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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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dismissed commn order RA/10/04
and RA-11/04

O.A/T.A No. 183/2003
R.A/C.P No. 10/04
E.P/M.A No. 88/2003

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application : 183/03

Misc Petition No. : _____

Contempt Petition No : _____

Review Application No: _____

Applicants:- N. C. Das.

Respondents:- U.O.I Gom

Advocate for the Applicants:- M.C. Das, G.N. Chakraborty, S. Nath

Advocate for the Respondents:- CASE.

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form but not filed</p> <p>Rs. 50/- Divide 10/03</p> <p>Dated <u>4.8.03</u></p> <p>96157853</p> <p>bb</p> <p>By Registrar</p> <p>Steps taken alongwith envelops.</p> <p>13/8/03</p>	<p>14.8.2003</p> <p>12.9.2003</p>	<p>List the case on 12.9.2003 alongwith <u>M.P.88/2003.</u></p> <p>Vice-Chairman</p> <p>Present : The Hon'ble Sri K.V. Prahaladan, Member (A).</p> <p>List the matter again on 24.10.2003 alongwith <u>M.P. 88/2003.</u></p> <p>Member</p>
<p>Notice and order dated 12/9/03, alongwith the <u>MP</u></p> <p>X-Notice of MP 88/03 sent to D/S for issuing to the respondents.</p> <p><u>COAS</u> 15/10/03. D/No-2119 to 2123</p>	<p>mb</p> <p>24.10.03</p>	<p>To be listed alongwith <u>mp 88/03</u> on 27.10.03.</p> <p>870</p>

27.10.2003 List the matter on 28.10.2003
for admission alongwith M.P.88/03.

KV Pralhadan
Member

mb

28.10.03 Application is admitted. Call for
the records.

List on 3.12.03 for written
statement and order.

Vice-Chairman

No. written statement
has been filed.

25
25.12.03.

pg

16.12. 03 List on 27.1.04 for hearing. In
the meantime the respondents may file
written statement, if any.

KV Pralhadan
Member

No. Wks has been
filed.

16
16.2.04

pg

17.2.2004 Respondents are directed to file
written statement within four weeks.
The case is adjourned accordingly. List
the case on 22.3.2004 for hearing.

KV Pralhadan
Member

No. Wks has been
filed.

19
19.3.04

bb

22.3.2004 On the plea of learned counsel for the
respondents the case is adjourned. List on
5.4.2004 for hearing.

KV Pralhadan
Member (A)

No. Wks has been
filed.

2
2.4.04

mb

5.4.04

Adjourned. List for
hearing on 26.4.04.

B/o

5.4.2004 On the prayer of counsel for the respondents the case is adjourned for two weeks. List on 26.4.2004 for hearing.

K. V. Prasad
Member (A)

mb

6.4.04
w/s submitted
by the Respondents.

26.4.2004 Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

K. V. Prasad
Member

nkm

30.9.04
Copy of the
Judgment has been
sent to the D/Sec.
for issuing the
same to the applicant
as well as to the
D.C.G.S.C. for the
Respond.

By 30/3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.182 of 2003

And

Original Application No.183 of 2003

Date of decision: This the 26th day of April 2004

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

O.A.NO.182/2003

Shri Manindra Chandra Nath
Village- Kankalash, P.O. Bhangabazar,
District- Karimganj (Assam).

.....Applicant

By Advocates Mr M. Chanda,
Mr G.N. Chakraborty and Mr S. Nath.

- versus -

1. The Union of India, through the
Secretar, Ministry of Communication,
Department of Telecommunication,
New Delhi.
 2. Bharat Sanchar Nigam Limited
Represented by the General Manager,
Assam Circle, Department of Telecommunication,
Government of India,
Ulubari, Guwahati.
 3. The General Manager, Telecom,
Silchar SSA, Department of Telecommuication,
Silchar, Assam.
 4. Sub Divisional Officer, Telecom,
Department of Telecommunication,
Karimganj.
 5. Divisional Engineer (P & A)
Office of the General Manager,
Bharat Sanchar Nigam Limited,
Silchar.
- By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

O.A.No.183/2003

Shri Niranjana Chandra Das
S/o of Shri Sujit Ram Das
Village- Patharkandi, P.O. Mahakal,
District- Karimganj (Assam).

.....Applicant

- versus -

1. The Union of India, through the
Secretary, Ministry of Communication,
Department of Telecommunication,
New Delhi.
2. Bharat Sanchar Nigam Limited
Represented by the General Manager,
Assam Circle, Department of Telecommunication,
Government of India,
Ulubari, Guwahati.

3. The General Manager
Telecom, Silchar SSA,
Department of Telecommunication,
Silchar, Assam.
4. Sub Divisional Officer, Telecom
Department of Telecommunication,
Karimganj.
5. Divisional Engineer (P & A)
Office of the General Manager,
Bharat Sanchar Nigam Limited,
Silchar.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

/ / / / / / / / / /

O R D E R (ORAL)

K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

Both the O.A.s are taken up for hearing together since similar facts and common questions of law are involved.

2. The applicants were provisionally approved for grant of temporary status by letter dated 23.12.1997 (Annexure-III). By order dated 29.6.1998 (Annexure-IV) the respondents cancelled the temporary status conferred on the applicants. Thereafter the applicants through the All India Telecom Employees Union Line Staff Group 'D' moved this Tribunal by way of O.A.No.141 of 1998. The Tribunal vide interim order dated 2.7.1998 directed the respondents not to disengage the applicants and allow them to continue in service. The respondents by order dated 26.9.2000 informed the applicants that the applicants did not fulfil the eligibility criteria having not completed 240 days of work preceding 1.8.1998 and also they were not in engagement as on 1.8.1998 and therefore they could not be considered for grant of temporary status. Hence the two applications.

X

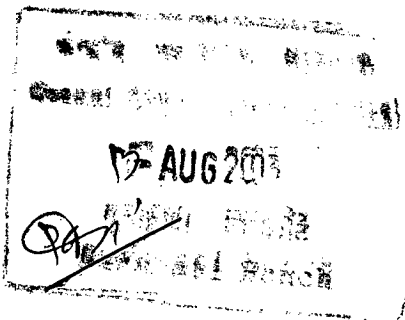
3. It is not certain whether the applicants were in service from 2.7.1998, the date on which the Tribunal passed the interim order in O.A.No.141/1998, to 26.9.2000 when the representations of the applicants were disposed of by the respondents. From the materials furnished it is not clear whether the applicants were in service during the aforementioned period.

4. I have heard Mr M. Chanda, learned counsel for the applicants and also Mr A. Deb Roy, learned Sr. C.G.S.C. appearing on behalf of the respondents.

5. On hearing the learned counsel for the parties and on perusal of the records I dispose of these two applications with a direction to the applicants to submit a representation to the respondents stating all facts about their engagement upto 26.9.2000 within ten days from the date of receipt of this order. If such representation is filed within the period prescribed the respondents shall consider the same and pass a reasoned and speaking order within four months from the date of receipt of such representation.

The two O.A.s are accordingly disposed of. There shall, however, be no order as to costs.

Sd/MEMBER(ADM)



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

'GUWAHATI BENCH: GUWAHATI

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

O.A. No. 183 /2003

Sri Niranjana Chandra Das.

-VS-

Union of India & Ors.

DATES

SYNOPSIS OF THE PARTICULARS

- 01.03.1988- The applicant was initially engaged as casual worker along with others in the Telecommunication Department (now BSNL) in the office of the Respondent No.1 since 1988.
- 08.12.1995- The case for granting of Temporary status was awarded to the Telecom Divisional Engineer, Silchar by the then Sub Divisional Engineer, RATHERKANDI.
- 04.03.1996- That it is stated that the applicant was granted temporary status after the approval in the minutes of LJCM held on 4.3.1996. The said Meeting was held on 4.3.96, 13.3.96, 20.8.96, 14.2.97, 27.6.97, 22.7.97, 22.9.1997 and 24.12.97.
- 15.12.1997- The applicant along with other similarly situated casual workers was granted temporary status provisionally.
- 22.12.1997- The Temporary Status of the applicant was confirmed with a direction that the

conferment of the Temporary status could be terminated at any time without assigning reason.

- 29.06.1998- Temporary status granted to the applicant was cancelled by the TDM, Silchar without assigning any reason.
- 02.07.1998- The applicant being highly aggrieved for cancellation of temporary status as well as disengagement from service approached this Hon'ble Tribunal through All India Telecom Employees Union Line staff and Group, which was registered as O.A. 141/98.
- 31.08.1999- The aforesaid O.A. was disposed of by this Hon'ble Tribunal on 31.8.99 with a direction to the respondents to examine the case of the applicant on merits within a period of six months.
- 25.10.1999- The applicant submitted the judgment and order through representation with a prayer to consider the case of the applicant for grant of Temporary Status in the light of the aforesaid judgment.
- 26.04.2000- The applicant was asked to appear before the scrutinizing committee on 3.5.2000 with all the relevant documents in view of the direction passed by this Hon'ble Tribunal.
- 26.09.2000- The applicant was informed that the scrutinizing committee had not found him eligible for conferment of temporary status through impugned letter bearing no. E-20/TSM regularization/SC/04 dated 26.04.2000.

24.08.2001-

Some of the similarly situated casual workers who were denied the grant of temporary status moved this Hon'ble Tribunal through O.A.No.28/2001 and this Hon'ble Tribunal directed the respondents to grant them the temporary status.

05.09.2001-

Being aggrieved by the order of rejection of the temporary status passed on 26.09.00 similarly situated casual workers namely; L.Rahaman, N.Dey, D.Sarkar and B.Das moved this Hon'ble Tribunal through O.A.No.332/2000 and this Hon'ble Tribunal set aside the impugned order dated 26.09.2000 with direction to consider the case of the applicants for conferment of temporary status.

12.03.2003-

The applicants of O.A.No.332/2000 were granted benefit of temporary status vide order dated 12.03.2003.

P R A Y E R

1. That the respondents be directed to grant temporary status to the applicant in the light of the judgment and order dated 24.8.2001 and also in terms of the order dated 5.9.2001 passed in O.A. No. 332/2000 with immediate effect.

2. That the applicant be declared entitled to grant of Temporary Status and regularisation and the respondents be accordingly directed to grant them the benefit of the scheme named as Casual Labourers (Grant of temporary Status and regularisation) Scheme of the Department of Telecommunication, 1989 with effect from the date as had been granted to him vide letter dated 15.12.1997, 16.12.1997 and 22.12.1997.
3. That the Hon'ble Tribunal be pleased to set aside the impugned order bearing letter No. E-20/TSM Regularisation/SC/04 dated 26.09.2000.
4. That the respondents be directed to allow the applicant to continue in service in terms of the interim order passed by the Hon'ble Tribunal on 2.7.1998 and in terms of the judgment and order 31.8.1999 and 30.3.2001 passed in O.A. No. 141/98 and in O.A. No. 332/2000 respectively till the benefit of temporary status and regularisation are granted to them in terms of the order dated 15.12.1997, and 22.12.1997 with retrospective effect.
5. That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to full back wages with effect from 30.6.1998 till the date of actual reinstatement.
6. Costs of the application.
7. Any other relief or relieves to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

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

Title of the case : O. A. No 183 /2003

Sri Niranjan Chandra Das : Applicant

- Versus -

Union of India & Others: Respondents.

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Date 13.08.03

Filed by
[Signature]
Advocate

Filed by the Applicant
Attorney:
Subrata Nath
Advocate
[Signature]
13.08.03

Niranjan Das

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 183 /2003

BETWEEN

Sri Niranjan Chandra Das

Son of Sri Sujit Ram Das

Village-Patharkandi , P.O. Mahakal

District-Karimganj (Assam).

...Petitioner

-versus-

1. The Union of India through the
Secretary, Ministry of Communication,
Assam Circle, Department of Telecommunication,
New Delhi.
2. Bharat Sanchar Nigam Limited
Represented by the General Manager,
Assam Circle, Department of Telecommunication,
Government of India, Ulubari, Guwahati.
3. The General Manager,
Telecom, Silchar SSA, Department of Telecommunications,
Silchar, Assam.
4. Sub Divisional Officer, Telecom
Department of Telecommunication,
Karimganj

Niranjan Das.

5. Divisional Engineer (P & A)
Office of the General Manager
Bharat Sanchar Nigam Limited
Silchar.

.....Respondents

DETAILS OF THE APPLICATION

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

This application is made praying for a direction upon the respondents for conferment of Temporary Status in the light of the direction passed by this Hon'ble Court in O.A. No. 141/1998 and also in the light of Judgment and order passed in O.A. No. 408/2000, O.A. No. 332/2000 which were filed by the other similarly situated casual workers and also against the impugned order dated 26.9.2000 issued by the General Manager, Telecom, Silchar, SSA rejecting the prayer of the applicant for grant of Temporary Status and further praying for a direction to the respondents for grant of Temporary Status with all consequential benefits at least with effect from the date of conferment of temporary status as has been granted to other similarly situated casual workers.

2. Jurisdiction of the Tribunal.

Niranjan Das

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

3. Limitation.

The applicant states that a separate application with the Original Application for condonation of delay has been filed before the Hon'ble Tribunal.

4. Facts of the Case.

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

4.2 That the petitioner was initially engaged as casual worker in the Telecommunication Department, Karimganj along with Dhirendra Sarkar, Birendra Das Lutfur Rahman and Nihar Dey along with some other similarly situated casual workers since 1st March 1988. Be it stated that the petitioner had also served under the aforesaid respondents even prior to March 1988. The case for conferment of Temporary Status of the applicant in fact forwarded to the Telecom Divisional Engineer, Silchar by the then Sub-Divisional Engineer, Silchar by the then Sub-Divisional Engineer, Karimganj vide its letter bearing No.E-119/PT-II/95-96 dated 8.12.1995, 10.7.1995 and in the said letter the detail particulars of the

Niranjan Das.

working days in respect of the present petitioner had been shown as follows :

Name	Date of engagement	Year	Total no. of working days.
Niranjan Ch. Das	01.03.88	1988	257
		1989	267
		1990	247
		1991	251
		1992	256
		1993	247
		1994	241
		1995	228

It is relevant to mention here that since March, 1988 the petitioner was continuously working under the respondents with all sincerity devotion and duty.

The petitioner along with others repeatedly approached the higher authorities for conferment of temporary status in terms of the casual labours (Grant of temporary Status and Regularisation) Scheme, 1989, wherein it is stated that a casual employee who have rendered continuous service of at least one year, out of which he should be engaged for a period of 240 days (206 days in the case of offices observing 5 days week), such casual labourers would be designated as Temporary Mazdoors and also entitled to conferment of Temporary Status without reference to the creation/availability of regular Group D post. The present applicant in fact had attained eligibility long back for conferment of Temporary Status in terms of the

Niranjan Das

aforesaid scheme as because he had rendered service for 240 days in each calendar year since his initial engagement as casual worker.

A copy of the letter dated 10.7.95/8.12.95 indicating the detail service particulars is enclosed herewith and marked as **Annexure-I**.

- 4.3 That your applicant further begs to state that the respondents constituted a committee for scrutiny and for conferment of Temporary Status to the casual workers under the supervision of high ranking officers of the Telecommunication department under TDM, Silchar. Be it stated that after detail scrutiny of service records of the applicant he was granted temporary status provisionally along with other similarly situated casual workers along with Dhirendra Sarkar, and Birendra Das vide letter bearing No. E-119/TSM/CM/97-98/33, dated 15.12.97 and also vide letter dated 22.12.1997 issued by the SDO, telegraph Karimganj. The same SDO again issued a letter bearing NO. E-119/TSM/CM/98-99/11 dated 29.06.98 regarding conferment of Temporary Status, wherein it is stated that such conferment of Temporary Status can be terminated at any time without assigning any reason. Surprisingly, the order of temporary status granted to the present applicant in pursuance of the TDM, Silchar letter bearing No. E-20/GRP-D/Rectt/98 dated 9.12.97 has been cancelled by the TDM Silchar vide his letter bearing No. X-11/TDM-SC/CM-Rectt/98-99/208 dated 27.06.98 and it is also stated that service of the

Niranjan Sar.

applicant is no longer required with effect from the forenoon of 29.06.98. Be it stated that no reason was assigned for cancellation of order of conferment of temporary status and on the face of it, the same appears to be extremely illegal and as such the order is void ab initio.

A copy of the letter dated 15.12.97, 22.12.97 and the order of cancellation dated 29.06.1998 indicating the detail service particulars is enclosed herewith and marked as **Annexure-II, III and IV** respectively.

