,
Kolkata-16.

3. The Deputy Director,
Anthropological Survey of India,
North East Regional Centre,
Mawblei Block-B, Madanrting,
Shillong-793021. ... Respondents

ORDER

K.V.PRAHLADAN, MEMBER(A)

(aw)
This is a Review Application seeking a review of the orders in
O.A.137 of 2004. The grounds for review are that the applicant has worked
for more than 240/206 days in a year with the respondents giving him

artificial breaks after 89 days. Artificial break is not to be counted as per Apex Court judgments. O.A.137/2004 was dismissed with the following observations.

"He has not produced any document that he had worked continuously for 240/206 days in any financial year as on 10.9.1993 as per requirement in the DOPT O.M. dated 10.9.1993. So the applicant does not fulfill the basis requirement of the O.M. cited above. Therefore, the O.A. is liable to be dismissed and thus stands dismissed."

As per the requirement of the DOPT Scheme of 10.9.1993:

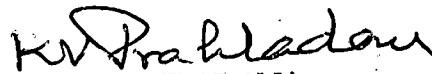
"Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week)."

The applicant has not fulfilled the condition required for grant of temporary status.

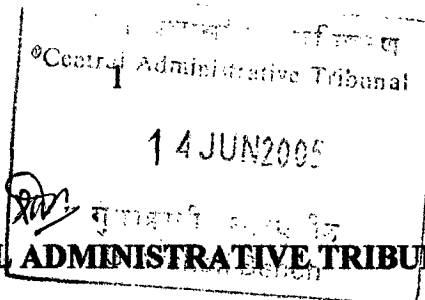
In Sow. Chandra Kanta and another v. Sheik Habib (AIR 1975 SC 1500), the Apex Court has observed:

"A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility."

In the judgment of the Tribunal cited above, the review applicant has not pointed out any glaring omission, patent mistake or grave error. Therefore, the Review application is liable to be dismissed and is dismissed. No costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.



Filed by
Shri Chinmoy Das
Applicant
through [Signature]
(ABUL AHMED)
Advocate

REVIEW APPLICATION NO. 5 OF 2005
IN ORIGINAL APPLICATION NO.137 OF 2004.

Shri Chinmoy Das

...Applicants

-Versus-

The Union of India & Others

...Respondents

IN THE MATTER OF :

An Application under Clause (f) of Sub-Section (3) read with Sub-Section (1) of Section 22 of the Administrative Tribunal Act, 1985 read with Rule 17 of the Central Administrative Tribunal (Procedure) Rule, 1987.

-AND-

IN THE MATTER OF

Shri Chinmoy Das

Son of Shri Cittaranjan Das

Chowkidar (Casual Worker)

in the Office of the Anthropological

Survey of India, North East Regional Centre,

Mawblei Block-B, Madanring, Shillong-793021.

... Review Applicants/Applicants

-VERSUS-

1. The Union of India represented by the Secretary to the Government of India, Ministry Of Human Resource, New Delhi.
2. The Director, Anthropological Survey of India, 27th Jawaharlal Nehru Marg, Kolkata-16.
3. The Deputy Director, Anthropological Survey of India, North East Regional Centre, Mawblei Block-B, Madanring, Shillong-793021.

... Opposite Parties/Respondents

The Review Applicants/Applicants above named

Chinmoy Das

MOST RESPECTFULLY SHEWETH:

1) That the Review Applicants/Applicants had filed an Original Application No.137 of 2004 before this Hon'ble Tribunal for regularisation of his service in Group-D post. The Hon'ble Tribunal finally heard the matter and reserved the Judgment and Order. The Hon'ble Tribunal finally passed the Judgment and Order on 12th April 2005. The said Judgment Copy was sent to the Instant Review Applicants/Applicants by the Registry of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati vide Despatch No.CAT/GHY/JUDL/686 Dated Guwahati the 09-05-2005 which was received by the Applicant on 17-05-2005. The Hon'ble Tribunal vide its Judgment dismissed the said Original Application.

Annexure-A is the photocopy of the Judgment and Order dated 12-04-2005 passed by this Hon'ble Tribunal in O.A.No.137 of 2004.

2) That your Review Applicant begs to state that the Hon'ble Tribunal Judgment and Order dated 12-04-2005 there are error apparent on the face of the record. The Opposite Parties/Respondents in their written statement Paragaraph-3 have only stated that the Applicant is engaged for a prescribed of a maximum 89 days at a stretch. They have not refuted the contention of the Applicant that he is working for more than 12 years as a casual worker. It is admitted that the Applicant was given one-day artificial break hence he is allowed to work 89 days in documents by giving one-day break i.e. total 90 days. The Hon'ble Supreme Court in several cases held that the artificial break given by the authority will not affect the claim of regularization of the persons who are continuously working in an organisation.

