

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

1. ORIGINAL APPLICATION No : ----- / 2009
2. Transfer Application No : ----- / 2009 in O.A. No. -----
3. Misc. Petition No : ----- / 2009 in O.A. No. -----
4. Contempt Petition No : 10 / ~~2010~~ in R.A. No. 1/06
5. Review Application No : ----- / 2009 in O.A. No. -----
6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Kulen Barman

Respondent (S) : K.K. Basa & ans

Advocate for the : S. Sarma, H.K. Das
{Applicant (S)}

Advocate for the : CGSE
{Respondent (S)}

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt petition has been filed by the counsel w/s 17 of the CAT Act, 1985 for drawing up contempt proceedings against the contemnors for their wilful and deliberate violation of the judgement and order dated 25.3.09 passed in R.A. No. 1/06 by this Honble Tribunal.</p>	25.03.2010	List before the Division Bench on 29.03.2010.
	/pb/ 29.03.2010	On the prayer of proxy counsel, adjourned to 30.03.2010.
<p>Laid before the Honble Court for further orders.</p> <p style="text-align: right;"><u>Section Officer</u></p>	30.03.2010	Alleging non compliance of direction contained vide order dated 25.3.2009 in R.A.1/2006 (O.A.102/2004), present Contempt Petition has been filed.
		<p>(Madan Kumar Chaturvedi) Member (A)</p> <p>(Mukesh Kuma Gupta) Member (J)</p>

C.P. 10/2010

30.03.2010

Prima facie contempt is made out.
Notice limited to respondent No.2 be issued.
Returnable on 5.5.2010.

✓
23-4-2010
Copies of orders
along with CNs dated
30-3-2010 prepared
and sent to the J/Sdcom
for issuing via R. NO.2
by Regd Post with AD
vide memo - 907
dated - 23/4/10


(Madan K. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pgl

→
Prima facie
05/05/2010
(New Point)

05.05.2010 Mr. C.S. Hazarika, learned counsel appearing for Mrs. M. Das, learned Sr. Standing Counsel for Respondents seeks and is allowed three weeks time to file compliance report.

List the matter on 08th June 2010.

Compliance report
not filed.

7.6.2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

08.06.2010

Alleging willful disobedience of the direction contained vide order dated 25.3.2009 in R.A.1/06 (O.A.102/04), present C.P was preferred. Initially O.A.102/04 had been dismissed vide order dated 31.5.05. Thereafter, applicant preferred R.A.1/06 stating that similarly situated persons have already been regularized pursuant to order dated 7.1.2009 passed by Hon'ble High Court in Writ Petition(c) No. 6517/2005. In such circumstances said R.A had been disposed of making following observations.

"If such a representation along with the aforesaid order of the Hon'ble High Court is received by the competent authority, the same shall be considered and disposed of by the competent authority by passing a reasoned and speaking order taking into account the grievances of the Applicant within a period of three months from the date of receipt of such representation. Be it noted that we have not passed any order on the merits of the R.A. With the aforesaid observations, the R.A is disposed of."

08.06.2010

An affidavit of respondent No.2 has been filed annexing a copy of order dated 4.6.2010, whereby reasoned and speaking order has been passed holding that applicant's case is not similar to the petitioners in Writ Petition (C) No.6517/2005, Shri Naresh Sarkar & another vs. Union of India & Ors. and consequently applicant's representation had been rejected.

On examination of the matter and upon hearing of parties we are satisfied that direction contained vide order dated 25.3.2009 in R.A.1/2006 have been complied with. Vide para 9 and 10 of the affidavit the deponent seeks condonation for unwillful delay in implementation of the order and also tendered unconditional apology. Accepting said apology and finding no contempt, C.P. is dismissed. Notices are discharged.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

24.8.2010

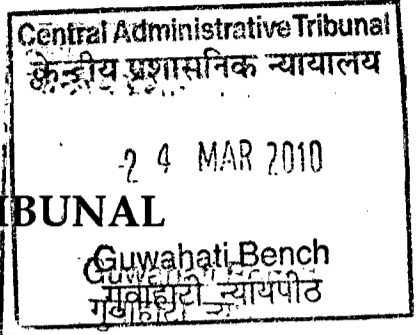
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Send to Mr ALS

for issuance

A - NO 2295
to 2097

A - 27-8-2010



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

C.P. No. 10 of 2010
In R.A. No. 1/06

Sri Kulen Barman ...PETITIONER

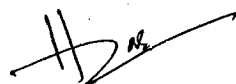
- Vs -

Sri K.K.Basa & Anr. ...CONTEMNORS

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Filed by


(Hridip Kumar Das)
Advocate

6

Filed by:
The Petitioner
Through
Hidayat U. Das,
Associate
23/3/10.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI::

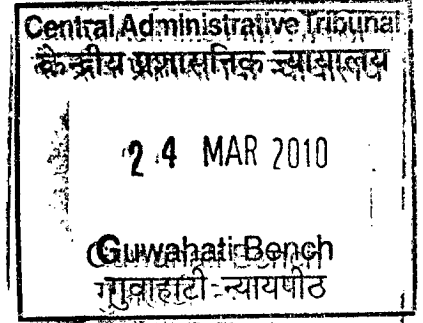
C.P.No. 10 of 2010

In R.A. No. 1/06

Sri Kulen Barman

-vs-

Union of India & Ors.