- 4.4 That your applicant being highly aggrieved for cancellation of temporary status as well as disengagement from service approached this Hon'ble Tribunal through All India Telecom Employees' Union, line staff and Group-D and others by filing an application which was registered as O.A. 141 of 1998. The said Original Application came up for consideration before this Hon'ble Tribunal for admission on 02.07.98 and the Hon'ble Tribunal after hearing the parties was pleased to admit the said O.A. on 2.7.98 and was also pleased to issue show cause as to why the interim order as prayed for should not be granted and the notice made returnable by 4 weeks as an interim measure the Hon'ble Tribunal was also pleased to direct the respondents not to disengage the service of the applicant and further directed the respondents that the applicants of the said Original Application should be allowed to continue

in their service. The relevant portion of the order dated 2.7.1998 passed in O.A. No. 141/98 is quoted below:

" Heard Mr. B. K. Sharma, learned counsel appearing on behalf of the applicant and Mr. S. Ali, learned Sr. C.G.S.C. for the respondents.

Application is admitted. Mr. B. K. Sharma prays for an interim order not to discontinue the services of the applicant. Mr. S. Ali, has no instructions in the matter.

Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.

Meanwhile, the casual workers shall not be disengaged and the applicant shall be allowed to continue in their services."

The applicant immediately after obtaining the interim order had approached the respondents repeatedly for reinstatement in service and also submitted the order of the Hon'ble Tribunal passed in O.A. No.141/98 but surprisingly the respondents did not take any action in spite of the clear order passed by the Hon'ble Tribunal, which amounts to contempt of court. It is also pertinent to mention here that the above order had been passed in presence of Sr. C.G.S.C. who had also communicated the order of the Hon'ble Tribunal

Niranjan Das

and notices were also duly served upon the respondents by the Registry of the Hon'ble Tribunal. Therefore, inaction of the respondents in the instant case amounts to violation of the order of the Hon'ble Tribunal dated 2.7.1998 referred to above.

A copy of the order-dated 2.7.1998 is annexed as
Annexure - V.

- 4.5 That it is stated that the benefit of Temporary Status had been granted to the applicant after detail scrutiny of their service records and after finding them eligible/suitable for grant of temporary status. Therefore, they are covered by the terms and conditions laid down in the scheme to grant temporary status and regularisation. It is pertinent to mention here that the conferment of temporary status had also been approved in the minutes of LJCM held on 4.3.1996 in the Chamber of Telecom District Manager, Silchar. The said meeting was held on 4.3.1996, 13.6.1996, 29.8.1996, 14.2.1997, 27.6.1997, 22.7.1997, 22.9.1997 and 24.12.1997 and only thereafter the order of conferment of Temporary Status was passed by the Respondents in respect of the present applicant.
- 4.6 That it is stated that after receipt of temporary Status the applicant continuously worked till 29.6.1998 and which would be evident from the pay slips issued by the office of the Respondents, presently available with the respondents.

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A copy of the pay slip is annexed as Annexure-VI.

4.8 That it is categorically stated that after the interim order passed in 141 of 1998 the applicant regularly attended to the office but no work was allotted to him pursuant to the order dated 2.7.1998. But in terms of the interim order he has continued in service although no specific order of work is allotted and in the process he has continuously worked since 2.7.1998 till date. Be it stated that this period is also liable to be taken into consideration for the purpose of granting of temporary status. It is specifically stated that if the aforesaid period is taken into account the applicant would further be entitled to the temporary status.

4.9 That applicant beg to state that the O.A. No.141/98 the Respondents duly contested before the Hon'ble Tribunal and the Hon'ble Tribunal decided the same on 31.8.1999 with the following directions:

"In view of the above, we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicant may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in

Niranjan Das

consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs."

In terms of the above judgment and order of the Hon'ble Tribunal the applicant submitted representations along with the copy of the judgment and order passed in O.A. No.141/98 on 25.10.1999 i.e. within the time limit fixed by the Hon'ble Tribunal. In the said representation the applicant, inter alia, prayed for consideration of their case in the light of the judgment and order passed by the Hon'ble Tribunal referred to above. In this connection it may be stated that the interim order was granted in favour of the applicant on 2.7.998 in O.A. 141/98 has been continued for another 6 months w.e.f. 31.8.1999. Be it stated that the respondents even after the expiry of 6 months stipulated time granted by this Hon'ble Tribunal prayed for extension of time limit on number of occasions and in the process the respondent have consumed more than one year in addition to the 6 months time limit granted by this Hon'ble Tribunal and the interim order accordingly continued till such time and in the said process the applicant further attained eligibility for the grant of temporary status by rendering work for

Niranjan Sar

240 days in a particular calendar year and since January, 1998 he has also rendered 240 days work in the calendar year 1998, 1999, 2000 and 2001 either by virtue of the interim order or by the order of the temporary status granted by the respondent Union of India.

A copy of the order dated 31.8.1999 passed in O.A. 141/98 is annexed as **Annexure-VII**.

- 4.10 That the applicant state that it is relevant to mention here that after passing of the interim order dated 2.7.1998 the entire matter had been referred before the Directorate of Telecommunication, New Delhi by the office of the CGMT, Assam Circle and opinion was also sought regarding implementation of the Interim Order passed by the Hon'ble Tribunal in different cases of similar nature including the case of the present applicant in O.A. No. 141/98. However, it would be evident from the order of the respondent no. 2 issued under letter No. STES-21/160/26 dated 16.10.1998. It is stated in the said order, that it would be appropriate and beneficial to DOT that the labourers might be re-engaged and in case DOT wishes to dispense with their services then procedure under Section 25F of the Industrial Disputes Act might be adopted after re-engaging the casual labourers. It is relevant to mention here that the applicant came to know from a reliable source that the local authorities sent compliance report to the Directorate of the

Niranjan Das

Telecommunication in terms of the order dated 16.10.1998 but in fact the order of the Hon'ble Tribunal passed on 2.7.1998 directing the respondents to allow the applicant to continue in service had not been complied with in spite of the instruction passed by the Directorate of Telecommunication. Therefore, action of the respondents amounts to contempt of court. The Hon'ble Tribunal may, therefore, be pleased to declare that the applicant is still in service in terms of the Interim order passed on 2.7.1998 in O.A. No.141/98 and also in terms of the judgment and order passed by the Hon'ble Tribunal on 31.8.1999 wherein it was categorically ordered that interim order passed in any of the case should remain in force till the disposal of the representation of the applicant. It is categorically stated that although the applicant submitted their representation on 25.10.1999 in terms of the order dated 31.8.1999 but for a long time no communication were received, from the respondents regarding consideration of his case for grant of temporary status. However, applicant came to learn that his case for grant of temporary status has been rejected. The respondents are, therefore, liable to pay wages for the period with effect from 30.6.1998 till the formal order of reinstatement is passed by the respondents.

In view of the direction passed by this Hon'ble Tribunal in O.A. No. 141 of 1998, the present applicant was asked to appear before the Scrutinizing Committee

Niranjan Das

on 3.5.2000 with the relevant documents mentioned therein in the letter No. E-20/Scrutiny/CM/2000-2001/03 dated 26.04.2000. The applicant accordingly appeared before the Scrutinizing Committee with all relevant documents in terms of letter dated 26.04.2000 but most surprisingly the Scrutinizing Committee did not even feel like to go through the documents but after a perusal of the said documents at a glance, informed him that his interview is over. Surprisingly vide impugned letter bearing No. E-20/TSM regularization/SC/04 dated 26.9.2000 informed the applicant that the Committee after thorough scrutiny and examination of records submitted its report and according to the said report the present applicant is not found eligible for conferment of temporary status, even under one time relaxation scheme granted by the Telecom Commission vide order dated 12.2.1999. It is further stated in the impugned order dated 26.9.2000 that the applicant did not complete 240 days work in department of Telecom in any Calendar year, prior to 1.8.1998. Moreover it is also alleged that the applicant was not in engagement as on 1.8.1998, as such Committee did not recommend his name for conferment of Temporary Status. The above finding of the Scrutinizing Committee is contrary to the service records of the applicant. It is categorically submitted that the applicant completed 240 days work in each calendar year since his engagement in the year 1998. It is further submitted that applicant was very much in engagement on 1.8.1998

Niranjan Das

by virtue of the Hon'ble Tribunal's interim order/orders passed in O.A. 141/1998, which is also made absolute while disposing the Original Application No. 141/1998 with the condition that the interim order passed in O.A. 141/1998 shall be continued till the representation of the applicant is disposed of. In the instant case the representation of the applicant in fact was disposed of only on 26.9.2000, therefore at any rate the applicant was in service continuously without any break at least with effect from 2.7.1998 till 26.9.2000 as per the Hon'ble Tribunal's order passed in O.A. 141/1998. The detail particulars of working days rendered by the applicant as per interim order dated 2.7.98 passed in O.A. No. 141/1998 are as follows :

<u>Period</u>	<u>No. of working days</u>
2.7.98 - 31.12.1998	183 days
1.1.99 - 31.12.1999	365 days
1.1.2000 - 26.9.2000	260 days

It is quite clear from above that the applicant has earned eligibility for conferment of Temporary Status as per the records available, as such denial of grant of Temporary Status is highly arbitrary, unfair and illegal and the same is in violation of Article 14 of the Constitution in as much as 4 (four) similarly situated casual workers namely, Dhirendra Sarkar, Nihar Dey, Lutfur Rahman and Sri Birendra Das whose cases were initially rejected by the Scrutinizing Committee on 26.9.2000 following the direction passed in O.A.

Niranjan Das

141/1998 but subsequently they were granted benefit of temporary status vide TDM order bearing letter No. E-34/TSM/PTKN/02-03/4 dated 12.03.2003. In this connection it may be stated that the case of Md. Lutfur Rahman, Nihar Dey, Dhirendra Sarkar and Birendra Das were earlier rejected by the respondents in the similar manner on 26.9.2000, more or less on the same alleged ground but thereafter said Lutfur Rahman, Dhirendra Sarkar, Nihar Dey and Birendra Das again moved the Hon'ble Central Administrative Tribunal, Guwahati Bench through O.A. No. 332/2000 and the said Original Applicant was duly contested by the respondents and the matter was finally decided on 5.9.2001. The Hon'ble Tribunal was pleased to set aside the impugned order dated 26.9.2000 and also held that those applicants namely, D. Sarkar, B. Das, L. Rahman, N. Dey were deemed to be in service at least from 2.7.1998 to 26.9.2000 and further directed the respondents to consider the case of those applicants in O.A. 332/2000 for conferment of Temporary Status in the light of the observation made in the O.A. 28/2001. Be it stated that the other similarly situated casual workers whose names have been cited above approached this Hon'ble Tribunal through O.A. NO. 28/2001 and also through O.A. No. 332/2000 being aggrieved by the order of rejection of claim for conferment of Temporary Status. But the present applicant could not approach this Hon'ble Tribunal after passing of the impugned order dated 26.9.2000 due to poor financial condition. But it is

Niranjan Das

categorically submitted that the present applicant rendered same period of service under the present respondents and the present applicant is similarly situated like those applicants of O.A. 332 of 2000 and O.A. No. 28/2001. It would further be evident that similar order of rejection of the claim for conferment of temporary Status was passed in respect of Sri D. Sarkar, L. Rahman, B. Das and N. Dey on the same date i.e. on 26.9.2000 which were finally set aside and quashed by the Hon'ble Tribunal. Therefore the applicant being similarly circumstanced like those applicants of O.A. No.28/2001 and 332/2000 entitled to similar benefit of conferment of Temporary Status as extended to those applicant in O.A. No. 332/2000 vide order dated 12.3.2003 with all consequential service benefits including arrear monetary benefit.

Copy of the impugned order dated 26.9.2000 and letter dated 26.4.2000, judgment and order dated 24.8.2001, 5.9.01 and copy of the order dated 12.3.03 are annexed as Annexure-VIII, IX, X, XI and XII respectively.

- 4.11 That it is stated that the applicant was initially engaged in the year 1988 thereafter he was continuously working under the respondents since last 12 to 15 years and it is further categorically submitted that he has rendered more than 240 days of service in each calendar year but in spite of this factual position the case of the applicant for conferment of temporary status even

Niranjan Das

after passing of direction contained in O.A. 141/98. Since the applicant belonged to very poor family could not afford to approach before the learned Tribunal after passing of the impugned order dated 26.9.2000. However, other similarly circumstanced casual workers whose names referred to above had approached the Hon'ble Tribunal through O.A. No. 332/2000 and following the direction passed therein the respondents granted the benefit of Temporary Status vide order dated 12.3.2003. therefore, the Hon'ble Tribunal be pleased to direct the respondents to extend the similar benefit to the present applicant.

4.12 That it is stated that there is a delay of 1 year and 308 days in filing the Original Application. Therefore, a separate application for condonation has been filed to the instant application explaining the grounds of delay.

4.13 In the facts and circumstances stated above the Hon'ble Tribunal be pleased to pas an appropriate direction/order upon the respondents for conferment of Temporary Status to the present applicant with all consequential service benefits.

4.13 That this application is made bona fide and for the cause of justice.

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

Niranjan Sar

- 5.1 For that the benefit of temporary status granted to the applicant vide letter dated 15.12.1997, 16.12.1997 and 22.12.1997 can not be taken away by the respondents without following the procedure established by law or without providing any reasonable opportunity.
- 5.2 For that the impugned decision of the respondents not to grant temporary status is contrary to the rule and law and order of the Hon'ble Tribunal in the facts and circumstance of the case of the applicant.
- 5.3 For that the applicant has acquired a valuable and legal right for grant of temporary status in terms of casual labourers (Grant of Temporary status and Regularisation Scheme of the Department of Telecommunication, 1989).
- 5.4 For that the applicant has fulfilled the criterion laid down in paragraph 5 (i) of the provision laid down in casual labourers (Grant of temporary status and Regularisation) Scheme, 1989.
- 5.5 For that the applicant have completed the requisite number of days i.e. 240 days in terms of provisions laid down in paragraph 5(i) of the casual labourers (for grant of temporary status and regularisation) Scheme 1989.

Niranjan sa

- 5.6 For that the applicant has continuously worked since March, 1988 without any break and performed works of permanent/regular nature.
- 5.7 For that the present applicant was entrusted with the regular nature of works that are being performed by the regular Mazdoor of the department of Telecommunications.
- 5.8 For that non-consideration of the case of the applicant for grant of temporary status in the manner indicated the judgment dated 5.6.2001 is contrary to the findings of this Hon'ble Tribunal given earlier in O.A. No. 332/2000 as well as the records of the respondents in the case of similarly situated employees and also contrary to the findings given earlier by the scrutinizing committee constituted by the department of telecommunication itself as well as to the certificates relating working period issued in respect of the applicant countersigned by the competent authority of the department of Telecommunication.
- 5.9 For that the applicant were in engagement as on 1.8.1998 in terms of the interim order dated 2.7.1998 passed by the Hon'ble Tribunal passed in O.A. No. 141 of 1998.
- 5.10 For that non consideration of the claim of temporary status of the applicant have been issued without taking into consideration the spirit of the

Niranjan Das

direction of this Hon'ble Tribunal in O.A. No. 332/2000 is violative of Article 14 and 16 of the Constitution.

- 5.11 For that no opportunity or notice as contemplated under the scheme has been provided to the applicant before passing the impugned orders of cancellation of temporary status.
- 5.12 For that applicant have acquired temporary status by operation of law as they have fulfilled all the required conditions laid down in the relevant scheme for grant of temporary status and under the amended scheme.
- 5.13 For that the Interim order passed by the Hon'ble Tribunal on 2.7.1998 in O.A. No.141/98 was in force but even then the applicant have not been allotted any work even after repeated approach before the competent authority by them.
- 5.14 For that the respondents have willfully restrained the applicant from discharging their duties and as such they are entitled to full back wages with effect from 30.6.1998 till the date of actual reinstatement.
- 5.15 For that the local authority did not allow the applicant to discharge their duties although the CGMT and Directorate of Telecommunication directed the local authority allow the applicant to discharge their duties in terms of the Interim

Niranjan Das

order dated 2.7.1998 in O.A. No.141/98 of the Hon'ble Tribunal.

5.16 For that the instant impugned order has been passed on the same set of grounds, which were earlier taken by the respondents in O.A. No. 332/2000 but stood rejected by the Hon'ble Tribunal in the judgment and order dated 5.6.2001 and as such the impugned order of cancellation is arbitrary, unreasonable and without any basis.

