

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 235/06.....

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SECTION OFFICER (Judl.)

Kapila
26/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 235/06

2. Miscellaneous No.

3. Contempt Petition No.

Review Application No.

Applicant(s) Arina Talukdar Jans

Respondant(s) U. O. I Jans

Advocate for the applicant(s) S. Sarma

B. Des

Advocate for the Respondant(s) Prakash G. Baisya

Notice of the Registry	Date	Order of the Tribunal
------------------------	------	-----------------------

13.9.06

Issue notice on the Respondents

Post the matter on 17.10.06. Liberty is given to the respondents to file written statement.

lm

Vice-Chairman

30.10.06

Post the matter on 31.10.06.

lm

Vice-Chairman

260326214

1.9.06.

gketh

Di.

8 Laps not taken

Di.

Notice & order sent to D/section for issuing to resp. nos. 1 to 5 by regd. A/D post.

COB D/No-991 to 995

21/9/06. Dt: 26/9/06.

Notice duly served on resp. nos- 2, 3.

COB 26/10/06.

Notice for R-4, received back

as unserved with a remark

office shifted to panjabani

CAT-37.

31.10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

27-10-06

- ① No time duly send
on R-2 & 3. Thus and that
- ② no reply filed.

The issue involved in this case is that the Applicants approached this Tribunal earlier by filing O.A. No. 157/2003 and vide order dated 26.02.2004, the Tribunal disposed of the said O.A. with the following directions :-

"11. In the result of the O.A.s are partly allowed and the impugned orders are quashed. The respondents are directed to treat the cases of the applicants beyond the Scheme of 1997 and be considered under the DOPT's scheme of 10.9.1993 within a period of two months from the date of receipt of a copy of this order. However, such consideration shall be strictly in accordance with the provisions of the DOPT's Scheme of 10.9.1993 as well as suitability of the applicants to the post."

The Respondents rejected the case of the Applicants vide annexure - 9 memorandum dated 13.12.2004 stating that the case of the Applicants do not come under the Scheme of the DOPT.

Heard Mr S. Sarma, learned Counsel for the Applicants and Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents. Learned Counsel for the Respondents wanted time to take instructions and to file reply statement. Let it be done.

Post on 14.12.2006.

Vice-Chairman

/mb/

Amal
G. Baishya
Sr. C.G.S.C.
3/11/06

order dt. 31/10/06
issuing to learned
advocate's for both
the parties.

Corr
3/11/06

No Wb has been
filed.

20
13.12.06.

14.12.2006

Mr.R.Das, learned counsel for the applicants is present. Mr.G.Baishya learned Sr.C.G.S.C. prays for further time to file reply statement. Let it be done.

post on 15.1.2007.

No W/S has been filed.

12.1.07.

Vice-Chairman

bb

15.1.07

Written statement not filed.
post on 6.2.07 for order.

Vice-Chairman

pg

5-2-07
No W/S filed.
bm

6.2.07

Two weeks time is granted to file written statement. Post the matter on 28.3.07.

Vice-Chairman

lm

28.2.07.

Counsel for the respondents pray for time to file written statement. Four weeks time is granted to file written statement. Post the matter on 28.3.07.

ce
Member

Vice-Chairman

lm

28.3.2007

Four weeks further time is granted to the Respondents to file reply statement. Post on 1.5.2007.

Vice-Chairman

No W/S has been filed.

27-3-07.

No W/S has been filed.

30.4.07.

/bb/

1.5.07.

At the request of learned counsel for the respondents four weeks time is granted to file written statement. Post the matter on 4.6.07.

Vice-Chairman

lm

No wks have been
billed.

22
11.6.07

12.6.07. At the request of learned counsel for the respondents further four weeks time is granted to file written statement. Post the matter on 17.7.07.

Vice-Chairman

Wks not billed

22
18.7.07

17.7.2007

Post the matter on 1.8.2007 granting further time to the Respondents to file reply statement.

Vice-Chairman

Wks not billed.

22
28.8.07

/bb/

29.8.07

Three weeks time granted to the respondents to file written statement. Post. on 21.9.07.

Vice-Chairman

pg

21.9.07.

Three weeks further time is granted to file written statement. Post the matter on 5.11.07.

Vice-Chairman

2-11-07

Wks not billed
2-11-07

lm

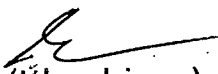
30.01.2008


Written statement filed in Court today; after serving a copy thereof on Mr.H.K.Das, learned counsel appearing for the Applicant. Mr. H. K.Das, learned counsel appearing for the Applicant prays for time to file rejoinder. Prayer is allowed. Call this matter on 11th February, 2008 awaiting rejoinder from the Applicant.

Rejo

15.2.08

*W/e filed by
the Respondents.
Copy received by
the Applicant.*



(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

15/2/08 18.02.2008

Written statement on behalf of the Respondents have already been filed. Mr.H.K.Das, counsel for the Applicant prays for four weeks time to file rejoinder. Case is adjourned to 19.3.2008 with direction to the learned counsel appearing for the Applicant that rejoinder may be filed after serving the copy to the learned counsel appearing for the Respondents. Call this matter on **19.03.2008** for hearing.


(Khushiram)
Member(A)

lm

15.2.08

*no rejoinder W.
12*

OA. 235/07

05.11.2007

Awaits

service

report.

Mr.G.Baishya, learned Sr. Standing counsel for the Union of India undertakes to file reply statement within three weeks.

Call this matter on 27.11.2007.



Member (A)

/bb/

27.11.2007

Mrs.M.Das, learned Addl. C.G.S.C. representing Mr.G.Baishya, learned Sr. C.G.S.C. for the Respondents, prays for four weeks time, on his behalf, to file reply statement.

Call this matter on 01.01.2008.




(Khushiram)
Member (A)

/bb/

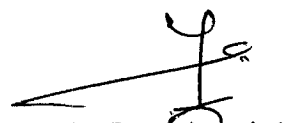
01.01.2008

No written statement has been filed in this case as yet.

Call this matter on 30.01.2008 awaiting written statement from the Respondents.



(Khushiram)
Member (A)



(M.R.Mohanty)
Vice-Chairman

/bb/

W/S not filed.

26.11.07

W/S not filed.

31.12.07

19.03.2008

Mr H.K. Das, learned Counsel appearing for the Applicant seeks time till 28.03.2008 to file rejoinder. Prayer is allowed.

In the aforesaid premises call this matter for hearing on 07.04.2008.

Rejoinder not filed

3/4/08

(Khushiram)
Member (A)

nkm

(M.R. Mohanty)
Vice-Chairman

07.04.2008

No rejoinder has been filed as yet. Call this matter on 14.05.2008 expecting rejoinder from the Applicant.

10.4.08

(Khushiram)
Member (A)

/bb/

(M.R. Mohanty)
Vice-Chairman

Rejoinder filed by the Applicant. Copy served.

14.05.2008

None appears for the Applicant. However, Mr S. Sarma, learned Counsel appearing for the Applicant, has filed a leave note. Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, is present.

The case is ready for hearing.

3/13/08

Call this matter on 25.06.2008 for hearing.

Send copies of this order to the Applicant and to the Respondents, in the addresses given in the O.A. so that they can come ready for hearing on the date fixed.