IN THE MATTER OF:

An application under Section 17 of the Central Administrative Tribunal Act' 1985 for drawing up contempt proceeding against the contemnors for their willful and deliberate violation of the judgment and order dated 25.03.09 passed in R.A. No. 1/06 by this Hon'ble Tribunal.

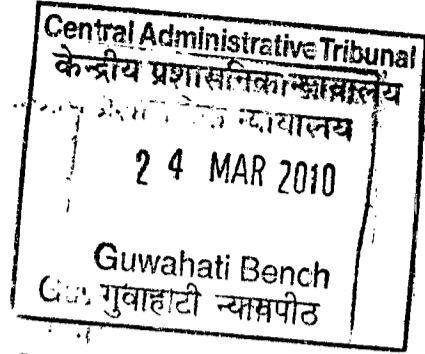
- AND -

IN THE MATTER OF:

An application praying for appropriate execution of the judgment and order dated 25.03.09 passed in R.A. No. 1/06 by the Hon'ble Tribunal invoking Rule 24 of the Central Administrative Tribunal (Procedure) Rules' 1987.

- AND -

Kulen Barman



IN THE MATTER OF:

Sri Kulen Barman,
S/o Late Bihu Ram Barman,
Resident of Village Bangnabari,
Barama, P.O. Barama, District- Nalbari,
Assam.

PETITIONER/APPLICANT

- VS -

1. Sri K.K.Basa,
The Director, Anthropological Survey of
India, North East Regional Centre,
Mawblei Block- B, Mandanrting, Shillong-
793021.

2. Dr. Rajendra Prasad Athparia,
The Deputy Director, Anthropological
Survey of India, North East Regional
Centre, Mawblei Block- B, Mandanrting,
Shillong- 793021.

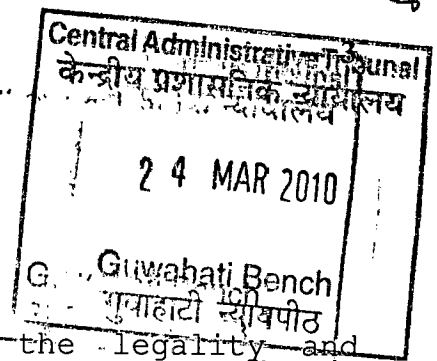
CONTEMNORS/RESPONDENTS

The humble petition on behalf of the petitioners above
named **MOST RESPECTFULLY SHEWETH:**

1. That the petitioner/applicant had approached the Hon'ble
Tribunal by way of filling O.A. No. 102/04 praying for grant
of temporary status under the Scheme of 1993 and consequent
regularization thereof. The Hon'ble Tribunal after hearing
the parties to the proceeding was pleased to pass an order
dated 31.05.05 dismissing the O.A.

A copy of the order dated 31.05.05 is
annexed herewith and marked as **ANNEXURE-**
1.

Kulen Barman

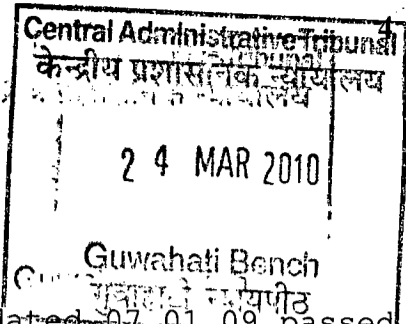


2. That being aggrieved and assailing the legality and validity of the order dated 31.05.05 the applicant approached the Hon'ble Gauhati High Court by way of filling WP(C) No. 8218/05. The Hon'ble High Court vide order dated 12.12.05 dispose of the writ petition remanding back the matter to the Tribunal directing the petitioner to file appropriate application incorporating the facts stated in the additional affidavit. Accordingly, the petitioner approached the Hon'ble Tribunal by way of filling Review Application No. 1/05 enclosing the additional affidavit which contains the entire details of his engagement under the respondents.

3. That similarly situated persons Sri Naresh Sarkar and Sri Sanjib Kumar, who were colleagues of the applicant under the respondents approached the Hon'ble Tribunal by way of filling O.A. No. 106/03 and the Hon'ble Tribunal vide order dated 24.02.04 directed the respondents to consider the case of the applicants therein as per the notification and Scheme promulgated by the Government [Annexure- 2 of R.A.]. The respondents while considering their cases issued order dated 31.05.04 rejecting their cases. Being aggrieved they approached the Hon'ble Tribunal again by way of filling O.A. No. 238/04 which was also dismissed by the Hon'ble Tribunal vide order dated 02.08.05.