5.17 For that the impugned order dated 26.9.2000 has been passed mechanically without consultation of records and the same is contrary to the service records of the applicant. As such the same is liable to be set aside and quashed.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had previously filed an application before the Hon'ble Tribunal which was registered as O.A. No.141/98 the same was finally decided on 31.8.1999 with a specific direction to the respondents to consider the case of the present applicant for grant of temporary status in the light of the scheme as stated above.

Niranjan Das

8. Reliefs sought for:

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs:

- 8.1 That the respondents be directed to grant temporary status to the applicant in the light of the judgment and order dated 24.8.2001 and also in terms of the order dated 5.9.2001 passed in O.A. No. 332/2000 with immediate effect.
- 8.2 That the applicant be declared entitled to grant of Temporary Status and regularisation and the respondents be accordingly directed to grant them the benefit of the scheme named as Casual Labourers (Grant of temporary Status and regularisation) Scheme of the Department of Telecommunication, 1989 with effect from the date as had been granted to the applicant vide letter dated 15.12.1997, 16.12.1997 and 22.12.1997.
- 8.3 That the Hon'ble Tribunal be pleased to set aside the impugned letter bearing No. E-20/TSM Regularisation/SC/04 dated 26.9.2000.

Niranjan Das

8.4 That the respondents be directed to allow the applicant to continue in service in terms of the interim order passed by the Hon'ble Tribunal on 2.7.1998 and in terms of the judgment and order 31.8.1999 and 30.3.2001 passed in O.A. No. 141/98 and in O.A. No. 332/2000 respectively till the benefit of temporary status is granted to the applicant in terms of the order dated 15.12.1997, and 22.12.1997 with retrospective effect.

8.5 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to full back wages with effect from 30.6.1998 till the date of actual reinstatement.

8.6 Costs of the application.

8.7 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

9.1 Pending disposal of this application the respondents be directed to allow the applicant to discharge his duties till disposal of the Original Application.

10. This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I.P.O. No. : 9GJ57853.
- ii) Date of issue : 4.8.03.
- iii) Issued from : G.P.O., Guwahati.

Niranjan Das.

iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Niranjan Das.

VERIFICATION

I, Shri Niranjan Chandra Das, Son of Sri Sujit Ram Das aged about 33 years, resident of village Patharkandi, P.O. Mahakal, District Karimganj, Assam, applicant in the instant Application do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the
13th day of August, 2003.

Niranjan Das

Particulars of working days in respect of Casual Labourers engaged from 31-03-85 and upto 22-06-88 under S.D.O.T/KRM & S.D.E/PTKN.

No.	Name & Address of Casual Labourers	Date of Engagement	Total work Days		Under which unit
1.	Shri Debendra Kr. Sinha. S/O Shri Paya Sinha Vill : Guramanjee P.O : Dullabcherra Dist : Karimganj.	01-01-86	Year	Days	SDE/PTKN <i>Retn. by SDE/PTKN.</i>
			86	41	
			87	258	
			88	275	
			89	243	
			90	248	
			91	290	
			92	297	
			93	278	
			94	193	
			95	79	
2.	Shri Sukumar Sinha S/O Lt. Kularga Sinha Vill : Krishna nager P.O : Dullabcherra Dist : Karimganj.	01-04-86	86	68	SDE/PTKN <i>Retn. by SDE/PTKN.</i>
			87	249	
			88	288	
			89	245	
			90	258	
			91	319	
			92	311	
			93	315	
			94	148	
			95	...	
3.	Shri Birendra Das S/O Shri Kiran Ch. Das P.O. : Srigouri Vill : Dakshingram P.S : Badarpur Dist. : Karimganj	01-01-87	87	260	SDOT/KRM <i>Retn. by SDOT/KRM.</i>
			88	305	
			89	264	
			90	245	
			91	250	
			92	241	
			93	241	
			94	...	
			95	...	
4.	Shri Nripendra Das S/O Shri Ganesh CH. Das Vill : Bakrihawar (Kathakal) Dist. : Hailakendi	Feb '87	87	267	SDOT/KRM <i>Retn. by SDOT/KRM.</i>
			88	312	
			89	257	
			90	240	
			91	245	
			92	240	
			93	266	
			94	243	
			95	202	
5.	Md. Samsul Haque S/O Md. Notiur Rahman. Vill : Latimara P.O : Latimara Dist. Cachar.	July '87	87	71	SDOT/KRM <i>Retn. by SDOT/KRM.</i>
			88	254	
			89	261	
			90	257	
			91	270	
			92	250	
			93	265	
			94	293	
			95	45	

*Attested
Sd/-
Advocate
13-06-03*

Sl.No.	Name & Address of Casual Labourers	Date of Engagement	Total work days	Under which unit.
6.	Md. Sahab Uddin Mazar Bhuyan. S/O Md. Mosaraf Ali Mazar Bhuyan Vill : Latimara. P.O : Latimara Dist. : Cachar	Sept. '87	87 88 89 90 91 92 93 94 95	31 255 262 242 264 271 260 264 135 SDOT/KRM Retnch by SDOT/KRM
2.	Dhirendra Sarkar S/O Lt. Roychand Sarkar. Vill&P.O : Ghyamnagar. Dist : Karimganj	01-01-88	88 89 90 91 92 93 94 95	129 241 262 250 246 241 81 SDOT/KRM Retnch by SDOT/KRM
8.	Shri Dilip Nath S/O Lt. Rajendra ch. Nath. Vill- Katirail. P.O - Katirail Dist. Cachar.	01-01-88	88 89 90 91 92 93 94 95	252 261 281 271 250 247 60 SDOT/KRM Retn. by SDOT/KRM
9.	Shri Nabendu Malakar S/O Shri Nripendra Malakar Vill & P.O : Patherkandi Dist. - Karimganj	01-01-88	88 89 90 91 92 93 94	246 252 265 247 251 257 255 SDE/PTKN Retn by SDOT/KRM
10.	Shri Nihar Dey S/O Shri Nripendra Dey. Vill&P.O : Patherkandi. Dist : Karimganj.	01-01-88	88 89 90 91 92 93 94	241 242 240 242 241 242 242 SDE/PTKN Retn by SDOT/PTKN
11.	Shri Mohit Roy S/O Lt. Ramcharan Roy Vill : Unapati P.O : Ambarkhana Dist. Karimganj	02-01-88	88 89 90 91 92 93 94	248 246 249 240 247 245 SDOT/KRM Retn. by SDOT/KRM

Contd.....3

Attested
Signature
13-8-83

12.	Md. Lutfur Rahman S/O Md. Akadise Ali Vill : Hapendi P.O. : Kanaibazar Dist : Karimganj.	23-01-88	88 89 90 91 92 93 94 95	225 272 243 247 255 246 263 15
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SDE/PTM

Retn. by
SDOP/KRM

13.	Md. Azizur Rahman S/O Md. Surman Ali Vill : Hatikola P.O. : Kanaibazar Dist : Karimganj	01-03-88	88 89 90 91 92 93 94 95	243 250 215 242 243 242 242 107
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SDE/PTM

Retn. by
SDOP/KRM

14.	Shri Sujit Kr. Sarma S/O Lt. Ranti Bn. Sarma Vill : Gajolghat P.O. : Bhakibazar Dist : Cachar.	06-03-88	88 89 90 91 92 93 94	247 292 254 253 253 249 249
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SDE/PTM

Retn. by
SDOP/PTM

15.	Shri Manindra Nath S/O Shri Mahendra Nath Vill : Kankalash P.O. : Bhangabazar Dist : Karimganj.	March'88	88 89 90 91 92 93 94 95	284 246 287 279 287 284 250 104
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SDOT/KRM

Retn. by
SDOT/KRM

16.	Shri Niranjan Das S/O Shri Sujit Ram Das Vill : Paterakandi P.O. : Mahakul Dist : Karimganj .	March'88	88 89 90 91 92 93 94 95	257 267 247 251 256 247 241 228
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SDOT/KRM

Retn. by
SDOP/KRM

The above particulars of the mazdoor are forwarded to the TDB/SS by the (1) SDOT/KRM vide his letter NO. E-119/PT-II/94-95 dt. 10-7-95 and letter No. E-119/PT-II/93-96 dt. 8-12-95

(2) SDE/PTM letter No. E-27/93-96 dt. 26-10-95

Attested
Sd/-
Advocate
13-8-03

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SUB-DIVISIONAL OFFICER TELEGRAPHS

No. H-119/TM/CH/97-98/ 33 Dated at Karinganji, the 15th Dec'97.

To

1. Shri Nalendra Ch. Das, S/O Sri Ganesh Ch. Das,
Vill:- Sakrihawar, P.O. Kalinganji (Katakhal),
Dist:- Mallakandi.
2. Sri Gansul Haque, S/O Matkur Rahman, M.
Vill:- Lattimara, P.O. Lattimara,
Dist:- Cachar.
3. Sri Manindra Ch. Nath, S/O Sri Mahendra Ch. Nath.
Vill:- Kankolash, P.O. Bhengabaz, Dist. Karinganji.
4. Sahabuddin Mazarbhyar, S/O Md. Mazar Ali,
Vill:- Lattimara, P.O. Lattimara, Dist. Cachar.
5. Sri Niranjan Ch. Das, S/O Sri Sujit Ram Das,
Vill:- Paterkandi, P.O. Mahakhal, Dist. KRM.
6. Sri Birendra Das, S/O Sri Kiran Ch. Das,
Vill:- Dakeningran, P.O. Brigouri, Dist. Karinganji.
7. Sri Dhirendra Sarkar, S/O Late Raychond Sarkar,
Vill:- Shyamnagar, P.O. Shyamnagar, P.O. Karinganji.
8. Sri Dilip Nath, S/O Late Rajendra Ch. Nath.
Vill:- Katirail, P.O. Katirail, Dist:- Cachar.
9. Sri Mohit Roy, S/O Late Ramcharan Roy,
Vill:- Urapati, P.O. Amborkhana, Dist. Karinganji.

Subj:- Casual Labours (Grant of Temporary status and regularisation scheme) 1989 engaged after 30-3-83 upto 22-6-88).

In pursuance of TM/Silcher letter No. P-25/Group D/Recd/98 dtd. 9-12-97. You have been provisionally approved TSM. You are requested to submit the following certificate to this office immediately to take further necessary action.

- 1) Age at the time of engagement.
- 2) Educational qualification upto VIII standard.

Sub-divisional Officer
Telegraphs Karinganji-788710

Copy to:-

- 1) The TM/Silcher for information and please.

Sub-divisional Officer
Telegraphs Karinganji-788710.

A. K. S. S.
S. K. S.
A. K. S.
13-8-03

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SECRETARY, TELEGRAPH
KARIMGANJ-788710.

No:- E-119/TM/24 Dated at Karimganj, the 22nd Dec'97.

Sub:- Casual Labourers (Grant of Temporary status and regularization scheme) 1969 engaged after 30-3-65 upto 22/6-88)

In pursuance of TDM/Silchar letter No.E-20/Gr.D/Recruit/98 dtd. 9-12-97 the following listed casual Labourers are hereby conferred temporary Status Mazdoor provisionally approved by the TDM/Silchar.

They are directed to report for duty to the JTO(T) Karimganj temporarily. Their final place of posting will be decided by the TDM/Silchar and on receipt of the same further posting order will be issued for the interest of service.

- 1) Sri Nripendra Ch. Das.
- 2) Sri Samsul Haque.
- 3) Sri Manindra Ch. Nath.
- 4) Sri Sahabuddin Mazarbhyan.
- 5) Sri Nirenjan Ch. Das.
- 6) Sri Birendra Das.
- 7) Sri Dharendra Sarker.
- 8) Sri Dillip Kr. Nath.
- 9) Sri Mohit Roy.

Terms and condition for granting of temporary status

- 1) The granting of temporary status is purely on temporary and may be terminated at any time by giving one month Notice in writing by appointing authority without assigning reasons thereof.
- 2) The granting of temporary status carries with its liability for transfer within the S.S.A.
- 3) The Granting of temporary status shall also liable for field service within India during war/emergences.
- 4) The service condition will be Govern by the relevant Rules in force from time to time.

Sub-divisional Officer
Telegraphs Karimganj-788710.

Copy to:-

- 1) The TDM/Silchar w.r.to his letter No. mentioned above. He is requested kindly to issue necessary instruction for their place of posting as desired by him.
- 2) The A.O. Cash, O/O the TDM/Silchar.
- 3) The DE(P&A) O/O the TDM/Silchar.
- 4) The SDE(HRD) O/O the TDM/Silchar.
- 5) to 13) official concerned.
- 14) E-119(T&P) File.

Handwritten signature
13-8-03

Handwritten signature
23/12/97
Sub-divisional Officer
Telegraphs Karimganj-788710.

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATION

Dr. H. D. G. Phonsa

No : E-63/T&P/10

Goswami

At KRM, Thu 29.06.98.

To

✓ Sri Niranjan Ch. Das.
Telephone Exchange, Karimganj

Sub : Casual labourers (Grant of temporary status and regularisation scheme), 1978 engaged after 30-3-85 upto 22-6-88.

Ref : TDM Silchar Memo No. X-11/TDM-SC/CM-Rectt/98-99/213
Dtd. 27-6-98.

The provisional temporary status conferred on you vide TDM Silchar letter No. E-20/Grp-D/Rectt/98 dtd. at Silchar, 9-12-97 has been cancelled by TDM Silchar vide his letter No. X-11/TDM-SC/CM-Rectt/98-99/213 dtd. 27.6.98, as you have not qualified for TSM as per your previous engagement record.

The undersigned has been directed not to engage you anymore and as such your services are no longer required with effect from the forenoon of 29-6-98.

S. D. G. Phonsa
Goswami

Copy to :

1. TDM Silchar for favour of kind information pl.
2. CAO O/O TDM Silchar for information pl..
3. DE (P&A) O/O TDM Silchar for information pl.

S. D. G. Phonsa
Goswami

Attested
S. R.
Advocate
13-8-03

-32- St. No. of Annexure-V
In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 141

OF 1978

Applicant(s) All India Telecom employees union

-vs-

= Ans.

Respondent(s) Union of India & Ors

Advocate for Applicant(s) Mr. B.K. Sharma

Mr. B. Sharma

Advocate for Respondent(s) Mr. N.K. Nair



Notes of the Registry

Order of the Tribunal

2-7-98

Heard Mr.B.K.Sharma learned counsel appearing on behalf of the applicant and Mr.S.Alli, learned Sr.C.G.S.C for the respondents.

Application is admitted. Mr.P.K. Sharma prays for an interim order not to discontinue the services of the applicants. Mr.S.Alli has no instructions in this matter.

Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.

Meanwhile, the casual workers shall not be disengaged and they shall be allowed to continue in their services.

List it on 31-7-98 for orders.

S/- VICE-CHAIRMAN

S/- MEMBER (ADMIN)



Certified to be true Copy
प्रमाणित प्रतिलिपि

COURT OFFICER

Central Administrative Tribunal
Guwahati Bench

Handwritten signature and date
13-8-03

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SECRETARY
PAY-SLIP FOR THE MONTH OF FEB 1978

NAME & DESIG:- SRI NIRANJAN CH DAS, TSM
GPF A/C NO. PLI. NO.

PAY & ALLOWANCES:-

Basic Pay./.... 2550 D.A..... 332 H.R.A..... 191
Transport Allow 75

GROSS SALARY Rs. 3148

DEDUCTIONS (Departmental):-

GPF Cont. 0

TOTAL DEDUCTIONS (Departmental) Rs. 0

OTHER DEDUCTIONS (Out of Account):-

Assam Prof. Tax 29

TOTAL OTHER DEDUCTIONS (Out of Account):- Rs. 29

NET SALARY ie Take Home Pay:- Rs. 3119

A. H. S. D.
S. M.
Advocate
13-8-03

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SILCHAR
PAY-SLIP FOR THE MONTH OF MAR 1998

NAME & DESIG:- SRI NIRANJAN CH DAS, TSM
GPF.A/C NO. PLI.NO.

PAY & ALLOWANCES:-

Basic Pay./...	2550	D.A.....	332	A.Comp.Allow..	28
H.R.A.....	191	Transport Allow	75		

GROSS SALARY

Rs. 3160

DEDUCTIONS (Departmental):-

GPF Cont. 0

TOTAL DEDUCTIONS (Departmental)

Rs. 0

OTHER DEDUCTIONS (Out Of Account):-

Assam Prof.Tax 29

TOTAL OTHER DEDUCTIONS (Out Of Account):-

Rs. 29

NET SALARY ie Take.Home Pay:-

Rs. 3139

Accounts Officer

Handwritten:
13-8-03
Advocate

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SILCHAR

PAY-SLIP FOR THE MONTH OF April 1998

NAME & DESIG:- SRI NIRANJAN CH DAS, TSM
GPF.A/C NO. PLI.NO.