DL 14.5.08

Pl. send copies of this order to the Applicant and to the Respondents

Order dt. 14/5/08 send to D/Section for issuing to applicant and to the respondents by post.

(Khushiram)
Member (A)

nkm

(M.R. Mohanty)
Vice-Chairman

19/5/08. D/No-2378 to 2383
Dt: 21/5/08.

04 235/06

∞

25.06.08

None appears for Applicant nor the Applicant is present. However, Mr G.Baishya, learned Sr. Standing counsel is present.

Call this matter on 03.07.2008 before Division Bench.

the case is ready for hearing.

25
02.07.08


(M.R. Mohanty)
Vice-Chairman

pg

03.07.2008

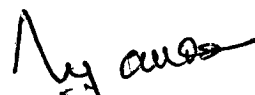
None appears for the either parties.


Call this matter on 13..08. 2008 for hearing.

the case is ready for hearing.

25
5.08.08

lm


(R.C. Panda)
Member(A)


(M.R. Mohanty)
Vice-Chairman


06.08.2008

Mr.H.K.Das, learned counsel for the Applicant and Mr.G.Baishya, learned Sr. Standing counsel for the Respondents are present.

the case is ready for hearing.

25
16.9.08

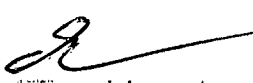
Call this matter before the next available Division Bench on 15.09.2008.

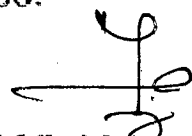

(M.R. Mohanty)
Vice-Chairman

/bb/

17.09.2008

On the prayer of Mr H. Das, learned Counsel appearing for the Applicant (made in presence of Mr G. Baishya, learned Sr. Standing Counsel for the Union of India), the hearing of this case stands adjourned to be taken up on 14.11.2008.


(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

nk m

14.11.2008

Mr.H.K.Das, learned counsel appearing for the Applicant is present. Mr.G.Baishya, learned Sr.Standing Counsel appearing for the Respondents is on accommodation for to-day.


In the said circumstances, call this matter on 19.12.2008 for hearing.


(S.N.Shukla)
Member(A)


(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

lm


18.12.08.

19.12.2008

Call this matter on 09.02.2009 for hearing.


(S.N.Shukla)
Member (A)



(M.R.Mohanty)
Vice-Chairman

/bb/


The case is ready
for hearing.

09.02.2009

Call this matter on 25.03.2009 for
hearing.


(M.R. Mohanty)
Vice-Chairman

nkm


6.2.09.

25.03.2009

This is a Divisional Bench matter.

On the prayer of Mr. H.K. Das, Advocate, representing the Applicants, call this matter tomorrow for hearing before the Divisional Bench.


(M.R. Mohanty)
Vice- Chairman

/pb/

O.A. No. 235/06

26.03.2009

On the prayer of Mr G.Baishya, learned Sr. C.G.S.C the case is adjourned to 18.05.2009 for hearing.

The case is ready for hearing.

(Khushiram)
Member (A)

(A.K.Gaur)
Judicial Member

pg

15.5.09.

18.05.2009

Mr H.K.Das, learned counsel for the Applicant is present. On behalf of Mr G.Baishya, learned Sr. Standing counsel adjournment is sought.

Accordingly call this matter on 25.05.2009.

(N.D./Dayal)
Member(A)

(M.R.Mohanty)
Vice-Chairman

pg

25.05.2009

For the reasons recorded separately, the O.A. is allowed.

(N.D.Dayal)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

Received copy of order

Dt- 20-5-2009

27-5-2009

Applicant

Received copy of order
dt: 27-5-2009

22-5-09

Applicant

Received for

G. Baishya & Co

D. Kour

D/No. 2494 to 3500
dt 24/6/09

27-5-09

27-5-09

Order dt 25-5-09 send to D/S
for Insurance to Applicant & Respondent
D. Kour

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A No. 235 of 2006

DATE OF DECISION: 25.05.2009

Sri Anima Talukdar & another

.....Applicant/s.
Mr.H.K.Das

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr. G.Baishya, Sr. C.G.S.C.

..... Advocate for the
Respondents

CORAM

**THE HON'BLE MR.M.R.MOHANTY, VICE CHAIRMAN
THE HON'BLE MR.N.D.DAYAL, ADMINISTRATIVE MEMBER**

4. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes/No
5. Whether to be referred to the Reporter or not? Yes/No
6. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Judgment delivered by

Administrative Member

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A. No. 235 of 2006

DATE OF DECISION: 25.05.2009

Sh Anima Talukdar & another
Applicants
Mr. H.K. Das
Advocate for the
Applicants
- Versus -
U.O.I. & Ors
Respondents
Mr. G.B. Bisht & Sr. C.G.S.C.
Advocate for the
Respondents

CORAM

**THE HON'BLE MR. M.R. MOHANTY, VICE CHAIRMAN
THE HON'BLE MR. N.D. DAYAL, ADMINISTRATIVE MEMBER**

- | | | |
|---|---------------------------------------------------------------------------|--------|
| 4 | Whether Reporters of local newspapers may be allowed to see the Judgment? | Yes/No |
| 5 | Whether to be referred to the Reporter or not? | Yes/No |
| 6 | Whether their Lordships wish to see the full copy of the Judgment? | Yes/No |

Judgment delivered by Administrative Member

✓

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 235 of 2006

Date of Order: This, the 25th Day of May, 2009

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI N.D.DAYAL, ADMINISTRATIVE MEMBER

1. Anima Talukdar
D/o Late Tapan Talukdar
Casual Worker working under
The Executive Engineer
Middle Brahmaputra Division
Central Water Commission
Rajgarh Road, Guwahati-7.
2. Aibuddin Ahmed
Son of Late Rabiruddin Ahmed
Working as Work charged Khalasi
Under D(S)K subdivision
Central Water Commission
Nagaon.

..... Applicants.

By Advocates: Mr.S.Sarma, Mrs.B.Devi & Mr.H.K.Das.

-Versus -

1. The Union of India
Represented by the Chairman
Central Water Commission
R.K.Puram, New Delhi.
 2. The Director
Central Water Commission
New Delhi-66.
 3. The Superintending Engineer
Hydrological Observation Circle
Adabari, Guwahati-781 014.
 4. The Executive Engineer
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road, Guwahati-7.
 5. The Executive Engineer
Upper Brahmaputra Division
Central Water Commission
- ↗

P.O: Central Revenue Building
Dibrugarh.

..... Respondents.

By Mr. G.Baishya, Sr. C.G.S.C.

ORDER (ORAL)
25.05.2009

N.D.DAYAL [MEMBER (A)] :

Heard Mr.H.K.Das, learned counsel for the Applicants and Mr.G.Baishya, learned Sr. Standing counsel for the Respondents and perused the materials placed on record.

2. The two Applicants in this O.A. who were casual labourers, having been disengaged, came to this Tribunal in O.A. Nos. 201 of 1993 and 249 of 1993. Subsequently, Review Application Nos. 13 of 1993 and 16 of 1994 were also filed wherein directions were passed not to terminate the services of the Applicants in future and to regularize their service in Group 'D' posts in terms of O.M. dated 10.09.1993/Casual Labourers Scheme 1993.