3) The Hon'ble Tribunal Judgment and Order dated 12th April 2005 in O.A.No.137 of 2004 it has been stated that the Applicant has worked only 89 days from 18-09-1992 to 15-12-2002 and the Applicant has not produced full document to prove that he was working continuously for 12 years since 1992. But in the O.A.No.137 of 2004 it has been clearly stated by the Applicant in Paragraph 4.2 that some of the appointment letter of the Applicant was annexed as Annexure-A to A5.

4) That the Judgment and Order dated 12-04-2005 of the Hon'ble Tribunal was passed without proper placing of all the records by the Respondents and

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also without going through the vital points of law and important facts with the provision of law. If the said Judgment dated 12-04-2005 is not reviewed on the basis of law/Rules the Instant Review Applicants/Applicants will suffer irreparable loss and injury.

5) That being highly aggrieved the Review Applicants/Applicants has filed this Review Application before this Hon'ble Tribunal for seeking review of the aforesaid Judgment on the following amongst grounds: -

6)

- G R O U N D S -

6.1) For that the Opposite Parties/Respondents have not disputed that the Applicant is continuously for 12 years. Hence this Application for Review of the Judgment & Order dated 12-04-2005 passed by this Hon'ble Tribunal.

6.2) For that the Applicant has not worked for 89 days from 18-09-1992 to 15-12-2002. The Applicant has worked more than 240/206 days in a year. But the Respondents have only given artificial break to his service after 89 days. Hence this Application for Review of the Judgment & Order dated 12-04-2005 passed by this Hon'ble Tribunal.

6.3) For that it is well settled by the Hon'ble Supreme Court of India that artificial break should not be counted for regularization of service of the casual worker. Hence this Application for Review of the Judgment & Order dated 12-04-2005 passed by this Hon'ble Tribunal.

6.4) For that in any view of the above facts and circumstances and the provisions of law the Judgment dated 12-04-2005 passed by this Hon'ble Tribunal may kindly be reviewed.

6.5) For that the Review Applicants/Applicants state that the Grounds details above are good grounds of the Review both on Legal and Factual aspects and if the Hon'ble Tribunal did not exercise power of review then the Review Applicants/Applicants will suffer irreparable loss and injury.

In the premises aforesaid it is respectfully prayed that your Lordship may

be pleased to admit this Review Application and may be pleased to review the Judgment dated 12-04-2005 passed by this Hon'ble Tribunal in Original Application No.137 of 2004 and also may be pleased to grant the relief/reliefs as prayed for by the Review Applicants/Applicants and/or a passed such further order/orders as your Lordship deem fit and proper.

-AND-

Further it is also prayed your Lordship may be pleased to stay the Judgment and Order dated 12-04-2005 passed in O.A.No.137 of 2004 till the disposal of this Review Application.

And for this act of kindness the Review Applicants/Applicants as in duty bound shall ever pray.

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- AFFIDAVIT -

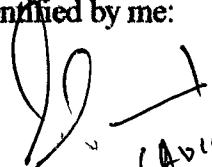
I, Shri Chinmoy Das, Son of Shri Cittaranjan Das, aged about 32 years, Chowkidar (Casual Worker) in the office of the Anthropological Survey of India, North East Regional Centre, Mawblei Block-B, Madanrting, Shillong-21 do hereby solemnly affirm and state as follows:

1) That I am the Applicant in O.A.No. 137 of 2004 and also the Petitioner of the instant Review Application and as such I am acquainted with the facts and circumstances of the case and I swear this affidavit as follows:

2) That the contents of this affidavit and the statements made in paragraphs 2, 3, 4 of the above petition are true to my knowledge and those made in paragraphs 1 are being matters of records derived there from I better to be true and those made in the rests are my humble submissions before this Hon'ble Tribunal.


I sign this affidavit on this the 13th day of June 2005 at Guwahati.

Identified by me:


(Adil Ahmed)
Advocate

Chinmoy Das

Solemnly affirmed before me
by the Deponent who is identified by
Mr. Adil Ahmed, Advocate.


13/6/05
Advocate

BY POST/BY HAND

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Applicant

DESPATCH NO. CAT/CAY/JUDL/ 686 DATED GUWAHATI THE 9-5-05

✓ ORIGINAL APPLICATION NO. 137 ... /200 4

MISC. PETITION NO. _____ /200

CONTEMPT PETITION NO. _____ /200

REVIEW APPLICATION NO. _____ /200

Sri Chinmoy Das

APPLICANT(S)

VERSUS

U.O.I. WOPS

RESPONDENT(S)

TO

Sri Chinmoy Das
S/o Sri Cittaranjan Das,
O/o The Anthropological Survey of India,
NE, Regional Centre
Mawblee Block-B, Madanriting,
Shillong - 793021

Please find herewith a copy of Judgment/Order dated 12.4.2005
passed by the Bench of this Hon'ble Tribunal comprising of Hon'ble Justice Sri _____ Vice-Chairman and
Hon'ble Sri K. V. Prahladan Member (Admn.) in the above
noted case for information and necessary action, if any.