4. That Sri Naresh Sarkar and Sri Sanjib Kumar who are similarly placed like the applicant thereafter approached the Hon'ble Gauhati High Court by way of filling WP(C) No. 6517/05 challenging the legality and validity of the order dated 02.08.05 passed in O.A. No. 238/04. The Hon'ble High Court after hearing the parties to the proceeding was pleased to pass an order dated 07.01.09 by which the writ petition No. 6517/05 was allowed directing the respondents to regularize the service of both the petitioners therein. It is stated that the aforesaid order dated 07.01.09 of the Hon'ble Gauhati High Court passed in WP(C) No. 6517/05 has attained its finality.

K. B. Buena



A copy of the order dated ~~07.01.09~~ passed in WP(C) No. 6517/05 is annexed herewith and marked as **ANNEXURE- 2**.

5. That the Review application No. 1/06 filed by the applicant came up for hearing before the Hon'ble Tribunal and the Hon'ble Tribunal was pleased to dispose of the R.A. vide order dated 25.03.09 directing the respondents to consider the case of the applicant vis-à-vis other similarly situated persons as per the order passed in WP(C) No. 6517/05 by disposing of his representation within a period of 3 (three) months from the date of receipt of such representation.

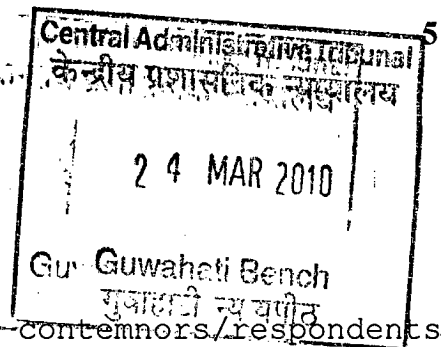
A copy of the order dated 25.03.09 passed in R.A. No. 1/06 is annexed herewith and marked as **ANNEXURE- 3**.

6. That immediately after passing of the order dated 25.03.09 the applicant submitted a representation dated 01.04.09 enclosing the copy of the order dated 07.01.09 passed in WP(C) No. 6517/05 (Sri Naresh Sarkar & Anr. -vs- U.O.I. & Ors.). However, the respondents having full knowledge of passing of the order dated 25.03.09 passed in R.A. No. 1/06 till date have done nothing either for granting similar benefit to the applicant causing clear willful and deliberate violation of the order of the Hon'ble Tribunal or implemented the order incurring contempt of Court proceeding.

A copy of the representation dated 01.04.09 is annexed herewith and marked as **ANNEXURE- 4**.

7. That the petitioner begs to state that the contemnors/respondents have full knowledge about the direction passed by the Hon'ble Tribunal in judgment and order dated 25.03.09 in R.A. No. 1/06. However, in spite of this the respondents have acted in a contemptuous manner and did not pass any order granting the similar benefit to the applicant not implemented the order of the Hon'ble Tribunal

Ruler Boman



which is a clear case of contempt. The contemnors/respondents by such action/inaction have shown complete disregard to the directive given by the Hon'ble Tribunal. The respondents for such inaction and willful and deliberate violation of the said order dated 25.03.09 made them liable to be punished under the Contempt of Courts Act.

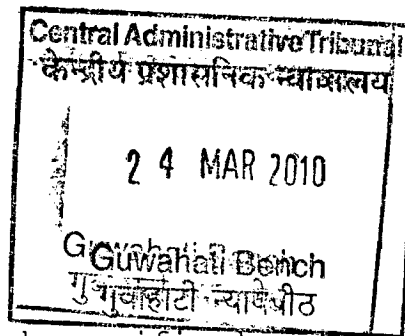
8. That the petitioner begs to state that the contemnors have acted in violation of the order dated 25.03.09 by not implementing the directions contained therein and denying similar benefit to the applicant. Hence, they are liable to be punished severely for their such action invoking the power under Section 17 of the Administrative Tribunal Act, 1985 read with provision under the Central Administrative Tribunal (Contempt of Court's) Rules, 1992 as well as the provisions contained in the Contempt of Court's Act' 1971.

9. That the respondents/contemnors have received the copy of the order dated 25.03.09 passed by the Hon'ble Tribunal in R.A. No. 1/06 as well as the representation dated 01.04.09 but in spite of that till date have not passed any order towards granting the similar benefits to the applicant. The respondents acted in a contemptuous manner and are liable to be punished severely for willful and deliberate violation of the order of the Hon'ble Court.