3. Thereafter, it appears that in the year 1997 the earlier orders was withdrawn and a new Scheme had been brought out which was called as, "Grant of Temporary Status and Regularization of Seasonal Khalasis in the Work Charged Establishment of Central Water Commission, 1997" and the Applicants, being aggrieved with the view that the Scheme of 10.09.1993 would not apply to them, again approached this Tribunal in O.A. Nos.100 of 2003 and 157 of 2003 seeking the benefit under DOPT Scheme of 10.09.1993 as allowed by this Tribunal earlier by its order passed in the aforesaid R.A.s. These O.A.s were decided by a common

order dated 26.02.2004. The concluding part of the order at paragraphs 10 & 11 are extracted as under:-

"10. We find that the decision in the Review Application has not been carried to the High Court and has attained finality. Accordingly, giving new interpretation to the status of the applicants would amount to sitting over the decision of the Tribunal in a co-ordinate Bench. Accordingly, we hold that once the Tribunal earlier in review has assigned nomenclature of casual employee to the applicants and they had worked for the requisite days and on employment as on 1.9.1993 the Scheme of DOPT of 10.9.1993 is applicable and as per directions of the Tribunal (Supra) is to be applied to them.

11. In the result the O.A.s are partly and the impugned orders are quashed. The respondents are directed to treat the cases of the applicants beyond the Scheme of 1997 and be considered under the DOPT's scheme of 10.9.1993 within a period of two months from the date of receipt of a copy of this order. However, such consideration shall be strictly in accordance with the provisions of the DOPT's Scheme of 10.9.1993 as well as suitability of the applicants to the post."

4. Learned counsel for the Applicants has contended that the Tribunal's orders passed in the R.A.s have become final and it was incorrect on the part of the Respondents to deny to the Applicants the benefits of temporary status and regularization ^{under the} Scheme of 10.09.1993. It is, therefore, submitted that the Applicants are aggrieved by the order dated 13.12.2004 at Annexure-9 whereby it is stated that Applicants are not eligible for consideration under Scheme of 10.09.1993 because they had rendered only a total of 154 and 150 days of engagement immediately prior to 10.09.1993 and as such, the condition prescribed under the Scheme and mentioned at para 4(i) of the order dated 13.12.2004 is not satisfied.

5. Learned counsel for the Respondents reiterated the grounds taken in the counter reply which are based mainly on the impugned order and submits that the Applicants cannot, at this distant date, take advantage of the orders passed by the Tribunal many years ago.

6. Having heard the learned counsel for both the parties and on perusal of the pleadings we find that the order passed by this Tribunal on 26.02.2004 has noted that the earlier orders of this Tribunal dated 28.06.1994 passed in the R.A. Nos. 13 of 1993 and 16 of 1994 have become final. As such, there is no scope to dwell upon the correctness or otherwise of such orders, which already make clear that the Applicants satisfied the conditions of the DOPT Scheme of 1993 and therefore their cases were to be considered for regularization in accordance with the scheme of 10.09.1993. As such, the Respondents could not have at this belated stage again questioned the eligibility of the Applicants which was already decided by this Tribunal.

7. Learned counsel for the Applicants has expressed his anxiety that since the matter has been pending for long and the Applicants have not yet been regularized, the Respondents should follow the provisions of the Scheme of 10.09.1993, particularly, the requirement as contained in para 8 (i) of the Scheme which sets out that two out of every three vacancies in Group 'D' cadres should be filled up from the casual labourers with temporary status. As it is no longer in question that since 1994 the Applicants have satisfied the conditions of eligibility, their case for regularization should be taken up by giving them the advantage of the Tribunal's orders dated 28.06.1994 passed in R.A.s 13 of 1993 and 16 of 1994. In case, any vacancies have arisen since then the Applicants' case

should be considered for regularization against Group 'D' posts as per their turn and if any of their juniors, who were casual labour with temporary status, have been appointed in Group 'D' posts as per the Scheme, the Applicants should also be appointed with effect from the date of appointment of their immediate junior. Even if the Applicants be regularized against vacancies presently available, the consequential service benefits be given to them in terms of seniority from that date.

8. We find considerable force in the arguments put forwarded^y by the learned counsel for the Applicants. Annexure-9 dated 13.12.2004 is, therefore, set aside. Respondents are directed to take steps for regularization of the Applicants by treating them to be casual labourers with temporary status in terms of the Tribunal's order dated 26.06.1994 passed in R.A.s 13/1993 & 16/1994 and in accordance with paragraph 8(i) of the Scheme of 10.09.1993. Appropriate orders be passed within a period of three months from the date of receipt of a copy of this order.

9. The O.A. is allowed to the extent^t indicated above. No costs.


(N.D.DAYAL)
MEMBER (A)


(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/

I

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI:

Filed by:
The Applicants
through
Hr. Dip. K. D. D.
Advocate
25.5.93

Original Application No. 235/06.

Anima Talukdar and Another.

Applicants

--VERSUS--

Union of India & Ors.

Respondents

LIST OF DATES WITH BRIEF FACTS:

1. 1983

Applicant No. 2 joined the service under the respondents as casual labour pursuant to an advertisement issued by the respondents. The applicant applied for the posts and called for the interview and finally got selected.

2. 1984

Applicant No. 1 joined the service under the respondents as casual labour pursuant to an advertisement issued by the respondents. The applicant applied for the posts and called for the interview and finally got selected.

3. 03.05.1993

Officer Memorandum by which the service of the applicant No. 2 were sought to be terminated.

4. 04.05.1993

Officer Memorandum by which the service of the applicant No. 1 were sought to be terminated.

5. 1993

Original application No. 201/93 and 249/93 was filed by the applicant No. 1 and 2 respectively challenging the legality and validity of the O.M. dated 03.05.1993 and 04.05.1993.

6. 10.09.1993 The Scheme "Casual Labour (Grant of Temporary Status and Regularisation) Scheme of government of India, 1993" came into force. (Annexure- 1) (Page- 23)

7. 16.11.1993 O.A. No. 201/93 was allowed directing the respondents to allow the applicants to continue as Khalasi against the available vacancies till they could be absorbed as casual labour.

8. 07.12.1993 O.A. No. 249/93 was allowed directing the respondents to allow the applicants to continue as Khalasi against the available vacancies till they could be absorbed as casual labour.

9. 1994 R.A. No. 13/94 and 16/94 was filed by applicant No.1 and 2 respectively to bring into notice of the hon'ble tribunal the O.M. dated 07.06.1988 and the O.M. dated 10.09.1993 issued by the DOPT in the name and style of "Casual Labour (Grant of Temporary Status and Regularisation) Scheme of government of India, 1993" by which certain benefits were extended to the casual workers for which the applicant was entitled to.

10. 28.06.1994 Both R.A. 13/94 and 16/94 were allowed directing the respondents not to terminate the service of the applicant in future with a further direction that respondents shall regularize her service in Group - D post in terms of the O.M. dated 10.09.1993. (Annexure- 2 and 5) (Page- 28 and 36).

Para 6
of RA
Order

11. 06.10.1997 Order by which the applicant No. 2 was granted with the benefits of Scheme of 1997

meant for Seasonal Khalasis. (Annexure-6) (Page- 43).

12. 09.10.1997 Order by which the applicants were granted with the benefits of Scheme of 1997 meant for Seasonal Khalasis. (Annexure- 3) (Page- 34).