PAY & ALLOWANCES:-

Basic Pay./...	2550	D.A.....	408	A.Comp.Allow..	20
H.R.A.....	191	Transport Allow	75		

GROSS SALARY Rs. 3244

DEDUCTIONS (Departmental):-

GPF Cont. 0

TOTAL DEDUCTIONS (Departmental) RS. 0

OTHER DEDUCTIONS (Out Of Account):-

Assam Prof.Tax 29

TOTAL OTHER DEDUCTIONS (Out Of Account):- RS. 29

NET SALARY ie Take Home Pay:- RS. 3215

Accounts Officer

*Attended
Sms
Advocate
13-8-03*

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SILCHAR
PAY-SLIP FOR THE MONTH OF MAY 1996

NAME & DESIG:- SRI NIRANJAN CH DAS, TSM
GPF.A/C NO. PLI.NO.

PAY & ALLOWANCES:-

Basic Pay./...	2550	D.A.....	408	A.Comp.Allow...	20
H.R.A.....	191	Transport Allow	75		

GROSS SALARY

Rs. 32

DEDUCTIONS (Departmental):-

GPF Cont. 0

TOTAL DEDUCTIONS (Departmental)

RS.

OTHER DEDUCTIONS (Out Of Account):-

Assam Prof.Tax 29

TOTAL OTHER DEDUCTIONS (Out Of Account):-

Rs.

NET SALARY ie Take Home Pay:-

Rs. 32

Accounts Officer

Attested
Sd/-
A. Wreche
13-8-03

-37-
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SILCHAR
PAY-SLIP FOR THE MONTH OF June 1998

NAME & DESIG:- SRI NIRANJAN CH DAS, TSM
GPF AYC NO. PLI.NO.

PAY & ALLOWANCES:-

Basic Pay./...	2558	D.A.....	488	A.Comp.Allow..	28
H.R.A.....	191	Transport Allow	75		

GROSS SALARY

Rs. 3244

DEDUCTIONS (Departmental):-

GPF Cont. 8

TOTAL DEDUCTIONS (Departmental).

RS. 8

OTHER DEDUCTIONS (Out Of Account):-

Assam Prof. Tax 29

TOTAL OTHER DEDUCTIONS (Out Of Account):-

Rs. 29

NET SALARY ie Take Home Pay:-

Rs. 3215
2999

Accounts Officer

Attested
Govt
Advocate
B-8-03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GOWAHATI BENCH

Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. O.A.No.107/1998

Shri Subal Nath and 27 othersApplicants

By Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

The Union of India and othersRespondents

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

2. O.A.No.112/1998

All India Telecom Employees Union,Applicants

Line Staff and Group 'D' and another

By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and othersRespondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

3. O.A.No.114/1998

All India Telecom Employees Union,Applicants

Line Staff and Group 'D' and another

By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and othersRespondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

4. O.A.No.118/1998

Shri Bhuban Kalita and 4 othersApplicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda

and Ms N.D. Goswami.

-versus-

The Union of India and othersRespondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

[Signature]

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Sanj
Adm
13-8-99*

O.A. No. 120/1998

Shri Kamala Kanta Das and 6 others Applicant
By Advocates Mr J.L. Sarkar, Mr. M. Chanda
and Mr. N.D. Goowami.

-versus-

The Union of India and others
By Advocate Mr B.C. Pattnaik, Addl. C.G.S.C.

O.A. No. 131/1999

All India Telecom Employees Union and
another Applicant
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Malik.

-versus-

The Union of India and others
By Advocate Mr B.C. Pattnaik, Addl. C.G.S.C.

O.A. No. 135/90

All India Telecom Employees Union,
Line Staff and Group 'D' and
S.C. Staff Applicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Malik.

-versus-

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

O.A. No. 136/1999

All India Telecom Employees Union,
Line Staff and Group 'D' and
6 others Applicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Malik.

-versus-

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

O.A. No. 141/1990

All India Telecom Employees Union,
Line Staff and Group 'D' and another Applicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Malik.

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

Attested
Advocate
13-01-03

10. O.A.No.142/1998

All India Telecom Employees Union,
Civil Wing Branch.Applicants
By Advocate Mr B. Malakar

-versus-

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 othersApplicants
By Advocate Mr I. Hussain.

-versus-

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

12. O.A.No.192/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

13. O.A.No.223/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Mr D.K. Sharma.

-versus-

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

AHesth

Law
Advocate
13-8-98

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15. O.A.No.293/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another Applicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr D.K. Sarma.

-versus-

The Union of India and others Respondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....
O R D E R

BARUAH.J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applications were submitted by the said union, namely, the Line Staff and Group 'D' employees and some other applications were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the

Accepted
Law
Advocate
13-8-93

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benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This Scheme was communicated by letter No.269-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the Scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended

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Attested
Sd/-
Admiral
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to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A.No.750/1994. The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A.Nos.302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus, the applicants have approached this Tribunal by filing the present O.A.s.

4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.A.s is that the Association had no authority to

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Affected
RAIR
Advocate
13-8-03

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represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the

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Tribunal dated 13.8.1997 passed in O.A. Nos. 302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos. 302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr B.K. Sharma, Mr J.L. Sarkar, Mr I Hussain and Mr B. Malakar, learned counsel appearing on behalf of the applicants and also Mr A. Deb Roy, learned Sr. C.G.S.C. and Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to



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definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE-CHAIRMAN
SD/- MEMBER (A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

Myne
6/10/20

Attended
Sanjiv
13.8.13



47- Annexure - VIII
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA :: SILCHAR

No. E-20/TSM Regularisation/SC/CI/

Dated at Silchar, the 26-09-2000

To

Sri Niranjan Das

s/o Sri Sujit Ram Das

vill. Patrakandi, p.o. Mahakal.

Dist. Karimganj

Sub: - Grant of Temporary Status Mazdoor.

Ref: - Hon'ble CAT/Guwahati order dtd. 31-8-99 in OA No. 141/98

With reference to the above, you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. Estt-9/12/PART-1/23 dtd. the 28-03-2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dt. 12-02-1999, on the basis of your engagement records, as you did not fulfil the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom. in any calendar year preceeding 01-08-1998.
- 2) You were not in engagement as on 01-08-1998.

The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status Mazdoor cannot be acceded to and as such your representation stands, disposed of.

Accepted
Sd/-
Advocate
13-8-03

General Manager Telecom
Silchar SSA :: Silchar.

B. ... Telecom
SILCHAR

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Annexure-VIII (Ser)

~~Annexure-15~~ 60

Annexure-15(Series)

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA :: SILCHAR

No. E-20/RSM Regularisation/SC/04

Dated at Silchar, the 26.09.2000

To

Sri Dhirendra Sarkar
S/o Late Kiron Chandra Sarkar
Vill & P.O. Shyamnagar
Dist. Karimganj

Sub : **Grant of Temporary Status Mazdoor.**

Ref : Hon'ble CAT/GUWAHATI order dated 31.8.1999 in O.A. No. 141/98

With reference to the above you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. Estt-9/12/PART-I/23 dated the 28.3.2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dated 12.02.1999, on the basis of your engagement records, as you did not fulfill the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom in any calendar year preceding 01.08.1998
 - 2) You were not in engagement as on 01.08.1998
- The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status mazdoor cannot be acceded to as such your representation stands disposed of.

Sd/- Illegible
General Manager Telecom
Silchar SSA :: Silchar

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Annexure - VIII (Series)

Annexure-15(Series)

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA :: SILCHAR

No. E-20/RSM Regularisation/SC/04

Dated at Silchar, the 26.09.2000

To
Sri Birendra Das
S/o Sri Kiran Chandra Das
P.O. Srigouri, Vill Dakshingram
Dist. Karimganj

Sub : **Grant of Temporary Status Mazdoor.**

Ref : Hon'ble CAT/GUWAHATI order dated 31.8.1999 in O.A. No. 141/98

With reference to the above you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. Estt-9/12/PART-II/23 dated the 28.3.2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dated 12.02.1999, on the basis of your engagement records, as you did not fulfill the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom in any calendar year preceding 01.08.1998
- 2) You were not in engagement as on 01.08.1998

The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status mazdoor cannot be acceded to as such your representation stands disposed of.

Sd/- illegible
General Manager Telecom
Silchar SSA :: Silchar

Attested
Sd/-
Advocate
13-8-03

Accepted
26-9-2000

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Annexure-VIII (Series)

~~Annexure 15 (Series)~~

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA : SILCHAR

Dated at Silchar, the 26.09.2000

No. E-20/RSM Regularisation/SC/04

To

Md. Lutful Rahman
S/o Md. Akaddas Ali
Vill. Hapania, P.O. Kanaibazar
Dist. Karimganj.

Sub: Grant of Temporary Status Mazdoor.

Ref: Hon'ble CAT/GUWAHATI order dated 31.8.1999 in O.A. No. 141/98

With reference to the above you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. Estt-9/12/PART-II/23 dated the 28.3.2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dated 12.02.1999, on the basis of your engagement records, as you did not fulfill the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom in any calendar year preceding 01.08.1998
 - 2) You were not in engagement as on 01.08.1998
- The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status mazdoor cannot be acceded to as such your representation stands disposed of.

Sd/- Illegible
General Manager Telecom
Silchar SSA : Silchar

13-8-03

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~~Annexure 15 (Series)~~

Annexure - VII (Series)

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA :: SILCHAR

Dated at Silchar, the 26.09.2000

No. E-20/RSM Regularisation/SC/04

To

Sri Nihar Dey
S/o Sri Nripendra Dey
Vill & P.O. Pather Kandri
Dist. Karimganj

Sub: **Grant of Temporary Status Mazdoor.**

Ref: Hon'ble CAT/GUWAHATI order dated 31.8.1999 in O.A. No. 141/98

With reference to the above you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwahati in the case in O.A. No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. Estt-9/12/PART-II/23 dated the 28.3.2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dated 12.02.1999, on the basis of your engagement records, as you did not fulfill the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom in any calendar year preceding 01.08.1998
 - 2) You were not in engagement as on 01.08.1998
- The committee did not recommend your name for conferment of Temporary Status Mazdoor.
- Under the circumstances stated above, your request for granting Temporary Status mazdoor cannot be acceded to as such your representation stands disposed of.

Sd/- Illegible
General Manager Telecom
Silchar SSA :: Silchar

13-8-03

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Government of India
Department of Telecommunications
Office of the General Manager Telecom Silchar SSA: Silchar

No.E-20/Scrutiny/CM/2000-2001/23

Dated at Silchar, 26-4-2K

To

✓ Shri. ...
S/o ...
Vill ...
P.O. ...
Dist. ...

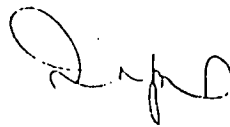
Sub:-

Call for appearing before scrutinizing committee of records
Of casual Mazdoors.

You are hereby requested to appear before the scrutinizing committee on 03-05-2002 with the following documents /particulars, in original, on the specified date, time and at the specified venue given below:

1. Initial engagement particulars as casual mazdoor, appointment order /sponsorship of employment exchange in your possession.
2. All documents i.e. working particulars, payment particulars till last working day, if any, available with you.
3. Age proof certificate.
4. Two copies of recent passport size photographs.

Venue :- Hotel Indraprastha Regency,
Lochan Bairagi Road, Ground floor
Silchar - 788005.



(I. R. PAUL)
Member, Scrutinizing Committee
Divisional Engineer(P&A)
O/o the G.M.Telecom/Silchar
Silchar SSA : Silchar

Attested
Silchar
Advocate
13-8-03

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application Nos 28 of 2001.

Date of Order : This is the 24th Day of August, 2001.

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

Sri Pritu Bhusan Roy
S/O Sri Purna Chandra Roy
C/O Sri Prasanna Chowdhury
Villager:- Girishganj
District:- Karimganj
Assam.

. . . . Applicant.

By Mr.P.Roy & Mr.B.K.Talukdar

- Vs -

1. The Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
New Delhi.
2. The Chief General Manager (Telecom)
Assam Telecom Circle, Ulubari
Guwahati-7.
3. Member, Scrutinizing Committee
Divisional Engineer (P&A)
D/O The G.M.Telecom, Silchar
Assam.
4. The General Manager, Telecom
Silchar S.S.A
Silchar, Assam.
5. The District Manager
Department of Telecommunication
Silchar, Assam.
6. The Sub-Divisional Engineer (Group)
Telecom, Patharkandi, Assam.

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

O R D E R

CHOWDHURY J.(V.C.) :

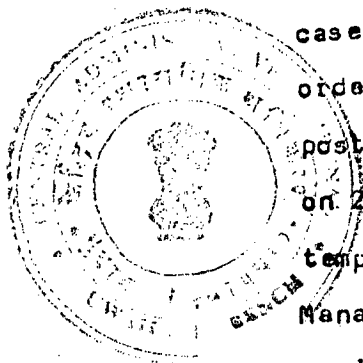
This is the second round of litigation. The applicant earlier also moved this Tribunal by way of O.A. 141 of 1998 through its Association, namely, All India Telecom Employees Union praying for conferment of granting the benefit of temporary status as per the Scheme of 1989. The Tribunal took up the said case alongwith like cases and disposed all the cases by a common judgment and order on 31.8.1999 directing the respondents to scrutinise and examine each case individually in consultation with the records and

Contd.. 2

Attested
Sd/-
Advocate
13-8-03

pass a reasoned order thereafter in the event of filing the representations individually within the period prescribed. The applicant accordingly submitted a representation in writing and the respondents vide letter dated 26.4.2000 advised the applicant to appear before the Scrutinizing Committee on 3.5.2000. The applicant appeared before the said Committee and submitted all his documents. The respondent authority by its order dated 26.9.2000 informed the applicant that the Committee did not recommend his name for granting of the temporary status on the ground that he did not complete 240 days in any Calendar year preceeding 1.8.98 and that he was not in engagement as on 1.8.98. Hence this application assailing the legitimacy of the order of the respondents.

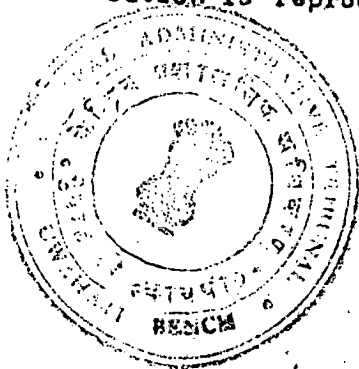
2. The applicant, in this application, claimed that he was engaged as a Casual Labourer in the Telecommunication Department on 1.1.88 and worked as such in the department till the temporary status was granted to him on 9.12.97. The concerned DPC on consideration of the case alongwith others granted the temporary status vide order dated 9.12.97 and 22.12.97 and thereafter he was posted at Kotamone Telephone Exchange, where he joined on 22.12.97. While working as such the order of granting temporary status was cancelled by the Telecom District Manager, Silchar vide his order dated 27.6.98. Being agrieved with the said order, the applicant, as mentioned above approached this Tribunal by way of filing an O.A. which was numbered as 141/98. The said application was admitted on 2.7.98 and the respondents were directed not to disengage the applicant and others and to allow him to continue in his service. As eluded, the case along with the like cases were disposed by the Tribunal by a common order dated 31.8.1999 directing the respondents to scrutinise and examine the case of each applicant.



Attested
Sd/-
Adm. Secy
13-6-98

Contd..3

3. The respondents entered appearance and submitted its written statement contesting the claim of the applicant. By the impugned order dated 26.9.2000 the respondents declined to accede to his representation in view of the recommendation of the Committee. Admittedly, the applicant alongwith eight others by order dated 22.12.97 were granted temporary status of Mazdoor provisionally on the approval of the TDM, Silchar. The said order preceeded by an order dated 9.12.97 approving the action of the SDE (Group), Telecom in granting temporary status to those nine persons including the applicant. The relevant part of the communication is reproduced below.



*NO.E-20/Grp-D/Rectt/98. Dated at Silchar, 09.12.97

To

The S.D.E. (Group) Telecom,
Patharkandi.

Sub:-

Casual labours (Grant of temporary status and regularisation scheme) 1989 engaged after 30.3.85 upto 22.6.88).

In pursuance of the DOT New Delhi letter No.269-4/93-STN-II dated 17.12.93 and CGMT/Guwahati letter No.Rectt-3/10/Part-II dated 4.10.94, the following nine Casual Mazdoors in your Sub-Division are approved for granting of temporary status on the basis of particulars furnished by you vide your letter No.E-27/95-96/ dt.26.10.95 and No.E-27/95-96/Pt.II dt.8.11.95.