10. That the petitioner begs to state that the contemnors are top ranking officials of the Union of India with clear and specific knowledge about the sanctity of the Hon'ble Tribunal's order. As such they ought to have complied with the Hon'ble Tribunal's order and stopped the recovery. However, the inaction on the part of the contemnors/respondents amounts to willful contempt of the Hon'ble Tribunal's order and liable to be prosecuted.

11. That the petitioner begs to state that the respondent's willful disobedience of the direction given by this Hon'ble

Ruler Buzany



Tribunal of which they had full and specific knowledge have the effect of diminishing the authority and prestige of the this Hon'ble Tribunal in the minds of the public and is likely to disturb the confidence of the public in the unquestioned effectiveness of the order of the Hon'ble Tribunal. As such, the respondents/contemnors are liable to be punished for their disobedience of the Hon'ble Tribunal's order dated 25.03.09 passed in R.A. No. 1/06.

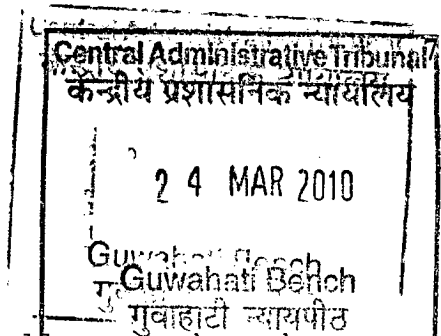
12. That the petitioner begs to state that the respondents are flouting with the order of the Hon'ble Tribunal only to malign the prestige of the Hon'ble Tribunal by willfully disregarding the said direction of this Hon'ble Court and as such are liable to be prosecuted under the Contempt of Courts Act' 1971 and be punished accordingly.

13. That the petitioner begs to state that the respondents/contemnors have not yet filed any writ petition against the order dated 25.03.09 and as such same has attained its finality. It is therefore, the respondents are bound to follow the said order dated 25.03.09 passed by this Hon'ble Tribunal in its true spirit. In case of any deviation from the said judgment it will amount to committing contempt of Court's order and for the same the contemnors are liable to be punished in accordance with law.

14. That the petitioner has filed this petition bonafide and secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to admit this petition, call for the records of the case and issue notices to the contemnors calling upon them to show cause as to why appropriate contempt

• *Kuldev Bhasin*

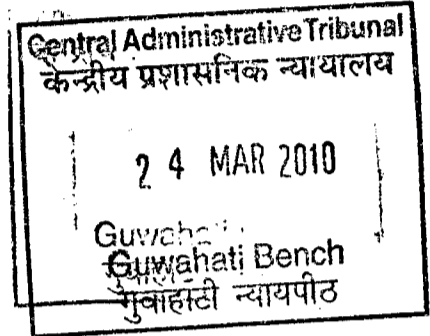


proceeding shall ~~not~~ be drawn up against them and punish them severely and after perusal of records and after hearing the parties on the cause or causes that may be shown, be further pleased to draw up appropriate contempt proceeding against each of the contemnors and to punish them severely for their willful and deliberate violation of the order dated 25.03.09 passed in R.A. No. 1/06 with a further direction to comply/implement the said order forthwith without further delay refunding all the recovery from salary of the petitioner and/or pass any such order/orders as may be deemed fit and proper considering the facts and circumstances of the case.

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

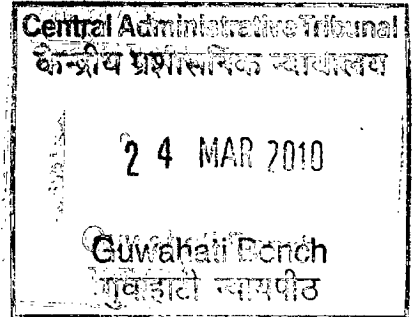
• *Kuldev Berman*

DRAFT CHARGE



Whereas 1. Sri K.K.Basa, The Director, Anthropological Survey of India, North East Regional Centre, Mawblei Block-B, Mandanrting, Shillong- 793021, 2. Dr. Rajendra Prasad Athparia, The Deputy Director, Anthropological Survey of India, North East Regional Centre, Mawblei Block- B, Mandanrting, Shillong- 793021, have willfully and deliberately violated the order dated 25.03.09 passed in R.A. No. 1/06, by this Hon'ble Tribunal and as such they are liable to be punished severely for committing contempt of Court's order.

Kuldeep Kumar

AFFIDAVIT

I, Sri Kulen Barman, S/o Late Bihu Ram Barman, Resident of Village Bangnabari, Barama, P.O. Barama, District- Nalbari, Assam, do hereby solemnly affirm and state as follows:

1. That I am the petitioner in the instant contempt petition. I am well conversant with the facts and circumstances of the case and as such I am competent to swear this affidavit.
2. That the statements made in this petition in paragraphs 7, 8, 9, 10, 11, 12, and 13 are true to my knowledge and those made paragraphs 1, 2, 3, 4, 5, and 6 being matters of records are true to my information derived there from and also contains information to the best of my knowledge. The rest are my humble submissions before this Hon'ble Court.
3. The Annexures are true copies of their originals and I have not suppressed any material facts.