13. 26.11.1997 Order issued by the Respondent no. 3 canceling the order dated 09.10.1997 because it is not applicable to the applicants as the applicants were not Khalasis. (Annexure- 4) (Page- 35)

14. 27.11.1997 Order issued by the Respondent no. 3 canceling the order dated 06.10.1997 because it is not applicable to the applicants as the applicants were not Khalasis. (Annexure- 7) (Page- 44)

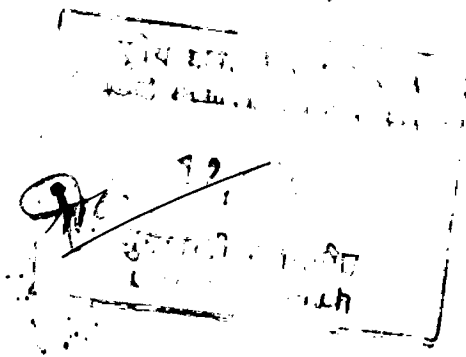
15. 2003 Being aggrieved by the inaction on the part of the respondents towards consideration of their cases the applicants again approached the Hon'ble Tribunal by way of filling O.A. No. 100/03 and 157/03 by applicant no. 2 and 1 respectively.

16. 26.02.04 Both the O.A heard together and the Hon'ble Tribunal was pleased to allow the cases directing the respondents to treat the cases of the applicants beyond the Scheme of 1997 and consider under the DOPT's Scheme of 10.09.1993 within a period of 2 months. It was also further directed that such consideration shall be strictly in accordance with the provisions of the DOPT's Scheme of 10.09.1993. (Annexure- 8) (Page- 45).

v

17. 2004 The respondents sat over the matter and being aggrieved the applicants filed C.P. No. 50/04 and 51/04 for implementation of the order dated 26.02.04.
18. 13.12.2004 Order issued by the respondents during the pendency of the aforesaid contempt proceeding rejecting the cases of the applicant only on the ground that in the year just preceding the date of commencement of the Scheme of 1993 they had not completed 240 days of service. (Annexure- 9) (Page- 50).
19. 30.03.2005 Representations submitted by the applicants for redressal of their grievances. (Annexure- 10 and 11) (Page- 52 and 60).

* * *



22

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 235 of 2006

BETWEEN

Anima Talukdar and Anr.

..... Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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Regn.No. :
Date : 12.9.06

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Title of the case : O.A. No. 235 of 2006

BETWEEN

Anima Talukdar

..... Applicant.

AND

Union of India & ors..... Respondents.

SYNOPSIS

The applicants seeking regularisation of their services in terms of office Memorandum dated 7.6.88 and 10.9.93, preferred numbers of OAs before this Hon'ble Tribunal. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow all those OAs directing the respondents to consider the cases of the applicants. But till date nothing has been done in this regard. Admittedly the applicants who are Casual Workers are entitled to the benefit of 1988 and 1993 scheme. The applicants state that time and again the respondents have been assuring them regarding their regularisation but till date nothing has been done towards regularisation of their services. Having no other alternative remedy the applicants have come under the protective hands of this Hon'ble Tribunal seeking redressal of their greivances. Hence this application.

Filed by:-
The Applicants
through
Bondana Devi
Advocate
12.9.06

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH.

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No. 235 of 2006

BETWEEN

1. Anima Talukdar
D/o Late Tapan Talukdar
Casual Worker
Working under the Executive Engineer
Middle Brahmaputra Division
Central Water Commission
Rajgarh Road, Guwahati-7.

2. Aibuddin Ahmed
Son of late Rabiruddin Ahmed
Working as work charged khalasi
under D(S)K subdivision
Central Water Commission Nagaon

..... Applicant.

- AND -

1. The Union of India.
Represented by the Chairman,
Central Water Commission,
R. K. Puram, New Delhi.
2. The Director,
Central Water Commission,
New Delhi-66
3. The Superintending Engineer,
Hydrological Observation Circle,
Adabari, Guwahati- 781014.
4. The Executive Engineer
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road, Guwahati - 7.
5. The Executive Engineer
Upper Brahmaputra Division,
Central Water Commission,
P O. Central Revenue Building ,
Dibrugarh.

..... Respondents.

Atal Kumar

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:

This application is directed against the impugned order dated 13.12.04 rejecting the claim of the applicants for grant of temporary status under the scheme of 1993. This application is also directed against the inaction on the part of the respondents in not disposing of the representation preferred by the applicants.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the case is within the jurisdiction of the Central Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants are citizen of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

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4.2. That the applicants in the present application are working as casual workers under the respondents. The grievances raised by the applicants, the subject matter, relief sought for and the cause of action are similar. Therefore the applicants pray before this Hon'ble Tribunal to join together in a single application invoking Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules 1987.

4.3. That the sole controversy in the present OA is that whether the applicants fulfill the eligibility criteria for grant of temporary status in terms of the schemes and various guidelines issued by the DOPT. In this connection it will be appropriate to narrate the circumstances under which the said schemes and guidelines are applicable and the benefits provided in the said scheme as well as the guidelines along with its evaluation.

It was in the year 1968 the Ministry of Home Affairs issued an office memorandum dated 5.7.68 placing emphasis on the regularisation of the casual labourers who have rendered service continuously for two years. The said guideline continued to hold the field till 11.7.74 while the DOPT issued a guideline that the casual worker who has put in at least 240 days of service in a year including the broken period of service is required to be regularised against Gr.D vacancies. The DOPT further reviewed the said policy in the month of August 1979 which was further reviewed by issuing OM dated 26.7.79 whereby the eligibility criteria of 240 days service has been made inclusive of the broken period of service and the casual labourers are also

provided age-relaxation at the time of their regularisation. While clarifying the aforesaid OMs the DOPT issued further clarification vide OM dated 7.5.85 relaxing the requirement of sponsorship of the name of the casual worker through Employment Exchange. It was under the midst of these evaluation on 17.1.1986 the Hon'ble Apex Court delivered the judgment in case of Surinder Singh & Ors. -VS- U.O.I. laying down the procedures to be adopted towards recruitment of Casual Workers including the benefit to be extended to them. The DOPT adhering to the direction contained in the aforesaid judgment issued an OM dated 7.6.88 which was further clarified by OM dated 10.9.93 issued pursuant to the judgment and order passed by the Central Administrative Tribunal Principal Bench dated 16.2.90 in case of Raj Kamal and Ors. -VS- U.O.I. The guideline has been formulated as a scheme in the name and style "Casual Labourers (grant of temporary status and regularisation) scheme of Govt. of India. (in short scheme of 1993).

A copy of the scheme of 1993 is annexed herewith and marked as Annexure-1.

4.4. That the applicants in the present OA have assailed the legality and validity of the inaction on the part of the respondents in not considering their cases for grant of temporary status under the scheme prepared by the Department of Personnel and Training on 10.9.93 providing temporary status and subsequent regularisation of the Casual Workers working under the Central Govt organisations which includes the organisation of the present respondents. The

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moot issue involve in the present case is regarding the eligibility criteria and fulfillment thereof and as such it will be relevant to place the service background of the applicants for better appreciation of the factual aspect of the matter. The chequered history relating to the employment of the applicants and the grievances registered by them in this connection including the legal proceedings are given below in details.