Please acknowledge the receipt of the same.

Encls : As above.
(Copy of the O.A. No. _____)

Memo No. _____

Dtd. _____

Copy for information to :

1. Mr./Mrs. _____
2. Mr./Mrs. _____

By Order

SECTION OFFICER (J)

ORIGINAL APPLICATION NO.137 OF 2004.

Date of Order: This, the 12th Day of April, 2005.

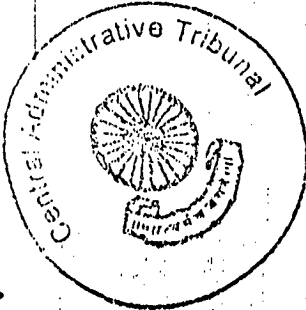
HON'BLE MR.K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Chinnmoy Das
Son of Shri Cittaranjan Das
Chowkidar (Casual Worker)
in the Office of the
Anthropological Survey of India
North East Regional Centre
Mawblei Block-B, Madanring
Shillong - 793 021.

..... Applicant.

By Advocate Mr.A.Ahmed.

- Versus -

- 
1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Human Resource
New Delhi-1.
 2. The Director
Anthropological Survey of India
27th Jawaharlal Nehru Marg
Kolkata - 16.
 3. The Deputy Director
Anthropological Survey of India
North East Regional Centre
Mawblei Block-B, Madanring
Shillong-793021.

..... Respondents.

None appeared for the Respondents.

ORDER

K.V.PRAHLADAN, MEMBER(A):

This application has been filed by the applicant seeking regularization of his service in the Group 'D' post with all consequential benefits with effect from

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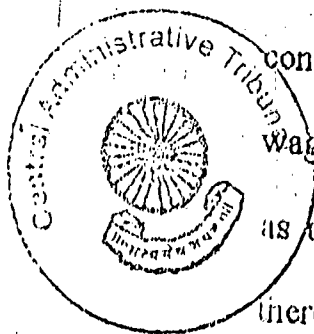
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1992. He had joined respondent no.3 as a chowkider in 1992. The applicant claims that he has worked more than twelve years under respondent no.3 continuously. The applicant claimed that one Mr.D.Barik was recruited as a casual labourer in 1995-1996 and later regularized against a Group 'D' vacancy. The applicant has prayed that a direction be issued by this Tribunal to regularize his service in a Group 'D' post with retrospective effect with all consequential benefits.

2. The respondents claim that the applicant was recruited as a chowkider for 89 days from 18.9.1992 to 15.12.2002 after which he was disengaged. The applicant had been on 'No Work No Pay' basis as and when required. He is a contingent paid worker and is therefore not eligible for any benefits other than wages as per Govt. of India rules. As the applicant is engaged on a contract basis as and when required after which his services used to be terminated and is therefore not entitled to regularization as per the DOP&T Scheme of 1993. With reference to the claim of the applicant that one Mr. D. Barik junior to him has been recruited as a casual worker and later regularized. The respondents have stated that Mr. Barik was working as a casual worker from 1989. He was recruited from the Employment Exchange in September, 1993. Since he had fulfilled all the required conditions, he was regularized.

3. I have heard Mr.A.Ahmed, learned counsel for the applicant. The applicant claims that he has worked continuously for 12 years from 1992. But he has not produced any document to support such any document to support such a claim. The documents he has produced at Annexures A1 to A5 show the applicant was engaged occasionally and irregularly. He has not produced any document that he had worked continuously for 240/206 days in any financial year as on 10.9.1993 as per requirement in the DOPT O.M. dated 10.9.1993. So the applicant does not

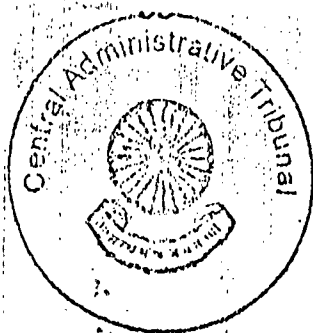


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fulfill the basic requirement of the O.M. cited above. Therefore, the O.A. is liable to be dismissed and thus stands dismissed.

4. No order as to costs.

Sd/MEMBER (A)



TRUE COPY
प्रतिप्रति

N. S. Singh
6.5.05
Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati 781 005

KS
6/5/05