And, I sign this affidavit on this the 22nd day of March, 2010.

Identified by me

Kulen Barman

DEPONENT

Advocate

Sworn/ solemnly affirmed before me on
this the ____ day of March'10.

Puram Jyoti Das

SIGNATURE

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 102 of 2004.

Date of Order: This the 31st day of May, 2005.

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

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

Shri Kuleu Barman,
Son of Late Bihu Ram Barman,
Chowkidar (Casual worker)
In the office of the
Anthropological Survey of India,
North East Regional Centre,
Mawblei Block-B, Madaanting,
Shillong-793021.

... Applicant

By Advocate Mr A. Ahmed

- Versus -

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

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

2. The Deputy Director,
Anthropological Survey of India,
North Eastern Regional Centre,
Mawblei Block-B, Mandanting,
Shillong-793021.

..... Respondents

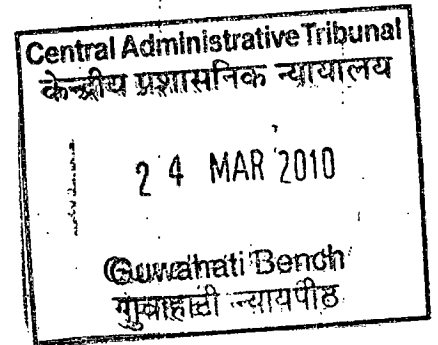
By Mr M.U. Ahmed, Addl.C.G.S.C.

ORDER

SIVARAJAN J. (V.C)

This application is for regularization of service of the applicant with effect from the date of his joining and pay him all the consequential service benefits including seniority with retrospective effect. The applicant claims that he was appointed as casual worker

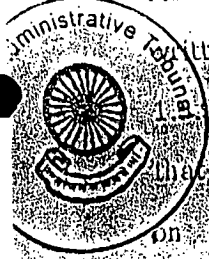
Ahmed
Advocate



under the respondents in the year 1989. After that he was appointed as Chowkidar on 1.4.1993 on casual basis and that till date he is working as Chowkidar under the respondent No. 3. The applicant has been working continuously for more than 15 years as a casual worker and he has acquired a legal right for regularization and regular pay scale of the Group 'D' post. The applicant claims that Sri Dasarath Barik was recruited by respondents on 1995 as a casual worker and he was regularised against Group D post under respondent No.2. Sri Barik was junior to the applicant. The applicant claims that since he had worked for a considerable long period under the respondents he is entitled to be regularised in Group D post.

2. The respondents claimed that the applicant was engaged as a daily wage labour from 1.5.93 to 23.7.93 for the first time. His services were terminated after expiry of 89 days (Annexure-1 to the written statement). He was engaged for no work no pay basis since 1.9.93 as and when required. Therefore, the claim of the applicant that he was engaged continuously for more than 15 years is not based on facts. The claim of the applicant was considered by the respondents in terms of judgment in O.A.106/2003, but he was not found eligible as per the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1993 of Government of India which came into effect from 1.9.1993. The claim of the applicant regarding Sri Dasarath Barik is not based on any facts. Sri Dasarath Barik had fulfilled all criteria for regularization under the Scheme. The applicant is not entitled for regularization as per the existing rules issued by the Government of India.

3. Heard Mr A. Ahmed, learned counsel for the applicant and Mr M.U. Ahmed, learned Addl.C.G.S.C for the respondents. The applicant



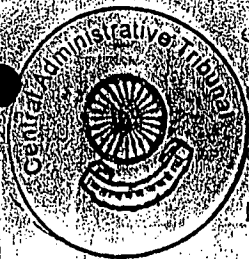
Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायालय
 24 MAR 2010
 Guwahati Bench
 गुवाहाटी न्यायपीठ

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has not been able to substantiate his claim that he had worked under the respondents for more than 15 years. As per Annexures A, A-1, A-2, A-3, A-4, A-5, A-6, A-7 and A-8, the applicant had worked for period of approximately 170 days in 1994, 30 days in 1997, 30 days in 1998, 18 days in 1999, 25 days in 2000, 26 days in 2001, 24 days in 2002 and 26 days in 2003. As per Annexure-1 to the written statement the applicant had worked for 89 days from 1.5.1993 to 28.7.1993. As per the scheme of 1993, Group D post is restricted to casual workers with temporary status and regular Group D tender surplus. For temporary status the casual worker should have been in continuous service at least for 240 days (206 days in case of office observing 5 days a week) on the date in which the above scheme came into effect i.e. 1.9.1993.