Service background of the applicant No.1

A.1. The applicant No.1 in the instant OA got her initial recruitment in the Central Water Commission, Middle Brahmaputra Division in the year 1984 as a Casual worker and as such she is continuing till date without any break. It was pursuant to an advertisement issued by the respondents the applicant No.1 applied for the post of casual worker and after screening through the selection commission constituted for the purpose she was appointed as casual worker in the Middle Brahmaputra Division, Guwahati. Though the initial recruitment of the applicant was in the nature of a casual worker in reality she served under the respondents as regular group-D staff. It is noteworthy to mention here that the respondents have also extended some of the benefits like bonus etc. as regular group-D staff. In this connection it is stated that during the course of her such employment she had occasion to serve even as Gr.C. employee. The fact of long continuous service of the applicant will demonstrate the fact that there is a regular need of service of the applicant.

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A.2. That the respondents surprisingly enough issued an office memorandum dated 4.5.93 by which her service was sought to be terminated. The applicant No.1 assailing the legality and validity of the aforesaid OM dated 4.5.93 approached the Hon'ble Tribunal by way of filing OA No.201/93. The respondents controverting her claim placed their say in the matter and the Hon'ble Tribunal on 16.11.93 was pleased to allow the said OA directing the respondents to allow her to continue as Khalasi against the available vacancies till she could be absorbed as casual worker.

A.3. The applicant seeking review of the said judgment and order dated 16.11.93 (in OA 201/93) filed a Review Application which was registered and numbered as RA No.13/94. Grounds stated in the said RA are basically for bringing into notice of the Hon'ble Tribunal the OM dated 7.6.88 issued by the DOPT providing certain benefit to the casual worker for which she was entitled to. The applicant also drew the attention of the Hon'ble Tribunal towards the OM dated 10.9.93 issued by the DOPT in the name and style "Casual Labourers (Grant of temporary status and regularisation) Scheme of Govt. of India 1993 (in short the scheme of 1993). The Hon'ble Tribunal while noticing the subsequent facts which could not be brought to the notice of the Hon'ble Tribunal even after due diligence, vide judgment and order dated 28.6.94 allowed the RA with the following directions.

"The respondents are directed not to terminate the service of the applicant, Smt. Anima Talukdar in future and

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shall regularise her service in Gr.D post in terms of OM dated 10.9.93/Casual Labourers Scheme 1993".

A copy of the said judgment and order dated 28.6.94 passed in RA No.13/93 is annexed herewith and marked as Annexure-2.

A.4. That the Applicant No.1 kept on representing her case before the respondents seeking implementation of the judgment and order dated 28.6.94 passed in RA No.13/94 (in OA 201/93). However the respondents willfully and deliberately kept on disobeying the direction passed by the Hon'ble Tribunal. Though the applicant No.1 fulfills the requirement of granting temporary status under the scheme, the benefit of the same has been denied to her without any rhymes and reasons.

A.5. That the applicant No.1 kept on representing her case for grant of temporary status under the scheme but same has been denied to her. Apart from assurances nothing has been done so far in her case. Surprisingly enough the respondents issued an order dated 9.10.97 by which she was granted with the benefit of the scheme of 1997 meant for seasonal khalasis working under the respondents. In this connection it is noteworthy to mention here that under the respondents there are two sets of temporary workers namely Casual Workers and seasonal Khalasis. The seasonal khalasis of CWC claiming regularisation moved this Hon'ble Tribunal and pursuant to a direction passed by the Hon'ble Tribunal, they prepared a scheme for those seasonal khalasis who are recruited during the period of Monsoon i.e. from May to

October. Admittedly the applicant No.1 is a Casual Worker and engaged throughout the year without any break and as such her case should have been considered in terms of the scheme of 1997.

A copy of the said order dated 9.10.97 is annexed herewith and marked as Annexure-3

A.6. That the applicant No.1 immediately on receipt of the copy of the said order dated 9.10.97 approached the official respondent No.3 and apprised him about the facts. The respondent No.3 after having verified the working particulars of the applicant issued another order dated 26.11.97 canceling the order dated 9.10.97.

A copy of the order dated 26.11.97 is annexed herewith and marked as Annexure-4

Service background of the applicant No.2

B.1. That the applicant No.2 initially got his appointment as casual worker in the year 1983. His such appointment was pursuant to a selection where his name was sponsored by local Employment Exchange. Ever since his entry in the services under the respondents he is continuing as such till date without any break. Though the initial recruitment of the applicant was in the nature of a casual worker in reality he served under the respondents as regular group-D staff. It is noteworthy to mention here that the respondents have also extended some of the benefits like bonus etc. as regular group-D staff. In this connection it

is stated that during the course of his such employment he had occasion to serve even as Gr.C. employee. The fact of long continuous service of the applicant will demonstrate the fact that there is a regular need of service of the applicant.

B.2. That the applicant no.2 states that in the year 1993 the respondent issued an office memorandum dated 3.5.93 indicating the fact that the mode of employment of the applicant would be converted to seasonal one. By the said OM dated 3.5.93 the respondents also tried to discontinue the service of the applicant w.e.f. 15.10.93. The applicant impugning the aforesaid OM dated 3.5.93 approached the Hon'ble Tribunal by way of filing OA No.249 of 1993. The aforesaid OA was disposed of vide a common judgment & order dated 7.12.93 directing the respondents to appoint the applicant as Khalasi (Casual Worker) against available vacancy.

B.3. The applicant No.2 seeking review of the said judgment and order dated 7.12.93 (in OA 249/93) filed a Review Application which was registered and numbered as RA No.16/94. Grounds stated in the said RA are basically for bringing into notice of the Hon'ble Tribunal the OM dated 7.6.88 issued by the DOPT providing certain benefit to the casual worker for which he was entitled to. The applicant also drew the attention of the Hon'ble Tribunal towards the OM dated 10.9.93 issued by the DOPT in the same and style "Casual Laborers (Grant of temporary status and regularisation) Scheme of Govt. of India 1993 (in short the scheme of 1993. The Hon'ble Tribunal while noticing the

subsequent facts which could not be brought to the notice of the Hon'ble Tribunal even after due diligence, vide judgment and order dated 28.6.94 allowed the RA with the following directions.

"The respondents are directed not to terminate the services of the applicants, Md. Babul Ali and Md. Aibuddin Ahmed in future and shall regularise their services in Gr.D posts in terms of OM dated 10.9.93/Casual Labourers Scheme 1993".

A copy of the said judgment and order dated 28.6.94 passed in RA No.16/94 is annexed herewith and marked as Annexure-5.

B.4. That the applicant No.2 kept on representing his case for grant of temporary status under the scheme but same has been denied to him. Apart from assurances nothing has been done so far in his case. Surprisingly enough the respondents issued an order dated 6.10.97 by which he was granted with the benefit of the scheme of 1997 meant for seasonal khalasis working under the respondents. In this connection it is noteworthy to mention here that under the respondents there are two sets of temporary workers namely Casual Workers and seasonal Khalasis. The seasonal Khalass of CWC claiming regularisation moved this Hon'ble Tribunal and pursuant to a direction passed by the Hon'ble Tribunal, they prepared a scheme for those seasonal khalasis who are recruited during the period of Monsoon i.e. from May to October. Admittedly the applicant No.2 is a Casual Worker and engaged throughout the year without any break and as

such his case should have been considered in terms of the scheme of 1997.