You are directed to take further action after verification of their eligibility once again on the points mentioned below :-

- (1) Age at the time of engagement.
- (2) Educational qualification upto VIII standard.
- (3) No of days worked yearwise.

After conferring the provisional approval for granting of temporary status u.o.f. 9.12.97 to the Casual Mazdoors mentioned below. Intimation is to be given to TDM/Silchar for their place of posting which will be decided by TDM/Silchar."

Contd.. 4

Attested
Smt.
Advocate
13-8-03.

In the list of approved 9 Casual Mazdoors of the said communication the name of the applicant appeared at Sl No.9. In pursuance to the said order and more particularly, in view of the TDM Silchar letter dated 16.1.98 the applicant alongwith others were posted at Kotamoni, wherein he joined on 22.12.97. By order dated 29.6.98 the provisional temporary status conferred on the applicant vide TDM, Silchar letter dated 9.12.97 had been cancelled by TDM, Silchar vide his letter dated 27.6.98 holding the applicant was not qualified for granting temporary status as per his previous engagement record. The said order dated 29.6.98 dis-engaging the applicant as Casual Labourer, issued by the SOE (Group) Telecom Patharkundi was based on the direction given by the Telecom District Manager vide memo dated 27.6.98. The full context of the said memo is also reproduced below :-

"Ref: Letter No E-20/Grp-D/Rectt/97 dated at Silchar, 9-12-97.

As per above mentioned letters provisional TSM status was conferred to the following casual mazdoors. Later on posting order was given to them vide letter No.E-20/Grp-D/Rectt/109 dtd at Silchar, 16.1.98,

1. Sri Ratneswar Nath-Patharkandi Telephone Exch
2. Sri Pritu Bhushan Roy-Kotamoni Telephone Exch.
3. Sri Sukumar Sinha-Patharkandi Telephone Exch.
4. Sri Debendra Kr. Sinha-Dullaicherra Telephone Exch.
5. Sri Nihar Dey-Bazaricherra Telephone Exch.
6. Sri Sujit Kr. Sarmah-Saraigram Telephone Exch.

As per SOE Vigilance O/O TDM Silchar report vide letter No. AVO/CUN/98-29/1 dtd. 25.6.98, all the above casual mazdoors were absent for the last more than 365 days counting from the date 17.12.93. They do not qualify for regularisation as TSM as per their previous engagement record in the deptt.

As per this finding the provisional TSM status which was conferred to them, vide letter No. E-20/Grp-D/Rectt/97 dtd at Silchar, 9-12-97 is hereby canceled, with immediate effect. You are hereby ordered not to engaged those persons any more. "

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*Attested
Sd/-
Advocate
13-8-03.*

4. The applicant, as mentioned earlier, moved this Tribunal assailing the legitimacy of the order dated 27.6.98 and the Tribunal disposed of the appeal by judgment and order dated 31.8.99 in O.A.141/98 directing the respondents to examine the matter in consultation with the records. The respondents by this impugned order dated 26.9.2000 declined to accede to the request of the applicant.

5. The granting of temporary status emanated from a direction given by the Supreme Court in Writ Petition (C) No.1280 of 1989 alongwith 1246, 1248 of 1986 and 176, 177 and 1248/88 Ram Gopal and Others -vs- Union of India and Others. Prior to the aforesaid order the Supreme Court had an occasion to deal with Casual Labourers in Telegraph Department in Daily Rated Casual Labour-vs- Union of India & Others. In the said case, the Supreme Court ordered the respondent authority Posts and Telegraph Department to prepare a Scheme for absorbing the Casual Labourers in daily duty who rendered continuous services in the department for more than one year. In the instant case on the own showing of the respondents, the applicant was granted temporary status by order dated 22.12.97, which was subsequently cancelled by order dated 29.6.98. The applicant was, however, allowed to continue as Casual Labourer on the strength of the order of the Tribunal dated 2.7.98 in O.A.141/98. By interim order the Tribunal ordered the respondents not to disengage the applicant and to allow him to continue in his services. The O.A. in question alongwith others was finally disposed on 31.8.99. In the said order also the Tribunal extended the interim order till disposal of the representation. The representation was eventually disposed on 26.9.2000. Therefore, at any rate, the applicant rendered his service as a Casual Labourer on and from December 1997

Contd.. 6

Attested
Sd/-
Advocate
13-8-03.

to 26.9.2000. The findings of the authority that he was not in engagement on 1.8.98 therefore, cannot be sustained. The services rendered by the applicant at least from December, 1997 till the disposal of the representation could not have been ignored. The applicant was earlier granted temporary status on the basis of his past record, which was cancelled at the instance of the communication sent by the SDE Vigilance D/O TDM Silchar report vide letter dated 25.6.98. The said report was not produced before us. The applicant was granted temporary status by order dated 9.12.97. The said order of granting temporary status was cancelled unilaterally on the basis of the report of the SDE Vigilance as reflected in the communication by the TDM, Silchar letter dated 27.6.98, which visited with civil consequences.

6. We have heard Mr.P.Roy, learned counsel for the applicant at length and also Mr.A.Deb Roy, learned Sr. C.G.S.C for the respondents.

7. The respondents have missed the direction of the Tribunal dated 31.8.99 by refusing to consider the case of the applicant in its full perspective. The action of the Scrutinizing Committee to confine its enquiry upto 1.8.98 also cannot be sustainable. Admittedly, the applicant was engaged as a Casual Labourer on and from 1.1.98 till he was sought to ^{be} disengaged by the order dated 29.6.98.

For the forgoing reasons, the order dated 26.9.2000 is set aside and the respondents are directed to consider the case of the applicant in the light of the observation made in this order. The application is accordingly, allowed to the extent indicated above. The respondents are ordered to complete the exercise with utmost expedition at any rate within three months from receipt

Accepted
Sr. Advocate
13-8-03.

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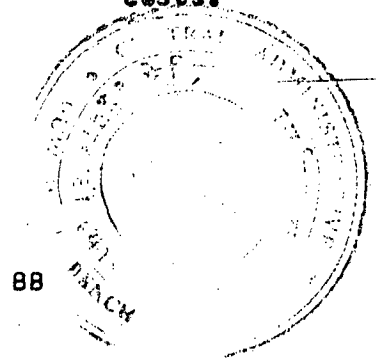
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- 7 -

of this order.

There shall, however, be no order as to

costs.



Sd/VICE CHAIRMAN

Certified to be true copy

খনিজ অধিদপ্তর

[Signature]
5/8/03

Section Officer (D)

C.A.T. GUYANA RANCH

Gwanchi 8'005

Attested
S. S. S. S.
13-8-03.

Original Application No. 332 of 2000.

Date of Order : This is the 5th Day of September, 2001.

HON'BLE MR. K. K. SHARMA, ADMINISTRATIVE MEMBER.

1. Dharendra Sarkar
S/O Late Roy Chand Sarkar
Village: Shyam Nagar
District :- Karimganj
P.O :- Karimganj
Assam.
2. Sri Birendra Das
S/C Sri Kiran Chandra Das
P.O :- Srigowri
Village :- Dakshingram
P.S :- Badarpur
District :- Karimganj
Assam.
3. Md. Lutfur Rahman
S/O Md. Akaddas Ali
Village:- Hafania
P.O:- Hafania (Maina)
District:- Karimganj
Assam.
4. Sri Nihar Dey
S/O Sri Nripendra Dey
Village:- Patharkandi
District:- Karimganj
Assam.

. . . Applicants.

By Mr.M.Chanda, Mr.S.Sarma, Mrs.N.D.Goswami

- Vs -

1. Union of India
Through the Secretary to the
Govt. of India
Ministry of Communication
New Delhi.
2. The Chief General Manager
Assam Circle
Govt. of India
Department of Telecommunication
Ulubari, Guwahati.
3. The Garrison Manager
Telecom, Silchar SSA
Government of India
Department of Telecommunications
Silchar, Assam.
4. Sub-Divisional Engineer (Group)
Department of Telecommunications
Patharkandi-788724.

. . . Respondents.

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

- 2 - - 65 -

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O R D E R

K.K.SHARMA, (ADMN. MEMBER) :

Four applicants have joined together to file this application under section 19 of the Administrative Tribunals Act, 1985. The main issue in this application pertains to the grant of temporary status under the Casual Labourers (Grant of Temporary Status and Regularisation Scheme of the Department of Telecommunications, 1989.

2. The four applicants came before this Tribunal against the cancellation of temporary status granted to them. The applicants were engaged as Casual Labourers by the S.D.O., T. Silchar, S.D.O., S.D.E, Patharkandi from 1.6.1988, 1.3.1987, 23.1.1988 and 2.1.1988 respectively. The applicants have placed on records the letters of engagement. Two applicants were conferred temporary status with effect from 16.12.1987 and the remaining two applicants with effect from 22.12.1997. However, by the impugned orders dated 29.6.1998 (Annexure - 3 & 4) the temporary status of the applicants have been cancelled. The reason for cancellation for temporary status are as below :

"The provisional temporary status conferred on you vide TDM Silchar letter No.E-20/Grp -D/Rectt/98 datd. at Silchar 9.12.97 has been cancelled by TDM Silchar vide his letter No.X-11/TDM-SC/CM-Rectt/98-99/205, dtd.27.6.98 as you have not qualified for TSM as per your previous engagement record.

The Under signed has been directed not to engage you anymore and as such your services are no longer required with effect from the Fore-noon of 29.6.98."

3. Mr.M.Chanda, learned counsel appearing for the applicants, submits that the temporary status have been conferred after holding high level meetings, wherein Official side was represented by the Officers and the staff side was represented by the members of the Union. Mr.Chanda referred

Contd.. 3


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- 3 - 62 -

the interim order passed in O.A. No.141 of 1998 dated 2.7.1998 by this Tribunal, whereby direction was given to the respondents not to disengage the applicants. The applicant alongwith others have approached this Tribunal by filing O.A.No.141/98 which was finally disposed of on 31.8.1999 as under :

" In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations."

After the said order the applicants filed individual representations before the C.G.M. Assam Telecom Circle and requested for re-instatement. The representations of the applicants were rejected by order dated 26.9.2000 (Annexure-15). for the following reasons :

- 
- "1. You did not complete 240 days work in Department of Telecom in any calender year preceding 01.08.1998.
 2. You were not in engagement as on 01.08.1998. The committee did not recommend your name for conferment of Temporary Status Mazdoor."

Mr.Chanda referring to the order of this Tribunal in C.A. No.28 of 2001 dated 24.8.2001, has submitted that the applicants' case is squarely covered by the said order of this Tribunal. Like the applicant in O.A.28/2001, the applicants were appointed on different dates and were conferred temporary status on 15.12.1997 and 16.12.1997. Temporary status of the applicants was also cancelled like the applicant in the said O.A. by order dated 27.6.98. The learned counsel pointed out that the grant of temporary status to the

- A - - 63 -

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applicants was cancelled on the basis of letter No.

X-11/TDM-SC/CH-Rectt/98-99/205 dated 27.6.98.

4. The reference to the said letter shows that the temporary status of the applicants was cancelled on the ground that the applicants were absent for more than 365 days from 17.12.1993. The learned counsel has disputed this observation by referring to the Annexure-"C" filed with the written statement, which shows that all of the applicants had worked in the year 1994. He argued that the reasons for cancellation of temporary status are not correct.

5. Mr.B.C.Pathak, learned Addl.C.G.S.C appearing on behalf of the respondents, argued that as per the direction given by this Tribunal in O.A.No.141/98 dated 31.8.99 the respondents appointed high level committee, which verified the records of each of the applicants. The committee found that none of the applicants have worked for more than 240 days in a calendar year and none of these applicants was in engagement as on 01.08.1998. He disputed the claim of the applicants that the applicant's case was covered under the scheme for granting of temporary status to the Casual Workers relying on the order in O.A.No.28 of 2001. Mr.Chanda, on the other side, submitted that by virtue of

the interim order dated 2.7.98, by which the respondents were directed not to disengage the applicants, the applicants were deemed to be in service at least from 2.7.98 to 26.9.2000, the date on which the individual representations were rejected.

6. After carefully considering the materials on records and submissions made on behalf of the parties, I am of the view that the facts of this application are squarely covered by the judgment of this Tribunal in O.A. No.28/2001 disposed of on 24.8.2001. Like the applicant in the said O.A. the temporary status granted to the applicants was cancelled, like the applicant in the said O.A., the

Affected
LAW
Advocate
13-8-03

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applicants approached this Tribunal in O.A.141/1998 and like the applicant in the said O.A. the applicants made representations individually, which were rejected in like manner. Mr.M.Chanda, learned counsel for the applicants has also referred to Annexure-A (Series) to the additional rejoinder to show that the applicants also worked for more than 240 days in some of the years. Referring to the order in O.A.28/2001 dated 24.8.2001, the orders dated 26.9.2000 are accordingly set aside and the respondents are directed to consider the case of the applicants in the light of the observations made in O.A.28/2001.

The application is allowed to the extent indicated above. The respondents are ordered to complete the exercise with utmost expedition and in any case within three months from the receipt of this order.

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

Sd/-MEMBER (Adm)

TRUE COPY

प्रतिप्रिनि

21/7/2001

Section Officer (J)

राष्ट्रिय प्रशासनिक अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Gowahati Bench, Guwahati
गोवाहाटी न्यायपीठ, गुवाहाटी-8

20/9/2001

Attested
Sd/-
Advocate
13-8-02

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Annexure - XII
Annexure - IX
Annexure - VII

BHARAT SANCHAR NIGAM LTD. (BSNL)

(A Govt. of India Enterprise)

**Office of the Sub-Divisional Engineer (Group)
Patherkandi**

No. E-34/TSM/PTKN/02-03/4

Dated at Patherkandi, the 12-03-2003.

As per the directions contained in General Manager Telecom, BSNL, Silchar Memo No. CAT/GH-OA 332/2000/SC/29 dated 11-03-2003 (1) Md. Lutfur Rahman, S/o Md. Akaddas Ali, Vill-Hafania, P.O.-Hafania (Maina), Dist-Karimganj, Assam and (2) Sri Nihar Dey, S/o Sri Nripendra Dey, P.O.-Patherkandi, Dist-Karimganj, Assam, the applicants in OA No. 332/2000, are approved by the competent authority for conferment of Temporary Status Mazdoor with immediate effect.

Md. Lutfur Rahman, S/o Md. Akaddas Ali and Sri Nihar Dey, S/o Sri Nripendra Dey are hereby conferred Temporary Status Mazdoor (TSM) with immediate effect and posted at Patherkandi Exchange. They will report for duty to the undersigned.

(Signature)

(B. Rahman)
SDE (Group) Telecom
BSNL, Patherkandi.

Copy to: -

1. The GM Telecom, BSNL, Silchar for information w.r.to above please.
2. The DE (P & A), O/O the GMT, BSNL/Silchar.
3. The DET/Karimganj for information.
4. The Sr. AO (Cash), O/O the GMT, BSNL/Silchar.
- ✓ 5. Md. Lutfur Rahman, S/o Md. Akaddas Ali, Vill-Hafania, P.O.-Hafania (Maina), Dist-Karimganj, Assam.
6. Sri Nihar Dey, S/o Sri Nripendra Dey, P.O.-Patherkandi, Dist-Karimganj, Assam
- 7-8. The SDE(HRD)/Staff, O/O the GMT, BSNL/Silchar.

(Signature)

(B. Rahman)
SDE (Group) Telecom
BSNL, Patherkandi.

*Attested
for
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI.

O.A. No. 183 OF 2003

Shri Niranjana Chandra Das & Ors .

..... Applicants.
- Versus -

Union of India & Ors.

..... Respondents.

In the matter of :

Written Statement submitted by the
respondents.

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

1. That with regard to para 4.1, of the application the respondents beg to offer no comments.
2. That with regard to the statement made in para 4.2, of the application the respondents beg to state that it is not a fact that the applicant was initially engaged as casual worker in the Telecom Department since 1st March 1988. It is not a fact that the petitioner had also served in the Department of Telecom prior to March 1998.

As per records, the engagement particulars of the applicant was forwarded by the field unit to the then TDE/Silchar. The applicant in this O.A. No. 183/2003,

Contd.....

5-4-04

[Signature]

Filed by

[Signature] 5/4/04

(A. DEBROY)

Sr. C. G. C.

C. A. T., Guwahati Bench

Sri Niranjan Chandra Das, was one of the casual mazdoor whose engagement particulars was forwarded to the then TDE/Silchar.