The applicant had neither completed the required number of days nor he was in employment on 1.9.1993. Since the applicant is not even eligible for temporary status, therefore the question of his appointment to regular Group D post does not arise. The applicant does not fulfill the eligibility criteria neither for temporary status nor for selection to the post of Group D.

Therefore, the application is liable to be dismissed and stands dismissed. No order as to costs.



Central Administrative Tribunal
 केंद्रीय प्रशासनिक न्यायालय
 24 MAR 2010
 Guwahati Bench
 गुवाहाटी न्यायापीठ

SD- Vice Chairman
 SD- Member (A)

Certified to be true copy
 प्रमाणित प्रतिलिपि

[Signature]
 13.6.05
 Section Officer (J)
 C.A.T. GUWAHATI BENCH
 Guwahati-781005
[Signature]
 13/6

प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोटोकॉपी की आवश्यक संख्या सूचित करने की तिथि Date fixed for notifying the requisite number of stamps and folios.	अवशित स्टाम्प और फोटोकॉपी देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant.
25/3/09	25/3/09	25/3/09	25/3/09	25/3/09

Mizoram & Arunachal Pradesh

CIVIL APPELLATE SIDE

ANNEXURE - 2

-13-

Appeal from _____
Civil Rule

WP(c) No. 6517 of 2005

Appellant
Petitioner

Shri Nareesh Sarkar and ans

Versus

Central Administrative Tribunal and ors

Appellant Mr. A. M. Mazumdar Sr. Adv.
 For Mr. S. S. Dey
 Petitioner Mr. M. Nath
 Mr. D. P. Borah
 Respondent Mrs. M. Laskar
 For Opposite Party C. G. C. m. s. - Dakhara

Respondent
Opposite Party

Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायालय
 प्रत्येक प्रशासनिक न्यायालय
 24 MAR 2010
 Guwahati Bench
 गुवाहाटी न्यायपीठ

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Attorney
 Has
 A. D. S. S. S.

-AND-

IN THE MATTER OF :-

1. SHRI NARESH SARKAR

Son of Late G.C. Sarkar,

Casual Worker in the office of the
Anthropological Survey of India, North
Eastern Regional Centre, Mowblei,
Shillong-21, Meghalaya.

2. SHRI SAJIB KUMAR @ SANJEET

Son of Sri Jai Babu Rai,

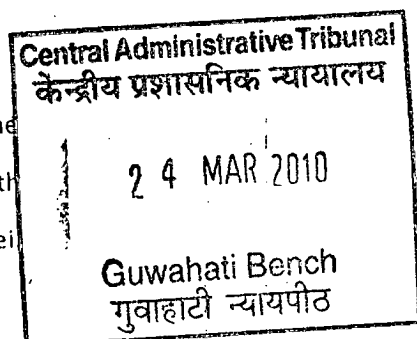
Casual Worker in the Office of the
Anthropological Survey of India, North
Eastern Regional Centre, Mowblei,
Shillong-21, Meghalaya.

(Both the petitioners having common
cause of action.)

.....PETITIONERS

-Versus-

1. The Central Administrative Tribunal,
Guwahati Bench, Represented by the
Registrar at Bhangagarh, Guwahati - 5.



Ed. H.
Representative of All India
Central High Court
Guwahati

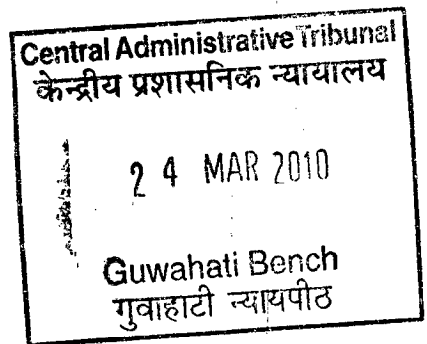
2. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Human
Resources, New Delhi - 1.

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

4. The Deputy Director,
Anthropological Survey of India,
Mowblei, Shillong-21, Meghalaya.

5. The Head of Office,
Anthropological Survey of India,
Ministry of Tourism and Culture,
Department of Culture,
27th Jawaharlal Nehru Marg,
Kolkata - 16.