A copy of the said order dated 6.10.97 is annexed herewith and marked as Annexure-6

B.5. That the applicant No.2 immediately on receipt of the copy of the said order dated 6.10.97 approached the official respondent No.3 and apprised him about the facts. The respondent No.3 after having verified the working particulars of the applicant issued another order dated 27.11.97 canceling the order dated 6.10.97.

A copy of the order dated 27.11.97 is annexed herewith and marked as Annexure-7

4.5. That both the applicants kept on representing their cases before the respondents but nothing came out positive. Situated thus the applicants moved the Hon'ble Tribunal by filing OA Nos.100/03 and 157/03 respectively. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OAs vide common judgment and order dated 26.2.04 directing the respondents to consider the cases of the applicants under the DOPT's scheme of 10.9.93 treating their cases beyond the scheme of 1997 within a period of 2 months from the date of receipt of the copy of the said judgment.

A copy of the said judgment and order dated 26.2.04 is annexed herewith and marked as Annexure-8

Attorney

4.6. That the Hon'ble Tribunal while addressing to the issue as well as the earlier judgment and order dated 28.6.94 passed in RA 13/93 observed that since the aforesaid judgment in RA has not been carried to appeal same attained its finality. For better appreciation of the wordings used by the Hon'ble Tribunal in the aforementioned judgment and order dated 26.2.04 the relevant portion is quoted below for ready reference.

"We find that the decision in the Review Application has not been carried to the high Court and has attained finality. Accordingly, giving new interpretation to the status of the applicants would amount to sitting over the decision of the Tribunal in a co-ordinate Bench. Accordingly, we hold that once the Tribunal earlier in review has assigned nomenclature of casual employee to the applicants and they had worked for the requisite days and on employment as on 1.9.93 the scheme of DOPT of 10.9.93 is applicable and as per directions of the Tribunal (Supra) is to be applied to them."

4.7. That the applicants beg to state that the Hon'ble Tribunal while passing the judgment and order dated 28.6.94 in RA 13/93 in case of applicant No.1 made the observation as under:

"The applicant, Smt. A. Talukdar did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and her periods (days) of service in every year are as under:

1984 : 294 days	1989 : 390 days
1985-86 : 245 days	1990 : 340 days
1987 : 330 days	1991 : 330 days
1988 : 240 days	

In 1992 and 1993 also she served similarly under the respondents. But the appointing authority made artificial breaks in her service periods in order to delink continuity of service to her disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat his/her right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the Central Government from time to time for protection and privileges for casual labourers. We treat her entire service period as in continuity in each year in order to confer temporary status to her. She had worked for 240 days in a year prior to 7.6.1988 and thereafter also she worked similarly in successive years and thereby acquired temporary status. She became eligible for regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. She was not retrenched employee as claimed by the respondents. This being the position, our order dated 16.11.1993 deserves to be reviewed."

Similarly in RA 16/94 the Hon'ble Tribunal made similar observation which is quoted below for ready reference.

"The applicants Md.Babul Ali and Md. Aibuddin Ahmed did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and their periods (days) of service in every year are as under:

Md. Babul Ali		Md.Aibuddin Ahmed	
1982-86	:154 days each year	1983-87	:154 days each year
1987	: 340 days	1988	: 224 days
1988	: 360 days	1989	: 319 days
1989	: 319 days	1990	: 340 days
1990	: 340 days	1991	: 330 days
1991	: 330 days		

In 1992 and 1993 also they similarly under the respondents. But the appointing authority made artificial breaks in their service periods in order to delink continuity of service to their disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat their right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the Central Government from time to time for protection and privileges for casual labourers. We treat their entire service period as in continuity in each year in order to confer temporary status to them. They had worked for 240 days in a year prior to 7.6.1988 and thereafter also they worked similarly in successive years and thereby acquired temporary status. They became eligible for

Atal Kumar

regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. They were not retrenched employees as claimed by the respondents. This being the position, our order dated 7.12.93 deserves to be reviewed."

4.8. That the applicants kept on representing their cases seeking implementation of the common judgment and order dated 26.2.04 but same yielded no result in positive. Situated thus they had to move the Hon'ble Tribunal again by way of filing C.P.No.50/04 in OA 157/03 and CP No.51/04 in OA 100/03. During the pendency of the contempt proceeding respondents as a reply to the said contempt proceeding submitted the impugned memorandum dated 13.12.04 whereby claims made by the applicants have been rejected.

A copy of the said impugned order dated 13.12.04 is annexed herewith and marked as Annexure-9

4.9. That the applicants beg to state that the reasonings provided in the impugned memorandum dated 13.12.2004 is totally baseless and self contradictory. The scheme of 1993 provides conferment of temporary status to the casual workers providing the eligibility criterious namely (1) the casual worker will have to be on employment as on 1.9.93 and (2) the casual labour must have rendered a continuous service of at least 1 year (240 days) in any proceeding years. However, in the impugned order it reveals that the respondents have only taken into consideration the

service particulars of the applicants for the period 1.9.92 to 31.8.93.

There is no denial to the fact that the applicants were in employment since 1984 (applicant No.1) and 1983 (applicant No.2). There is also no denial to the fact that preceding to 1.9.93 both of them have completed 240 days of continuous service in a particular year and they were in employment as on 1.9.93. There is also no denial to the fact that the scheme will not be applicable to the casual workers recruited prior to 1.9.92 and their service records prior to 1.9.92 will not be record. In that view of the matter both the applicants are worked by the scheme of 1993 and their services are required to be regularised providing all consequential service benefits w.e.f. 10.9.93 or at least from 28.6.94 i.e. date of judgment & order passed in the review application.

4.10. That the applicants begs to state that the Hon'ble Tribunal vide its judgment and order dated 26.2.04 has clarified the issue relating to the doctrine of finality in para 10 while discussing the decision is the review application which is quoted below for ready reference.

In this connection the judgment and order dated 28.6.94 passed in the review application may be referred to wherein the Hon'ble Tribunal was pleased to pass an order directing the respondents to regularise the services of applicants in terms of the scheme of 1993.

Attorney

In view of the above the contentions raised by the respondents in the impugned communication is not only contemptuous in nature but also same depicts total non-application of mind by the respondents.

4.10. That the applicants ventilating their grievances made representations dated 30.3.05 to the authority concerned praying for regularisation of their services with a further request to modify the impugned order dated 13.12.04. Even after passing of several months, the respondents have not yet issued any reply to the said representations and kept the matter pending as on date. It is further stated that at present in the office of the respondents there are numbers of vacancies in Group-D cadre wherein the applicants can easily be accommodated providing them the consequential reliefs w.e.f. 1.10.93 or alternatively from the date of the judgment and order passed in review applicants i.e. 28.6.94.

The applicants through this application have also prayed before this Hon'ble Tribunal for drawing up of appropriate contempt proceeding against each respondent and to punish them severely for their willful violation of the judicial pronouncement made by the Hon'ble Tribunal.

Copies of the representations dated 30.3.05 are annexed herewith and marked as Annexure-11 and 12 .