The said particulars were based on certificates issued by the line staff i.e. Lineman/SI etc. who are not competent to issue such certificates. As per the departmental scheme called "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of the Department of Telecommunications, 1989", Casual Labourer engaged for 240 days or more in a year in the Department may be considered for conferment of temporary status subject to fulfillment of other criteria.

A copy of the said scheme is annexed herewith and marked as Annexure -1.

Secondly, as per the instructions and guidelines contained in DOT New Delhi letter No. 269-10/89-STN dated 07-11-1989 normally no casual labourer engaged after 30.03.85 should be available for consideration for conferring temporary status. In the unlikely event of there being any case of casual labourer engaged after 30.03.85 requiring consideration for conferment of temporary status, such cases should be referred to the Telecom - Commission with relevant details.

No casual labourer who has been recruited after 30.03.85 should be granted temporary status without specific approval from DOT, New Delhi .

A copy of the letter No. 269-10/89-STN dated 07.11.89 is annexed herewith and marked as Annexure -2.

The service unions in LJCM pressurized the administration to confer temporary status to the mazdoor(s) on the basis of the said engagement particulars, certified by the line staff which were forwarded to the then TDE/Silchar, before verification of the actual engagement records.

Under the circumstances the competent authority provisionally approved the conferment of temporary status mazdoor to the applicant along with some others subject to verification of actual engagement records.

A copy of the provisional approval letter No. E. 20/Grp.-D/Recdt./98 dated at Silchar 09-12-97 of the then TDM/Silchar which contains the provisional approval in respect of Sri Niranjan Das is enclosed herewith and marked as Annexure-3.

The engagement particulars of the applicant along with others were investigated by the departmental vigilance and were found false and fabricated. The applicant was not engaged in the department for 240 days in any year as per paid account vouchers. He did not fulfill the minimum eligible criteria for conferment of temporary status. Consequently, the competent authority was compelled to cancel the provisional approval forthwith and disengaged the applicant w.e.f. 29.06.1998.

A photocopy of the relevant portion of the Vigilance Report in respect of Sri Niranjan Chandra Das is enclosed herewith and marked as Annexure - 4.

-4-

3. That with regard to the statement made in para 4.3, of the application the respondents beg to state that it is not a fact that the respondents constituted a committee for scrutiny for conferment of Temporary Status to the casual workers under the supervision of high ranking officers of the Department of Telecom under TDM/Silchar. It is also not a fact that after detail scrutiny of service records of the applicant was granted Temporary Status provisionally along with others.

The statement of the applicant is false and exaggerated.

The fact is - Temporary Status was conferred to the applicant provisionally subject to verification of actual engagement records. It was also stated in the said approval of the then TDM/Silchar that such confirmed of Temporary status can be terminated without assigning any reason.

The applicant approached to the Hon'ble Tribunal in CAT/GH OA No. 141/98. The interim order passed by the Tribunal on 02.07.1998 directing not to disengage the applicants.

The applicant was disengaged w.e.f. 29.06.1999. Interim order passed by the Tribunal on 02.07.1998, The applicant was in the status "disengaged" on 02.07.1998, As such, status quo "disengaged" was maintained as per legal advise till final disposal of the OA 141/98.

A copy of the order dated 02.07.1998 of CAT/GH O.A. No. 141/98 is annexed herewith and marked as Annexure-5.

Any conferment/appointment based on false certificate/particulars is liable for cancellation. The action of the authority for disengagement of the applicant was justified.

The reason for cancellation of the provisional approval of Temporary Status has been clearly and elaborately explained under para 4.2.

The engagement certificates were false and fabricated. The vigilance report indicates that the applicant was not engaged in the department for 240 days or more in any year. It is apparent there was an ill motive and conspiracy in obtaining the false engagement certificates from the line staff to get the Temporary Status as Mazdoor and subsequent regularisation in the Department by pressurizing the Administration through Service Unions/LJCM etc.

The applicant has no moral/legal right to hold the Temporary Status and claim for TSM status and regularisation on the basis of false engagement certificate. The cancellation of order for conferment of Temporary Status is legal and justified.

4. That with regard to the statement made in para 4.4, of the application the respondents beg to state that the applicant was disengaged w.e.f. 29.06.1998. Interim order passed by the Tribunal on 02.07.1998. The applicant was in the status "disengaged" on 02.07.1998. As such, status quo "disengaged" was maintained as per legal advise till final disposal of the OA No. 141/98.

The final order in O.A. No. 141/98 was passed on 31.08.1999 with the direction to the respondents to ~~and~~ examine and scrutinize each case in consultation with records and thereafter pass a reasoned order on merit of each case.

A copy of the order dated 31.08.1999 in O.A. No. 141/98 is enclosed herewith and marked as Annexure -6.

5. That with regard to the statement made in para 4.5, of the application the respondents beg to state that it is not a fact that the benefit of Temporary Status was granted to the applicant after detailed scrutiny of their engagement records, after finding them eligible/suitable for grant of Temporary Status.

Even though the scheme provide for conferment of Temporary Status to the eligible mazdoors who had been engaged 240 days / more in a year, in the instant case - the particulars forwarded by the unit officer based on the certificates of the line staff were false and farbicated. This has been proved by the vigilance inspection report vide Annexure - 4.

The LJCM has no right to discuss on casual mazdoor issue since the mazdoors are not department staff. The involvement of LJCM in the casual mazdoor affairs and pressuring the administration for conferment of Temporary Status was illegal and beyond norms.

The relevant rules in the constitution of LJCM vide No. 32-1/64-SR dated 11.08.1964 is enclosed herewith and marked as Annexure -7.

Casual Mazdoor is not categorized as an employee in any cadre even in Group 'D' also. The relevant rules/ guidelines vide O.M. No. 13-1/85-SRT (Vol. IV) dated 15.02.1995 on the subject is attached herewith and marked as Annexure-8.

6. That with regard to the statement made in para 4.6, of the application the respondents beg to state that after provisional conferment of Temporary Status, the applicant mazdoor was paid in acquittance Roll limited to the period they were in engagement. The engagement under TSM Status in the particular year also was less than 240 days. This does not confer any right on the applicant to be regularised and continue as TSM as per TSM regularisation scheme.

7. That with regard to para 4.7, of the application of the application the respondents beg to offer no comments.

8. That with regard to the statement made in para 4.8, of the application the respondents beg to state that the applicant was disengaged w.e.f. 29.06.98. The interim order passed on 02.07.98. The applicant was in the status Disengaged on the date of interim order passed by the Hon'ble Tribunal. As such " Status Quo" was maintained. The applicant continued to be disengaged w.e.f. 29.06.98 and he was not re-engaged. Since he was not in engagement, question of his claim for taking the period into consideration for conferment of TSM status does not

does not arise.

9. That with regard to the statement in made in para 4.9, of the application the respondents beg to state that as per direction contained in final order of Hon'ble CAT/Guwahati dated 31.08.1999 in O.A. No. 141/98 and others, a scrutinizing committee was constituted in Silchar SSA under the direction of CGMT/Guwahati D.O. No. Estt-9/12/PART-1/23 dated 28.03.2000 with the guidelines contained therein, to scrutinize and examine the engagement records of the applicant in the department.

A copy of the order No. Estt-9/12/PART-1/23 dated 28.03.2000 is annexed herewith and marked as Annexure -9.

The applicant was given all reasonable opportunity to appear before the scrutinizing committee vide order No. E-20/Scrutiny/CM/2000-2001/03 dated 26.04.2000 and place all relevant authentic documents in support of his actual engagement particulars. The engagement based on certificates given by the line staff was found false earlier by departmental vigilance inspection. The specimen signature of the applicant, father's name and address etc. were obtained to check and examine the payment vouchers incorporated in ACE-2 accounts and preserved in the department in order to determine the actual engagement of the applicant casual labourer.

A copy of the order No. E-20/Scrutiny/CM/2000-2001/03 dated 26.04.2000 is annexed herewith and marked as Annexure - 10.

The scrutinizing committee after thorough examination and scrutiny of the engagement records (paid payment vouchers) submitted its report. The committee thoroughly scrutinized and examined all the account vouchers preserved in the department for last 12/13 years (since 1986 to 1998). As per committee report also, the applicant was not engaged in the Department for 240 days or more in any year.

The verification process was elaborate and exhaustive to scrutinize every paid account vouchers w.r.t. the specimen signature, father's name and address of a particular labourer. This was done to ensure the actual engagement in the department since the engagement particulars certified by the line staff was found false and fabricated during inspection by departmental vigilance.

A copy of the verification committee report in respect of Sri Niranjan Chandra Das is annexed herewith and marked as Annexure -11.

The representation of the applicant was disposed of by the concerned respondent authority by passing reasoned order vide No. E-20/TSM Regularization/SC/04 dated 26.09.2000 as per direction of the Hon'ble Tribunal. The applicant remained disengaged since 26.09.1998 till disposal of the representation on 26.09.2000 and afterwards also. He was not re-engaged.

A copy of the order vide No. E-20/TSM Regularization/SC/04 dated 26.09.2000 is annexed here-

is annexed herewith and marked as Annexure-12.

Whoever is engaged in the department as Casual Labourer, he had been paid against vouchers (i.e. money receipt) which form the ACE-2 Account Vouchers in the account of the concerned SDO/SDE. These are most authentic documents to rely upon the actual engagement. Merely a certificate issued by any staff does not prove the engagement and cannot be relied upon.

The application of the applicant was disposed of by passing reasoned order vide this office letter No. E-20/TSM Regularisation/SC/04 dated 26.09.2000 as per direction of the Hon'ble Tribunal and follow up order of CGMT/Guwahati.

10. That with regard to the statement made in para 4.10, of the application the respondents beg to state that the applicant was disengaged w.e.f. 29.06.1998. Interim order passed by the Tribunal on 02.07.1998. The applicant was in the status "disengaged" on 02.07.1998. As such, status quo "disengaged" was maintained as per legal advise till final disposal of the O.A. 141/98. He continued to be disengaged till final disposal on 31.08.1999 in O.A. No. 141/98.

The final order in O.A. No. 141/98 was passed on 31.08.1999 with the direction to the respondents to examine and scrutinize each case in consultation with records and thereafter pass a reasoned order on merit of each case.

As per direction contained in final order of Hon'ble CAT/Guwahati dated 31.08.1999 in O.A. No. 141/98 and others, a scrutinizing committee was constituted in

in Silchar SSA under the direction of CGMT/Guwahati D.O. No. Estt-9/12/PART-1/23 dated 28.03.2000 with the guidelines contained therein, to scrutinize and examine the engagement records of the applicant in the department.

The scrutinizing committee after thorough examination and scrutiny of the engagement records (paid payment vouchers) submitted its report. The committee thoroughly scrutinized and examined all the account vouchers preserved in the department for last 12/13 years (since 1986 to 1998). As per committee report also, the applicant was not engaged in the Department for 240 days or more in any year.

The representation of the applicant was disposed of by the concerned respondent authority by passing reasoned order vide No. E-20/TSM Regularization/SC/04 dated 26.09.2000 as per direction of the Hon'ble Tribunal. The applicant remained disengaged since 26.09.1998 till disposal of the representation on 26.09.2000 and afterwards also. He was not re-engaged.

The eligible cases were never denied by the respondents. The engagement record of the applicant in the department does not justify his claim for conferment of temporary status as per Departmental scheme. His argument for similiary situated does not hold good.

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-12-

11. That with regard to the statement made in para 4.11, of the application the respondents beg to state that the factual position was that the applicant was provisionally conferred temporary TSM status. The information (engagement particulars) contained in the engagement certificates were false and fabricated as verified from authentic payment particulars of the applicant in the Department. His claim for reinstatement and continuation based on false engagement certificates is illegal, unjustified and not acceptable. The action of the respondent for disposal of the representation by passing reasoned order dated 26.09.2000 is fully justified.

12. That with regard to the statement made in para 4.12, of the application the respondents beg to state that there is no reason for condonation of the delay of the applicant.

13. That with regard to the statement made in para 4.13, of the application the respondents beg to state that the Hon'ble Tribunal may be pleased to reject the application of the applicant for the sake of truth and justice.

14. That with regard to the statement made in para 5.1, of the application the respondents beg to state that all reasonable opportunity was given to the applicant to place his authentic engagement before the committee but he failed to do so because he had no authentic records to produce in support of his engagement.

15. That with regard to the statement made in para 5.2, of the application the respondents beg to state that the decision of the respondent for cancellation of the provisional temporary status is justified.

16. That with regard to the statement made in para 5.3, of the application the respondents beg to state that the applicant does not acquire any right for grant of temporary status by virtue of his actual engagement in the Department.

17. That with regard to para 5.4, 5.5, 5.6 & 5.7, of the application the respondents beg to offer no comments.

18. That with regard to the statement made in para 5.8, of the application the respondents beg to state that the engagement certificates relating working period issued in respect of the applicant and forwarded by the filed officer concerned were false and fabricated as reveal from two stages of inquiry by (i) Departmental Vigilance and (ii) by Verification Committee. The regularisation of the applicant casual mazdoor will encourage unlawful activities which is not desirable.

19. That with regard to the statement made in para 5.9, of the application the respondents beg to state that the applicant was not in engagement since 29.06.1998. As such his engagement as on 01.08.1998 does not arise.

20. That with regard to the statement made in para 5.10, of the application the respondents beg to state that the action of the respondents are justified and there is no violation of the constitutional provisions in Article 14 and 16.

21. That with regard to the statement made in para 5.11, of the application the respondents beg to state that the provisional conferment of temporary status had to be cancelled by the authority since the engagement particulars were false and fabricated. There had been no intention to deny the status to the eligible cases.

22. That with regard to para 5.12, of the application the respondents beg to offer no comments.

23. That with regard to the statement made in para 5.13, of the application the respondents beg to state that the applicant was disengaged w.e.f. 29.06.1998. There is no question of allowing him any work during the pendency of the litigation before the Hon'ble Tribunal.

24. That with regard to the statement made in para 5.14, of the application the respondents beg to state that the applicant was not in engagement since 29.06.1998 as such he is not entitled to any back wage w.e.f. 30.06.1998. He was never reinstated after 29.06.1998.

25. That with regard to the statement made in para 5.15, of the application the respondents beg to state

that there is no such direction from any administrative authority to allow the applicant to discharge his duties during the pendency of the case before the Hon'ble CAT/GHY.

26. That with regard to the statement made in para 5.16, of the application the respondents beg to state that the cancellation provisional approval is reasonably justified and based on authentic records in the Department.

27. That with regard to the statement made in para 5.17, of the application the respondents beg to state that the order dated 26.09.2000 was passed in consultation with engagement records in the Departments after their thorough scrutiny and examination. The process was elaborate and exhaustive to comply with the direction of the Hon'ble Tribunal's order dated 31.08.1999 in OA No. 141/98. and others.

Every paid account voucher was scrutinized to arrive at a decision by the Committee and the follow up disposal order dated 26.09.2000 of the competent ~~author~~ respondent authority.

The application of the applicant has no merit and thus liable to be rejected.


The Hon'ble Tribunal may be pleased to reject the application of the applicant for the sake of truth and justice.

Verification.....

VERIFICATION

I, Shri Shankar chandra Das, Asstt. Director
Telecom (Legal), O/o The CGMT, Assam circle, being authorised
do hereby solemnly affirm and declare that the statements
made in this written statement are true to my knowledge and
information and I have not suppressed any material fact.

And I sign this verification on this 31 th
day of March, 2004.


(S. C. Das)

Declarant.

सहायक निदेशक दूरसंचार (विधि)
Assistant Director Telecom (Legal)
राष्ट्रीय, राज्य तथा प्रबंधक दूरसंचार,
O/o The CGMT, General Manager Telecom
एकम दूरसंचार परिसर, गुवाहाटी-7
Assam Telecom Circle, Guwahati-7

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ANNEXURE-1 93 82

CASUAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARISATION) SCHEME.

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989"
2. This scheme will come in force with effect from 1.10.89 onwards.
3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.

4. The provisions in the scheme would be as under.

A) Vacancies in the group D cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointment on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility qualification prescribed in the relevant Recruitment Rules. However regular Group D staff rendered surplus for any reason will have prior claim for absorption against the existing/future vacancies. In the case of illiterate casual labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed age relaxation equivalent to the period for which they had worked continuously as actual labour for the purpose of the age limit prescribed for appointment to the group D cadre, if required. Out side recruitment for filling up the vacancies in Gr. D will be permitted only under the condition when eligible casual labourers are NOT available.

B) Till regular Group D vacancies are available to absorb all the casual labourers to whom this scheme is applicable, the casual labourers would be conferred a Temporary Status as per the details given below.

Temporary Status.