.....RESPONDENTS



Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
<p style="text-align: center;">BEFORE HON'BLE THE CHIEF JUSTICE MR J CHELAMESWAR HON'BLE MR JUSTICE CR SARMA</p> <p><u>07-01-2009</u> (Chelameswar, C.)</p> <p>Aggrieved by a judgment of the Central Administrative Tribunal, Guwahati Bench in OA No.238/2004 dated 2-8-2005 whereby the application was dismissed the unsuccessful petitioners therein preferred the present application.</p> <p>The case of the two petitioners before the Tribunal and this court is that the first petitioner was engaged temporarily on 4-12-92 and the second petitioner on 22-12-94 on casual basis as daily wage employees with the respondents. Admittedly both of them are being continued as such even as on today, that is, for a period of almost 16 and 14 years (approximately) respectively.</p> <p>The petitioners approached the Tribunal <u>earlier</u> by OA No.106/03 seeking regularization of their services in terms of a scheme known as DoPT Scheme which came into force w.e.f. 1-9-93. The Tribunal by its order 24-2-04 directed the respondents hereinto consider the case of the petitioners for regularization in terms of the above mentioned scheme.</p> <p>The respondents by their proceedings dated 31-5-04 rejected the claims of the petitioners on the ground that the petitioners did not qualify for the regularization in terms of the above mentioned scheme. Challenging the said order dated 31-5-04 the petitioners again approached the Tribunal by the instant OA No.238/04 which was dismissed by the order under challenged in the present writ petition.</p> <p>The Tribunal eventually rejected the case of the petitioners on the ground that they could not produce any document establishing that they had put in the requisite length of service contemplated by</p>			<p style="text-align: center;">WP(C) NO.6517/2005</p>

Admitted

D

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 MAR 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
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the DoPT Scheme and, therefore, declined the relief to the petitioners.

The petitioners in the Original Application made a categorical assertion that they had been in continuous service of the respondents ever since their date of initial engagement given earlier in this order.

The assertion made by the petitioners is not denied by the respondents either in the affidavit filed before the Tribunal or before this Court. On the other hand it is admitted that even as on today the services of the petitioners are still being utilized by the respondents. The above mentioned DoPT Scheme called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993" is declared to have come into force w.e.f. 1-9-93. It is further stated in the said scheme that the scheme is applicable to all those casual labourers employed by the Govt of India on the date of issuance of those orders. Clause 4 of the scheme reads as follows :

"4. Temporary Status - (i) 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)."

Rel. Ho

The case of the first petitioner, in our view, in view of the undisputed fact which we have already recorded earlier that he is in continuous employment of the respondents from 4-12-92, undisputedly is covered by the scheme and to call upon the petitioner to produce documentary evidence, in our view, is not necessary in view of the un rebutted statement of the first petitioner that he is in continuous employment from 4-12-92. The finding of the Tribunal to that extent was not justified in rejecting the case of the first petitioner.

Administrative
 न्यायालय
 24 MAR 2010
 Guwahati Bench
 गुवाहाटी न्यायपीठ

-6-

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
<p>Coming to the second petitioner, though the second petitioner's case could not be considered under the scheme, as he was not under the employment on the date of coming into force of the scheme, we are of the opinion that after extracting the work of an employee for a period of 14 years it would neither be consistent with the requirement of Article 14 of the Constitution nor the basic obligation of the State policy to terminate his services at this stage or at all that the second petitioner's services cannot be regularized on some technical ground though there is work available and a need to employ the petitioner for a period of 14 years.</p> <p>In the circumstances, the writ petition is allowed. The order under challenge is set aside. The respondents are directed to regularize the services of both the petitioners. In the circumstances, no costs.</p>			

*Sd/- C.R. Swarna
Judge*

*Sd/- J. Chelameswar
Chief Justice*

*SL-114562
dt-25/3/09*

CERTIFIED TO BE TRUE COPY
Date: *K. Sanyal Komal* 25/3/09
Superintendent (Copying Section)
Gauhati High Court
Authorised U/S 76, Act 1, 1872
Sd/-
25/3/09

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

7 4 MAR 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Review Application No.1 of 2006
(in O.A. No.102 of 2004)

Date of Order : This, the 25th day of March, 2009.

THE HON'BLE MR. A.K.GAUR, JUDICIAL MEMBER

THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

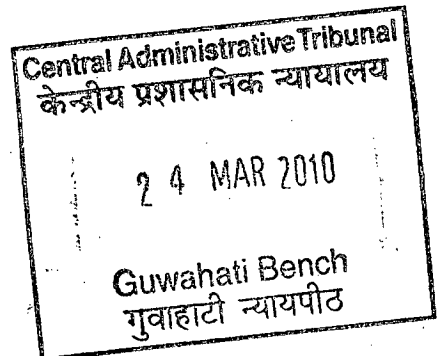
Sri Kulen Barman
S/o Late Bihu Ram Barman
Resident of Vill: Pub-Bangnabari
Barama, P.O: Barama
District: Nalbari, Assam.

...Applicant.

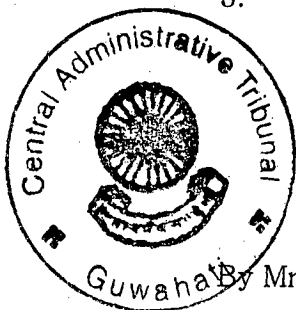
By Advocates: Mr.S.Sarma & Mrs.B.Devi.

- Versus -

1. The Union of India represented by the
by the Secretary to the Govt. 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, Mandanting
Shillong- 793 021.



... Respondents.