4.12. That the applicants who belong to the lower stratum of the society waited for disposal of the

representations dated 30.3.05 but having failed to get any positive response, as a last resort they have come under the protective hands of the Hon'ble Tribunal seeking redressal of their grievances.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the respondents have acted illegally in not regularising the service of applicants inspite of there being categorical direction from the Hon'ble Tribunal and as such the action/inaction on the part of the respondents are liable to be set aside and quashed.

5.2. For that the respondents have acted illegally in not conferring temporary status to the present applicants as per the 1988 and 1993 scheme.

5.3. For that the respondents have acted illegally in not granting the applicants the benefit of 1998 and 1993 schemes although they work throughout the year unlike the seasonal workers and more so when such benefit has been withdrawn from them. The respondents instead of delaying the matter for one reason and another ought to have implemented the judgment and order dated 28.6.94 by granting them the benefit of 1988 and 1990 scheme.

5.4. For that the Respondents have violated the judgment passed by the Hon'ble Tribunal in not granting them the benefit of the schemes of 1988 and 1993 and as such

Chakraborty

appropriate contempt proceeding need be issued against the respondents for their willful and deliberate violation of the said judgment and to punish them severely.

5.5. For that the respondents have acted contrary to the provisions contained in various guidelines issued by the Govt. of India in denying the said benefit of the schemes of 1988 and 1993 to the present applicants and as such appropriate direction need be issued to the respondents for granting them all the permissible benefit of the said schemes with retrospective effect and to regularise their services, from the date when they became eligible with all consequential service benefits etc.

5.6. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicants crave leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that they have exhausted all the remedies available to them and there is no alternative remedy available to them.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

Atal Kumar

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The applicants further declare that they have not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicants most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicants:-

8.1. To set aside and quash the impugned order dated 13.12.04 issued by the respondents rejecting the claim of the applicants.

8.1. To direct the Respondents to extend all the benefits of 1988 and 1973 ~~scheme~~ to the present applicants with retrospective effect, with all consequential service benefits including arrear salary and seniority etc. and to regularise their services as per the direction contained in the judgment and order dated 28.6.94, with retrospective effect, i.e. from the date when they became eligible, with all consequential service benefits etc.

8.2. To draw up contempt proceeding against the respondents for their willful and deliberate violation of

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the judgment and order dated 28.6.94 passed in RA No. 13/93 and to punish them severely for such action.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants do not pray for any interim order at this stage.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 266 326214
2. Date : 1-9-06
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Miss Anima Talukdar, aged about 39 years, daughter of Late Tapan Talukdar, working as Casual Worker, under the Middle Brahmaputra Division, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 4:1 - 4:2 are true to my knowledge and those made in paragraphs .. 4:3 - 4:11 are matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 11th day of .. Sep. of 2006.

Anima Talukdar.

Signature.

Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel and Training)
OM No. 51016/2/90-Estt.(C) dated 10th September, 1993

(XVIII)

Subject : Grant of temporary status and regularisation of casual workers -
Formulation of a scheme in pursuance of the CAT, Principal
Bench, New Delhi, judgement dated 16th Feb. 1990 in the case of
Raj Kamal & Others Vs UOI.

11/9/92

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government offices were issued vide this Department's OM No. 49014/2/86-Estt.(C) dated 7.6.88. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 16.2.90 in the writ petition filed by Shri Raj Kamal and Others Vs. Union of India and it has been decided that while the existing guidelines contained in OM dated 7.6.88 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Deptt. of Telecom, Posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in OM dated 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/- Y.G. Parande
Director

Attested



Advocate.

APPENDIX

Department of Personnel and Training, 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 Government of India, 1993."

2. This Scheme will come into force w.e.f. 1.9.1993.

3. This Scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

4. Temporary Status

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

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

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

1-9-93
240 days
Grant of temporary status

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

5. 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 for a corresponding regular Group 'D' official including DA, HRA and CCA.
- ii) Benefits of Increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days 206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
- iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity 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 benefits of encashment of leave on termination of service for any reason or on their quitting service.
- iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
- v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.

vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Govt. servants of their Department.

vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Group 'D' posts.

- i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of

Illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's OM dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of Personnel and Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Review Application No. 13 of 1993

Date of decision: This the 28th day of June 1994

Hon'ble Justice Shri S. Haque, Vice-Chairman

Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Miss Anima Talukdar

.... Applicant

By Advocate Shri B.K. Sharma and
Shri M.K. Choudhury

-versus-

Union of India and Others

.... Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

....



Attested

[Signature]

Advocate.

ORDER

Smt. Anima Talukdar has filed this Review Application praying to convert the order dated 16.11.1993 of O.A.No.201/93 into a direction to regularise her service in Group 'D' post on the ground that the relevant office memorandum/circulars concerning regularisation of services of casual employees could not be placed before the Tribunal on 16.11.1993. Copies of the office memorandum have been annexed with the Review Application. The respondents resisted the prayer for review by filing written objection stating that the applicant became a retrenched worker and can get reappointment in order of seriality/preference in the retrenched workers list.

2. The applicant was serving as Work Charge Khalasi (Casual Worker) in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984. The last appointment order under Memorandum No.MBD/JC/ESTT-24(A)/93/3158-71 dated 4.5.1993 indicated that the appointment was adhoc and would not continue beyond 15.10.1993. Therefore, she filed that application(O.A.No.201/93) for regularisation of service. Assuming the applicant to be a retrenched employee, the Tribunal vide order dated 16.11.1993 disposed of O.A.No.201/93 directing the respondents to consider her appointment against available vacancy in order of seriality of retrenched persons list.

3. Learned counsel Mr B.K. Sharma on behalf of the applicant submits that she had acquired temporary status by serving for 240 days prior to 7.6.1988 in one year and thereafter also she served in successive years similarly and thereby became eligible for regularisation

Group 'D' post. Relevant office memorandum/circulars have been referred to in support of his submissions. Learned Sr. C.G.S.C. Mr S. Ali submits that she was not eligible for regularisation and can only be considered for reengagement in order of preference in the retrenched workers list. The policies in the office memorandum/circulars referred to in this case have not been disputed.

4. The office memorandum No.49014/4/90-Estt(C) dated New Delhi the 8.4.1991 of the Government of India, Ministry of Personnel, Public Grievances and Pension relates to Regularisation of Services of Casual Workers in Group 'C' posts - Relaxation of Employment Exchange Procedure and Upper Age limit. This has referred to O.M.No.49014/4/77-Estt(C) dated 21.3.1979 and further expressed that the previous policies with regard to engagements, remuneration and regularisation of Casual Workers in Central Government Offices have been reviewed from time to time and detailed guidelines in these matters were issued vide office memorandum No.49014/2/86-Estt(C) dated 7.6.1988. It also contained that in view of the fact that the Casual Employees belong to the economically weaker sections of the society and termination of their services would naturally cause undue hardship and therefore, as a one time measure it was decided that casual workers recruited before 7.6.1988 and who are in service on the date of issue of these instructions may be considered for regular appointment to Group 'D' post, in terms of general instructions, even if they are recruited otherwise than through the Employment Exchange and had crossed upper age limit prescribed for the post, provided that they are otherwise eligible for regular appointment in all other aspects. It was further reiterated

that....

that recruitment of casual workers in Central Government offices are to be regulated strictly in accordance with the guidelines contained in the department's O.M.No.49014/2/86-Estt(C) dated 7.6.1988.