- i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.
- ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr. D posts.
- iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed anywhere within the recruitment unit/territorial circles 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 Gr. D posts.

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6. Temporary status would entitle the casual labourers to the following benefits :

i) Wages at daily rates with reference to the minimum of the pay scale of regular Gr. D officials including DA, HRA, and CCA.

ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (200 days in administrative officers observing 5 days week) in the year.

iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of work. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.

iv) Counting of 50 % of service rendered under temporary status for the purpose of retirement benefit after their regularisation.

v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr. D employees, provided they furnish two sureties from permanent Govt. servants of this Department.

vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.

7. No benefits other than the specified above will be admissible to casual labourers with temporary status.

8. Despite conferment of temporary status, the offices of a casual labour may be dispensed within accordance with the relevant provisions of the Industrial Disputes Act, 1947 on the ground of availability of work. A casual labourer with temporary status can quit service by giving one months notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefit of encasement of leave on termination of services.

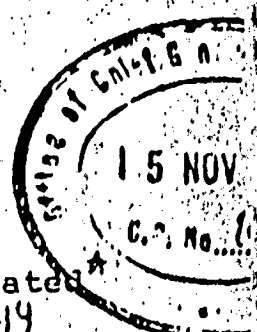
10. The Department of Telecommunications will have the power to make amendments in the scheme and/or to issue instructions in details within the framing of the scheme.

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ANNEX - II of 84

CIRCULAR NO. 1

Government of India
Department of Telecommunications
STN Section



7.11.89

No. 269-10/89-STN

New Delhi

Dated

To

The Chief General Managers Telecom Circles,
M.T.N.L., New Delhi/Bombay, Metro Distt. Madras/Calcu
Heads of all other Administrative Units.

Subject: Casual Labourers (Grant of Temporary Status and
Regularisation) Scheme.

...

Subsequent to the issue of instructions regarding
regularisation of casual labourer in this office letter No.
269-29/87-STN dt. 10.11.88, a scheme for conferring temporary
status on casual labourers who are currently employed and
have rendered a continuous service of at least one year has
been approved by the Telecom Commission. Details of the
Scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer
temporary status on all eligible casual labourers in
accordance with the above Scheme.

3. In this connection your kind attention is invited
to letter No. 270-6/84-STN dt. 30.3.85 wherein instructions
were issued to stop fresh recruitment and employment of
casual labourers for any type of work in Telecom Circles/
Districts. Casual labourers could be engaged after 30.3.85
in Projects and Electrification Circles only for specific
works and on completion of the work the casual labourers so
engaged were required to be retrenched. These instructions
were reiterated in d.o. letters No. 270-6/84-STN dt. 22.4.87
and 22.5.87 from Member (Pers.) and Secretary of the Telecom
Department respectively. According to the instructions
subsequently issued vide this office letter No. 270-6/84-STN
dt. 22.6.86 fresh recruitment of casual labourers even for
specific works for specific periods in Projects and
Electrification Circles also should not be resorted to.

3.2 In view of the above instructions normally no
casual labourers engaged after 30.3.85 would be available
for consideration for conferring temporary status. In the
unlikely event of there being any cases of casual labourers
engaged after 30.3.85 requiring consideration for conferment

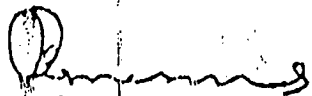
.....2/-

of temporary status, such cases should be referred to the Telecom. Commission with relevant details and particulars regarding the action taken against the officer under whose authorisation/approval the irregular engagement/non-retrenchment was resorted to.

3.3 No casual labourer who has been recruited after 30.3.85 should be granted temporary status without specific approval from this office.

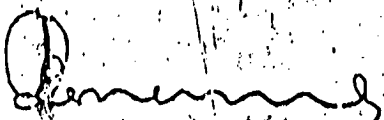
4. The Scheme furnished in the Annexure has the concurrence of Member (Finance) of the Telecom. Commission vide No. SMT/70/89 dt. 27.2.89.

5. Necessary instructions for the expeditious implementation of the Scheme may kindly be issued and payment of arrears of wages relating to the period from 1.10.89, arranged before 31.12.89.


ASSISTANT DIRECTOR GENERAL (STN)

Copy to :-

P.S. to M.S. (C)
P.S. to Chairman Telecom. Commission
Member (S)/Adviser (HRD), GM (Est.), GM (IR) for
information.
NCG/SEA/TE-II/TFS/Admn. I/CSE/PAT/SPB-1/SR Secs.
All recognised Unions/Associations/Federations.


ASSISTANT DIRECTOR GENERAL (STN)

(20)

(85)
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GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER
SILCHAR

No. E-20/Grp-D/Rectt/98

Dated at Silchar, 09-12-97.

To

The S.D.O. Telegraphs.
Karimganj Telegraphs Sub-Division,
Karimganj.

Sub : Casual labours (Grant of temporary status and regularisation scheme) 1989 engaged after 30-3-85 upto 22-6-88)

In pursuance of the DOT New Delhi letter No. 269-4/93-STN-II dated 17-12-93 and CGMT/Guwahati letter No. Rectt-3/10/Part-II dated 4-01-94, the following nine casual mazdoors in your Sub-Division are approved for granting of temporary status on the basis of particulars furnished by you vide your letter No. E-119/Pt. II/95-96 dt. 8-12-95 & 10-7-95.

You are directed to take further action after verification of their eligibility once again on the points mentioned below :-

- (1) Age at the time of engagement.
- (2) Educational qualification upto VIII standard.
- (3) No of days worked yearwise.

After conferring the provisional approval for granting of temporary status w.e.f. 9-12-97 to the casual mazdoors mentioned below, intimation is to be given to TDM/Silchar for their place of posting which will be decided by TDM/Silchar.

List of Mazdoors approved for TSM :-

1. Sri Nripendra Ch. Das, S/O Sri Ganesh Ch. Das, Vill-Bakrihawar.
2. Sri Samsul Haque, S/O Sri Matiur Rahaman, Vill-Lattimara.
3. Sri Manindra Ch. Nath, S/O Sri Mahendra Ch. Nath, Vill-Kankalash.
4. Sri Sahabuddin Mazarbhuyan, S/O Md. Mosaraf Ali, Vill-Latimara.
5. Sri Niranjan Ch. Das, S/O Sri Sujit Ram Das, Vill-Paterakandi.
6. Sri Birendra Das, S/O Sri Kiran Ch. Das, Vill-Dakshingram.
7. Sri Dharendra Sarkar, S/O Late Raychand Sarkar, Vill-Shyamnagar.
8. Sri Dilip Nath, S/O Late Rajendra Ch. Nath, Vill-Katirail.
9. Sri Mohit Roy, S/O Late Ramcharan Roy, Vill-Umapati.

(S. K. Samanta)

o/c Telecom District Manager
Silchar.

Copy to :-

The A.O. Cash, O/O TDM/Silchar.

o/c Telecom District Manager
Silchar.

DEPARTMENT OF TELECOMMUNICATIONS

सेवा में
From S D E Vigilance
O/o The TDM Silchar.
Silchar-788001.

संख्या
No. AVO/CON/98-99/3

सेवा में
To The TDM/Silchar.
दिनांक
Dated at Silchar 10.7.98.

विषय

Subject: Verification of MR and
ACG-17 for the 23 TSMS from
Old records from ACG-2 A/c
SDo/SDE's & the report thereon.

As verbally instructed by you on 9.7.98
I am furnishing herewith the particulars of
MR & ACG-17 of each individual of 23 nos of
TSMS Calendar year - wise for the period from
January '87 to March '96.

S D E Vigilance
O/o The TDM Silchar
Silchar-788001.

Encls:- As stated.

Attested

2/1/03
S D E (General)
O/o G. M. BSNL
SILCHAR.

22 (87)

Sl. No. Name of members M/R Dec-17-99

16	Sri Jayanta Das	87- nil	87- nil
		88- nil	88- nil
		89- nil	89- nil
		90- nil	90- nil
		91- nil	91- nil
		92- nil	92- nil
		93- nil	93- nil
		94- nil	94- nil
		95- nil	95- 23 days
		96- nil	96- Nil

17	Sri Neerajam Ch. Das	87- nil	87-
		88- nil	88-
		89- Nil	89-
		90- Nil	90-
		91- Nil	91-
		92- Nil	92- 18 days
		93- Nil	93- 49 days
		94- Nil	94- 190 days
		95- Nil	95- 122 days
		96- Nil	96- 20 days

Attested

[Signature]
S.D.E. (General)
O/o G.M. DENL
SILCHAR.

[Signature]
S.D.E. Vigilance
110 The T.M. Silchar
Silchar-7 8201

ANNEXURE - V

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 4

OF 1998

Advocate for Applicant(s)

Advocate for Respondent(s)

Notes of the Registry

Date

Order of the Tribunal

2-7-98

Heard Mr. B.K. Sharma learned counsel appearing on behalf of the applicant and Mr. S. Ali, learned Sr. C.G.S.C for the respondents.

Application is admitted. Mr. B.K. Sharma prays for an interim order, not to discontinue the services of the applicants. Mr. S. Ali has no instructions in this matter.

Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.

Meanwhile, the casual workers shall not be disengaged and the applicants shall be allowed to continue in their services.

List it on 31-7-98 for orders.

Member

Vice-Chairman

ANNEXURE - VI (6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. O.A.No.107/1998

Shri Subal Nath and 27 others

By Advocates Mr J.L. Sarkar and Mr M. Chanda

.....Applicants

-versus-

The Union of India and others

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

.....Respondents

2. O.A.No.112/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

By Advocates Mr B.K. Sharma and Mr S. Sarma

.....Applicants

-versus-

The Union of India and others

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

3. O.A.No.114/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

By Advocates Mr B.K. Sharma and Mr S. Sarma

.....Applicants

-versus-

The Union of India and others

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

4. O.A.No.118/1998

Shri Bhuban Kalita and 4 others

By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

.....Applicants

-versus-

The Union of India and others

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents



SL

O.A.No.120/1998

Shri Kamala Kanta Das and 6 others
By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

.....Applicant

-versus-

The Union of India and others
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....Respondents

6. O.A.No.131/1998

All India Telecom Employees Union and
another

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and others
By Advocate Mr B.C. Patha, Addl. C.G.S.C.

.....Respondents

7. O.A.No.135/98
All India Telecom Employees Union,
Line Staff and Group 'D' and
6 others

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

8. O.A.No.136/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and
6 others

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents

9. O.A.No.141/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

.....Applicants

-versus-

The Union of India and others
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....Respondents



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10. O.A.No.142/1998

All India Telecom Employees Union,
Civil Wing Branch.

By Advocate Mr B. Malakar

.....Applicants

-versus-

The Union of India and others

.....Respondents

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

11. O.A.No.145/1998

Shri Dhanu Ram Deka and 10 others

.....Applicants

By Advocate Mr I. Hussain.

-versus-

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

12. O.A.No.192/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

13. O.A.No.223/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Mr D.K. Sharma.

-versus-

The Union of India and others

.....Respondents

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

Collected Tax 677
from the CFT/644
on 23/10/99.
WJ



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DL

15. O.A.No.293/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr D.K. Sarma.

.....Applicants

-versus-

The Union of India and others
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....Respondents

ORDER

BARUAH J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applications were submitted by the said union, namely, the Line Staff and Group 'D' employees and some other applications were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the



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to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Madras Bench of the Tribunal passed on 13.3.1995 in O. No. 750/1994.

The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A.Nos.302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.1.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus, the applicants have approached this Tribunal by filing the present O.A.s.



4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.A.s is that the Association had no authority to

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benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.14/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in compliance of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This Scheme was communicated by letter No.269-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the Scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended



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dated 13.8.1997 passed in O.A. Nos. 302 and 229 of 1996 the respondents have filed applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr. B.K. Sharma, Mr. J.L. Sarkar, Mr. I. Hussain and Mr. B. Malakar, learned counsel appearing on behalf of the applicants and also Mr. A. Deb Roy, learned Sr. C.G.S.C. and Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a



represent the so called casual employees and the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondent also state that the present applicants in the O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents and casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are similarly placed as those of the Department of Posts. Respondents also state that they have approached Hon'ble Gauhati High Court against the order of



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definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

No order as to costs.



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[Signature]
22/10/99

Deputy Officer (A)
Central Administrative Tribunal
Guwahati Bench, Assam
২২/১০/৯৯

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50/-

4. No action is to be taken on direct reference from branch unions except when specifically ordered by Minister/Deputy Minister/Chairman, Telecom Board/Member of the Telecom. Board.

16-2/65-SR dated 3-8-86

5. On behalf of Unions/Associations, their General Secretaries or the holders of corresponding office or the President only should normally address the Administration. The Assistant Secretaries/Deputy General Secretaries wherever specifically authorised by their General Secretaries, may also address communications to the Administration but the references made by them should contain a clear indication that the same are being made under the authority of the General Secretary concerned.

31-1/64-SR dated 5-4-1969

6. The Administration will send replies to communications from Unions/Associations addressed to the General Secretaries of the Unions/Associations and to the Headquarters' address of the Branch Unions concerned with the only exception of D.O. letters from President. Replies to such D.Os. may be sent to the President but these will also be invariably addressed to the Headquarters' address of the Union/Branch Unions concerned unless the sender of the reply is of the opinion that there are special reasons or circumstances for sending a reply direct to the address of the President.

31-3/66-SR dt. 24-11-66

7. The Unions/Associations shall not espouse or support the cause of individual government servants relating to service matters. When such references are received, the Unions/Associations may be informed that they are precluded from taking up individual cases with the Administration and as such their references are being filed.

16-2/72-SR dated 7-7-72

8. As per the existing system, the entire working of an office is appropriately distributed among its different sections for quick and proper disposal. When a communication is received which deals with more than one subject, it creates administrative inconvenience and difficulty; necessitates preparation of extracts for action in appropriate files in the concerned sections and delays the disposal of items referred to in the communication. With a view to facilitate quick and straight disposal, each union's communication addressed to the administrative authorities concerned at different levels, should deal with only one subject.

9. Creation and abolition of posts is purely an administrative matter and it is not a subject which the Union can discuss with the Administration. It is for the Department to decide whether a parti-

cular post is justified or not and it is not the function of the Union to determine the justification or otherwise of the post. Views of the Union may, however, be considered when the question is examined on merits. No correspondence will be entertained with the Union regarding creation of individual posts. The question of fixation of standards for creation of posts is a different matter and does not fall in the above category.

16-6/65-SR dated 31-3-1965

III. Office Bearers

1. Honourably retired Telecom. officials of any arm of service are eligible to hold office in Associations/Unions.

17-9/59-SR dated 23-2-60 and 33-7/77-SR dated 26-12-77

2. Telecom. employees are permitted to hold office in Unions/Associations of their own arm of service and their own Circle/Division and All India Union concerned only. A class III employee can become an office bearer of a Union/Association of Class IV employees subject to the conditions that (a) the official belongs to the same arm of service and the same circle in the case of Circle Union and same Division in the case of Branch Union below Circle level and (b) the constitution of the Union of Class IV employees provides for membership of Class III employees. There is no objection to an employee holding office simultaneously in two or more branch Unions at Division/Circle and All India level provided the branches belong to his own arm of service, Circle and Division. The above restrictions shall not however apply in case of employees holding office of President/Vice-President.

17-23/73-SR dated 8-1-75

3. Prescribed facilities should not be extended to branches of Unions/Associations where any of the office bearers are non-employees (outsiders.)

17-7/74-SR dated 17-1-75 and 17-28/84-SR dated 9-10-84

IV. Rulings on Membership

1. The right of the Unions to represent casual labour has not been conceded. But if any grievances of casual labour covered by the recommendations of the Pay Commission are brought to notice by the Federation or Unions affiliated to it, this will be examined. However, no reply in respect of such grievances would be sent to the Federation or Unions affiliated to it.

32-1/64-SR dated 11-8-64

2. The trainees who have been recruited directly and yet to be absorbed in the Department will not join/form/organise any Unions/

Local Councils

DOT No. 28-47/87-SRT dt 8-10-87

In continuation of this office letter No. 28-55/86-SRT dated the 28th August, 1987 on the above subject I am to clarify as under-

- 1) The Staff Side will comprise of representatives of unions affiliated to NFTE and FNTD in the ratio of 5-2. Since the maximum number of Staff Side members will be 14, there shall be 10 representatives of NFTE and 4 of FNTD.
- 2) The unions concerned shall obtain the nominations to the Staff Side from the respective Federations in the form prescribed.