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

Attorneys
H.S.
Advocates

ORDER (ORAL)A.K.GAUR, MEMBER (J) :

We have heard Mr.H.K.Das, learned counsel for the Review Applicant and Mr.M.U.Ahmed, learned Addl.C.G.S.C. for the Respondents.

We do not find any error apparent on the face on the record. The Review Application is not legally maintainable. However, Mr.H.K.Das, learned counsel for the Review Applicant stated at the very outset that a number of similarly situated persons have already been regularised by the competent authority pursuant to the order dated 07.01.2009 passed by the Hon'ble Gauhati High Court in W.P.(C) No.6517/2005. the grievance of the Applicant might be redressed in case the Applicant is directed to file a fresh representation along with copy of the order passed by the Hon'ble High Court, within two weeks from the date of receipt of a copy of this order.

If such a representation along with the aforesaid order of the Hon'ble High Court is received by the competent authority, the same shall be considered and disposed of by the competent authority by passing a reasoned and speaking order taking into account the grievances of the Applicant within a period of three months from the date of receipt of such representation. Be it noted that we have not passed any order on the merits of the R.A.

With the aforesaid observations, the R.A. is disposed of.

TRUE COPY
प्रतिलिपि
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati-F

27/3/09

sd/- Member (J)
sd/- Member (A)
Central Administrative
केन्द्रीय प्रशासनिक
24 MAR 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

26

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

Subject:- Representation pursuant to the order dtd. 25th March, 2009 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in Review Application No. 1/06.

Reference:- 1) Order dated 25th March, 09 passed by the CAT, Guwahati Bench in R.A. No. 1/06.
2) Order dated 7th January, 09 passed by the Hon'ble Gauhati High Court, in WP (C) 6517/05 (Naresh Sarkar vs-U.O.I.)

Sir,

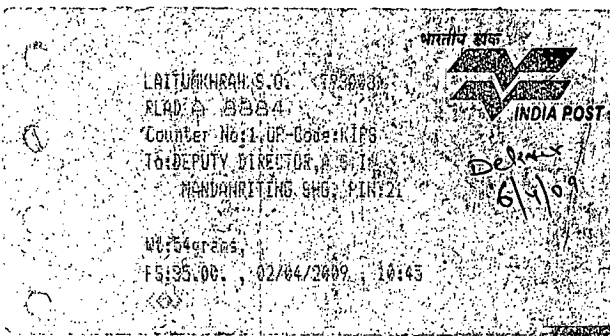
With due reference and profound submission I beg to lay the following few lines for your necessary action.

1. That Sir, claiming temporary status under the DOPT Scheme of 1993, I have approached the Hon'ble Central Administrative Tribunal, Guwahati Bench by way of filing R.A. 1/06.
2. That Sir, during the pendency of the aforesaid R.A. 1/06, similarly situated persons to me approached the Hon'ble Gauhati High Court by way of filing WP (C) 6517/05 (Sri Naresh Sarkar vs-U.O.I.). The Hon'ble High Court after hearing the matter at length allowed their case vide judgment and order dated 7.01.09 directing the respondents to regularise their services and accordingly their services are regularised under your organization (copy enclosed).
3. That Sir, on 25.03.09 when R.A. 1/06 came up before the Hon'ble Tribunal, the Hon'ble Tribunal after going through this order of the High Court dated 07.01.09 was pleased to give a direction to the respondents to consider my case for regularization in priority with Sri Naresh Sarkar's case because I am similarly situated to them within a period of 3 (three) months. (Copy enclosed)

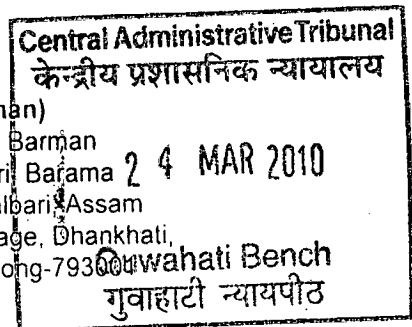
I therefore, request your Honour to regularise my service complying the judgment and order dated 25.03.09 passed in R.A. 1/06 by Hon'ble CAT, Guwahati Bench and order dated 7.01.09 passed in WP (C) 6517/05 by the Hon'ble Gauhati High Court.

Thanking you.

Sincerely Yours,



(Sri Kulen Barman)
S/O : Late Bihu Ram Barman
R.O. : Vill : Bangnabari, Barama
P.O. : Barama, Dist. : Nalbari, Assam
Presently R.O. : Dipu Cottage, Dhankhati,
Upper Laichumiar, Shillong-793021



Copy to :

1. The Secretary to the Govt. of India, Ministry of Human Resource, New Delhi.
2. The Deputy Director, Anthropological Survey of India, North East Regional Centre, Mawblei Block -B, Madarating, Shillong - 793021

Accepted
Hrs
Advocate