Local Councils (Telegraph)

DOT No. 28-55/86-SRT dt 21-10-87

In continuation of this office letter of even No. dated the 28th August 1987 on the above subject, it is clarified that Local Councils will be set up in all Telegraph Traffic Divisions also.

Integration of Civil Wing

DOT No. 28-7/86-SRT dt 26-5-87

In continuation of this office letter of even No. dated the 6th March 1987, the question of increasing the number of seats in the Regional Councils in Telecom Circle due to merger of Civil Wing was under consideration. It has now been decided that the number of seats on the staff side in all Circles may be increased to 14 so as to give adequate representation to the Unions functioning in the Civil Wing. This total number of 14 seats will not be further increased on account of formation of new telephone districts or upgradation of minor districts into major districts.

Official Side representation

DOT No. 28-7/86-SRT dt 13-10-87

A reference is invited to this office letter of even No. dated the 6th March 1987 on the above subject wherein the decision was conveyed that on the official side, the Chief Engineer concerned shall be included as a Member of the Regional Council.

2. Some circles have reported practical difficulties in getting Chief Engineers to attend the meetings of the Regional Councils. The whole matter has therefore been re-examined and it has now been decided that neither the Chief Engineer nor the Superintending Engineer on behalf of the Chief Engineer may be included as a Member of the Regional Council. The General Manager Telecom being the administrative head, he will represent the Civil Wing on the official side.

Local Councils

Model Constitution

Constitution of Local Councils of Telecom Board in the Department of Telecommunications under the scheme of Joint Consultative Machinery.

1. Short Title

This Constitution may be called the constitution of the Local Council of District/Division/SSA/S.E. under Telecom Circle of Telecom Board in the Department of Telecommunications under the Scheme for Joint Consultative Machinery and Compulsory Arbitration for Central Government Employees.

2. Application

This Constitution shall cover all the regular civil employees of the Central Government for whom the Scheme is applicable in the Telecom Board of the Department of Telecommunications and all subordinate offices and establishments under it.

3. Objects

The object of the Council is to promote harmonious relations and secure the greatest measure of cooperation between the Central Government in its capacity as employer, and the general body of its employees in matters of common concern and further to increase the efficiency of the public services combined with the well being of those employed.

4. Scope and Functions

The scope of the Council will include all local matters relating to conditions of service and work, welfare of the employees, and improvement of efficiency and standard of work with particular reference to local conditions.

The subjects to be discussed at the local councils should be limited to matters within the competence of the Head of Dist./Division/SSA; individual cases will be outside the panel of the Local Council.

5. Members of the Council

- (1) The Council shall consist of
 - (a) Chairman, Head of Dist./Division.
 - (b) Representatives on the official side.

CSM not a member of service union
ANNEXURE-8(VIII)

CCS (RECOGNITION OF SERVICE ASSOCIATIONS) RULES

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Circle Headquarters Office and will include Telecom Accounts Clerks posted in these offices.

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O.M. No. 13-1/85-SRT (Vol. IV), dated 15-2-1995

Categorization of Group 'C'/Group 'D' employees for the purpose of forming service unions/associations under CCS (RSA) Rules, 1993, in Department of Telecom

A few staff federations and the service unions had desired that the issue of categorization of employees vide this office OM of even number, dated 19-4-1994 (copy enclosed) may be reconsidered.

2. Taking note of the demand of the service unions, to mention a few, All India Telecom Stenographers Association, National Union of Telecom Engineering Employees, Line Staff and Group 'D' Bhartiya Telecom Technicians' Union, Telecom Accounts Association, NFTE, the above issue has been reconsidered by this office. It has been observed that the categorization as decided vide OM, dated 19-4-1994, and the clarificatory orders issued by this office subsequent thereto is in order and does not require any further modification. The proposal of forming an exclusive union by the Stenographers/PAs and Telecom Technicians has not been agreed to. As already clarified vide this Office Letter No. 36-4/94-SRT, dated 14-9-1994, the Stenographers working in Telecom Circles including Senior PAs would form the union along with the Administrative Office employees referred to as item 4 of Para. 6 of the OM, dated 19-4-1994. The Telecom Technicians would form the service union along with the other Group 'C' employees referred to under item 2 of Para. 6 of the OM, dated 19-4-1994.

3. Taking the above aspects into account, the list of categories and the details of employees covered by each category is enclosed for information of all concerned. The recognition of applicant service unions whose applications have been received within the stipulated date, viz., 21-1-1995, would be considered as per this categorization.

LIST OF CATEGORIES CONSTITUTED

Sl. No.	Name of category	Details of employees covered in the category
1.	Line Staff and Group 'D' employees	Line Staff such as Linemen, SIs, LIs, Regular Mazdoors and Group 'D' employees of Telecom Engineering, non-Industrial Group 'D' employees of Telecom Factories, Telegraph Traffic, Accounts Wings of the Department excluding the Group 'D' employees working in Circle Headquarters Offices, Civil Wing and WPC/Monitoring Organization who are since included in other categories, viz., category Nos. 4, 5 and 7 respectively.
2.	Telecom Group 'C' employees	All Group 'C' employees of the Telecom Engineering, Telecom Factories (non-industrial employees), Telegraph Traffic and the Telecom Accounts Wings excluding

SWAMY'S—ESTABLISHMENT AND ADMINISTRATION

Sl. No.	Name of category	Details of employees covered in the category
		Group 'C' employees working in the Circle Headquarters Offices, JTOs, JEs, (Civil), Group 'C' employees of the Civil Wing and WPC/Monitoring Organization who are since covered under category Nos. 4, 3, 5, 6 and 7 respectively. Junior Accounts Officers are also excluded. They are categorized with Group 'B' officers of the Accounts Officers Association.
3.	JTOs	JTOs including Telegraph Assistant Superintendents of Telegraph Traffic who have since been merged with JTOs.
4.	Administrative Office employees	Group 'C/D' employees posted in the Circle Headquarters who are not transferable outside the Circle Headquarters. This category would also include Senior PAs/PAs/Stenographers posted in the SSAs and the Circle Headquarters Offices.
5.	Telecom Civil Wing Non-Gazetted Staff	All Group 'C/D' employees of the Civil Wing (Electrical, Civil, Arch. Disciplines) excluding JEs who are since covered under category No. 6.
6.	JEs of Civil Wing	This category would cover JEs in all the 3 disciplines of the Civil Wing, i.e., Civil, Electrical, Arch.
7.	Non Gazetted Staff of WPC and Monitoring Organization	All Group 'C/D' employees of the WPC and Monitoring Organization of the Department.

ENCLOSURE

G.I., Dept. of Telecom, O.M. No. 13-1/85-SRT (Vol. IV), dated 19-4-1994

Not reproduced—See Sl. No. 14 above

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Letter No. 6-1/97-SR (Pt.), dated 22-7-1997

Categorization of employees for forming Service Unions in Administrative Employees' Union.

Attention of Service Unions and others concerned is invited to this Office Memo No. 13-1/85-SRT (Vol. IV), dated 15-2-1995 (Sl. No. 16 above) and No. 6-1/97-SR, dated 3-6-1997 on the subject noted above.

2. A question has now been raised whether (i) the Telecom Accounts Clerks working as Precheckers in SSAs are part of Circle Office staff for the purpose of forming Unions in the category of Administrative Employees' Union and to be included in the Administrative Offices Employees' Union category.

(ii) Whether the Telecom Accounts Clerks posted in Telecom Circle Headquarters Office would form a Union in the category of Administrative Office Employees' Unions.

Government of India,
Deptt. of Telecommunications,
O/o the Chief General Manager,
Assam Telecom. Circle,
Guwahati-781007.

Dated the 20th March, 2000.

My dear Sir,

A list of casual Mandoors working as on 1.8.99 was forwarded by your office for granting temporary status as per scheme pronounced by Telecom Directorate in its letter no. 269-10/93-BTN dated 7.11.89 (copy enclosed). The names of casual Mandoors recommended by your SSA are given in Annexure "A". However, it is observed that apart from these names, additional numbers of Casual Mandoors have approached Hon'ble CAT from your SSA for granting of Temporary Status to them (As enclosed Annexure B).

2. The Hon'ble CAT has directed that the matter be sorted out by making detailed scrutiny and examination in consultation with the records and speaking order be passed in every case individually. For this purpose, it is required that a committee comprising 3 members be constituted by you out of which one member shall be a nominee of Circle Office, while 2nd member would be DE(P&A) of your SSA and 3rd member should be Accounts Officer from Finance side of your SSA. Mr. Sarma, B.S. (P&A) of Circle Office is hereby nominated as member for the aforesaid committee for your SSA. The above mentioned committee should be constituted immediately so that it completes its task by 30.4.2000 positively.

3. Broad Terms of reference of the committee should be as under:

i) The committee shall interview all casual labourers appearing in Annexure A and B above and obtain their photograph (duly attested by the committee), as well as signatures.

ii) The engagement/payment record of each labourer shall be verified on the basis of payment particulars and signatures of labourers.

iii) A list of Mandoors eligible for grant of Temporary Status should be prepared on the basis of guidelines for granting temporary status to Casual Mandoors issued by Deptt. of Telecom vide letter no. 269-10/89-BTN dtd. 7.11.89 and subsequent letter no. 269-4/93-BTN II dtd. 17.12.93 and also 269-4/93-BTN II dtd. 12.02.99 and 269-4/93-BTN II (Pt) dt. 13.2.2000 (copy enclosed).

Contd... P/2..

Further Directorate vide letter no. 271-85/97-47N-1 dated 17.8.1998 (copy attached) observed that casual labourers were being engaged on the basis of false certificates for attendance. Needless to mention the verification of records by the committee should be done strictly on the basis of authentic documents.

The committee should verify the number of casual labourers without temporary status who have completed 240 days in any preceding year and were in service as on 01.09.1998 as per following details.

Period of Recruitment

A. Up to 30.3.1998

B. Between 31.3.1998 to 22.06.98

C. From 23.06.1998 to 01.09.1998.

The details of each casual labourer should be recorded separately in the format attached herewith as Annexure C (Page-1 and Page-2). More sheets can be attached if needed but recording of details has to be individually for each casual labourer.

The committee shall submit the report to the SSA Head for further necessary action who will complete the formalities of declaring TSM to eligible Masdoor subject to number authorised by Directorate. In respect of non-eligible masdoors and the one's who have gone to the court, the speaking order on their disengagement and delivered to him through Registered letter/under receipt.

In this connection please note that any delay in deciding the representations of each individual labourer may attract contempt of the Court proceedings.

The above instructions and term of reference are being issued with the specific approval of CGMT Assam Telecom Circle.

It is requested that the necessary action may kindly be initiated so as to complete the task positively before 30.4.2000.

In case of any queries please write to and call the undersigned on 040167(0) / 024524(R).

With Kind regards

(Signature)
By General Manager (Admn)

To,
Shri C.B. Nair
General Manager, Sucha
Telecom District Manager

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Dated at Silchar, 26-4-2K

[Handwritten signatures and names are visible through the paper from the reverse side.]

Sub: Oro

Call for appearing before scrutinizing committee of records
Of casual Wazdoors

You are hereby requested to appear before the scrutinizing committee on 03-05-2000 with the following documents/particulars, in original, on the specified date, time and at the specified venue given below:

1. Initial engagement particulars as casual mazdoor, appointment order / sponsorship of employment exchange in your possession.
2. All documents i.e. working particulars, payment particulars till last working day, if any, available with you.
3. Age proof certificate.
4. Two copies of recent passport size photographs.

**Venue :- Hotel Indraprastha Regency,
Lochan Bauragi Road, Ground floor
Silchar - 788005.**

Member, Scrutinizing Committee
Divisional Engineer (P & A)
O/o the G.M. Telephone, Silchar
Silchar, SSA, Silchar

Verification of records of Casual Labourers in Assam Telecom Circle.

Ref. Hon'ble CAT Guwahati bench decision dtd. 31-08-99.

1. NAME OF THE APPLICANT CASUAL MAZDOOR **SRI NIRANJAN DAS**
2. O/A NO. IF THE LABOURER HAS GONE TO COURT **141/98**
3. FATHER'S NAME AND ADDRESS **Sri Smit Ram Das.
Vill - Patirakandim, P.O. Mahakal
Dist - Karimganj**
4. DATE OF BIRTH **28-02-1970**
5. AGE AS ON 01-08-1998 **28 yrs 5 months 2 days**
6. DATE OF INITIAL ENGAGEMENT
MODE OF SELECTION (THROUGH
EMPLOYMENT EXCHANGE OR
ANY OTHER METHOD **11-12-1992
Engaged locally**
7. NATURE OF DUTY PERFORMED **Helper to the line staff for maintenance
& construction of outdoor Telecom
plants.**
8. PRESENT STATUS OF THE MAZDOOR **Not in work.**
9. SPECIMEN SIGNATURE OF THE MAZDOOR **Niranjana Das.**
10. ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT (as per attached sheet) TILL 01-08-98 **Separate sheet attached.**
11. RECOMMENDATION OF THE COMMITTEE WHETHER CASUAL LABOUR SHOULD BE GRANTED TEMPORARY STATUS OR NOT KEEPING IN VIEW GIDE LINE **Not recommended for granting temporary status**
12. RECOMMENDATION OF THE SSA HEAD UNIT **Not recommended**

General Manager Telecom
SILCHAR

Circle Office member

DE (P&A) SSA / Silchar

General Manager Telecom
SILCHAR

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YEAR	MONTH	NO. OF DAYS	MODE OF PAYMENT i.e. MASTER ROLL/ACG-17 PARTICULARS i.e. Vr. No.	AMOUNT	ENGAGED BY WHOM	BILLING/PASSING AUTHORITY	NAME OF A.O. WHO HAS PAID
1992	December	18	ACG-17				
1993	January	15	ACG-17	720	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1993	May	15	ACG-17	600	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1993	November	1	ACG-17	20, 28, 34 & 61	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1993	December	7	ACG-17	3	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	February	38	ACG-17	5 & 20	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	March	26	ACG-17	280	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	April	19	ACG-17	12	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	May	24	ACG-17	2	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	June	21	ACG-17	8	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	July	18	ACG-17	3	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	August	22	ACG-17	11	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	September	12	ACG-17	11	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1994	December	18	ACG-17	6	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1995	May	189	ACG-17	9	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1995	July	10	ACG-17	41	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1995	August	25	ACG-17	37	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1995	November	22	ACG-17	33	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1995	December	25	ACG-17	28	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1996	January	102	ACG-17	18	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1996	February	22	ACG-17	10	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	March	11	ACG-17	14	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	May	16	ACG-17	15	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	July	12	ACG-17	8, 25, 31 & 38	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	August	3	ACG-17	32 & 39	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	August	3	ACG-17	2, 24, 30 & 42	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	August	8	ACG-17	7	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	September	7	ACG-17	29	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	September	12	ACG-17	8, 42	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	September	2	ACG-17	8, 10 & 14	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	September	1	ACG-17	25, 29, 34 & 12	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	October	9	ACG-17	20	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	October	7	ACG-17	7	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	November	2	ACG-17	28	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	November	8	ACG-17	28, 30, 35	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	November	11	ACG-17	21	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	December	6	ACG-17	53	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	December	122	ACG-17	63, 85, 69 & 73	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC
1997	December	122	ACG-17	1, 3 & 36	SDOT/KRM	DE/TDM-SC	AO(Cash)/SC

SIGNATURE OF THE COMMITTEE MEMBERS

Sankar Das
 SDE (RRC/GH)
 (Circle Office Member)

Mamondy 9/6/24
 (M.R. Choudhury)
 Sr. AO (Cash)
 O/O the GMT, Silchar

DE 11/9/24
 O/O the GMT, Silchar

SILCHAR

NAME OF THE APPLICANT: Sm. NIRANJAN DAS
CASUAL MAZDOOR

37

120

General Manager Telephone

12.

38

Dated at Silchar, the 26-07-2000

Mr. K. S. Srinivasan Ramdas

VII. Patrakali of Pattadakal

Q2787 Kakabashvili, Ilya

Hon'ble CAT/Guwahati order dtd. 31.8.99 in OA No. 3141/98.

9c

[Handwritten signature]

General Manager Telecom
SILCHAR

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Copy to:

1. COMT (Task Force), OH
2. Director (Mtn), MTR, OH
3. N.M. (Civil), HQ, Guwahati.

They are also requested to constitute committees for verifying the records of each casual labourer as above and prepare list of eligible C/M for conferment of TSM. The list duly recommended may be forwarded to the respective head of BSA for conferment of TSM.

He is requested to forward the verification finding report to G.O., Guwahati for conferment of TSM.

for G.O.M.T. Assam Circle,
Guwahati-781 007.