5. It was further notified vide office memorandum No.51016/2/90-Estt(C) dated New Delhi the 10.9.1993 that the policy under O.M. dated 7.6.1988 had further been reviewed in the light of the judgment of C.A.T., New Delhi dated 16.2.1990, wherein it was decided that while the existing guidelines in O.M. dated 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees who are presently employed and have rendered one year of continuous service in Central Government offices (excluding Telecom, Posts and Railways) may be regulated by the scheme, namely, 'Casual Labourers (Grant of Temporary Status of Regulation Scheme) of Government of India 1993' of the department of Personnel and Training which came into force with effect from 1.9.1993. It was specifically mentioned in the O.M. dated 10.9.1993 (para 2) that the appointing authority should ensure that recruitment of casual workers is done in accordance with the guidelines under O.M. dated 7.6.1988. In Clauses 4(I) and 4(II) of the Scheme 1993 provide that temporary status would be conferred on all casual labourers who are in employment on 10.9.1993 and who have rendered a continuous service on at least one year, i.e. engaged for at least 240 days (206 days for offices observing 5 days week); and that such acquirement of temporary status would be without reference to the creation/availability of regular Group 'D' posts. The instructions in the Scheme 1993 have conferred/declared....

5

declared the right and privileges/benefits to the casual workers including the procedure of regularisation in Group 'D' posts. All policies/provisions in the casual labourers Scheme of 1993 are in addition to the guidelines in O.M. dated 7.6.1988.

6. The applicant, Smt A. Talukdar did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and her periods (days) of service in every year are as under:

1984	:	294 days	1989	-	390 days
1985 - 1986	:	245 days	1990	-	340 days
1987	:	330 days	1991	-	330 days.
1988	:	240 days			

m. Ghosh
1-9-93

In 1992 and 1993 also she served similarly under the respondents. But the appointing authority made artificial breaks in her service periods in order to delink continuity of service to her disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat his/her right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the Central Government from time to time for protection and privileges for casual labourers. We treat her entire service period as in continuity in each year in order to confer temporary status to her. She had worked for 240 days in a year prior to 7.6.1988 and thereafter also she worked similarly in successive years and thereby acquired temporary status. She became eligible for regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. She was not retrenched employee as claimed by the respondents. This being the position, our order dated 16.11.1993 deserves to be reviewed.

26/11/94
11 RE

7. The order dated 4.9.1993 of the respondents terminating service of the applicant from 16.10.1993 was arbitrary and bad in law because the applicant had already acquired temporary status. Again the office memorandum No.MBD/WC-Estt-24/93-6443-47 dated 16.10.1993 issued by the Executive Engineer (respondent No.3) terminating her service with effect from 16.10.1993(AN) was bad in law. However, the Executive Engineer (respondent No.3) again appointed the applicant, Smt A. Talukdar as Work Charge Seasonal/Khalasi vide memorandum No.MBD/WC/Estt-24(A)/94/2542-51 dated 9.5.1994. Presently the applicant is serving pursuant to this appointment. The arbitrary and illegal termination of service orders dated 4.9.1993 and 16.11.1993 referred to above were liable to be quashed. But, no specific order of this nature is now required in view of her appointment in the service vide Memorandum No.MBD/WC/Estt-24(A)/94/2542-51 dated 9.5.1994.

8. This Review Application is allowed. The judgment/order dated 16.11.1993 in O.A.No.201/93 is hereby reviewed and the following directions are made:

The respondents are directed not to terminate the services of the applicant, Smt Anima Talukdar in future and shall regularise her service in Group 'D' post in terms of O.M. dated 10.9.1993/Casual Labourers Scheme 1993.

9. We make no order as to costs.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L.SANGLY-INE
MEMBER (ADMN)

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer

आपातक प्रशासकी (प्रशासक कक्षा)

(Central Administration Tribunal)

राष्ट्रीय प्रशासनिक न्यायालय

Government Bldg., Gandhinagar-5

राष्ट्रीय प्रशासनिक न्यायालय, गांधीनगर-5

- 34 -

No. MBH/WC/Estt-24(A)/97/ 6773-81
Government of India
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road :: Guwahati-781007

Dated, the 9/10/1997.

OFFICE ORDER

In accordance with Ministry of Water Resources, Shram Shakti Bhawan, New Delhi's letter No. 0/3/95- Estt. I (Vol. II) dated 20.6.97, communicated vide Under Secretary, Estt. XII, C.W.C., New Delhi's letter No. A- 11013/1-95, Estt. II/ 1096 dated 30.6.97, as per the directive of the Chief Engineer, B.B. Basin, c.w.c., Shillong letter No. 2(1)/96- BDB/ 1076-07 dated 11.7.97 and the Superintending Engineer, C.W.C., Guwahati letter No. A- 15017/ 12(36)/ 97- Estt. II/ 1998 dated 31.7.97, the service of Miss Anima Talukdar daughter of Late Gopal Ch. Talukdar, who was appointed as Seasonal Khalasi and her service was continued as per the order of Hon'ble CAT, Guwahati Bench, Guwahati dated 20.6.94 in M.B. Sub-division, C.W.C., Guwahati under this Division and has rendered a minimum of 120 days continuous service in Central Water Commission or such Seasonal Khalasi who is engaged any time during the preceding one year and have rendered a minimum of 120 days continuous service in that year are covered under the scheme "Grant of Temporary Status and Regularisation of Seasonal Khalasi in workcharged establishment of Central Water Commission 1997" formulated by the Ministry of Water Resources, New Delhi vide No. 0/3/95- Estt. I. The grant of Temporary Status under the above scheme is hereby conferred to Miss Anima Talukdar, Seasonal Khalasi with effect from 1.6.1997 in terms of C.W.C. letter mentioned above.

She will be entitled benefits as stipulated in the above scheme. The terms and conditions governing her service in Temporary Status will be as per the provisions contained in the above scheme.

Chandra
8.10.97
EXECUTIVE ENGINEER

Copy for favour of information to:-

1. The Chief Engineer (HRM), Central Water Commission, Sawa Bhawan, R.K. Puram, New Delhi- 110066.
2. The Chief Engineer, Brahmaputra-Barak basin, Central Water Commission, Shillong.
3. The Superintending Engineer, Hydrological Observation Circle, C.W.C., Nabinagar, Jangpath, Guwahati-24.
4. The Executive Engineer, U.B. Division, CWC, Dibrugarh.
5. The Executive Engineer, L.B. Division, CWC, Jalpauri.
6. The Asst. Engineer, M.B. Sub-division, CWC, Guwahati-3. She may please be provided a copy of the scheme.
7. Section Heads, M.B. Division, CWC, Guwahati-7.
8. Person concerned through A.E., M.B. Sub-division, CWC, Guwahati. She is directed to submit testimonials in respect of date of birth, Educational qualification and status as SC/ST/OBC if applicable immediately through her Sub-divisional Officer.

Attested

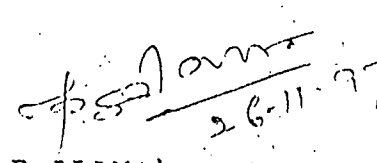
Di
Advocate.

No.MBD/Gau/Estt-54(CAT)/97/ 7434-40
Government of India
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road, Guwahati-781007

Dated the 26/11/ 1997.

OFFICE ORDER

As per the direction of the Director (Estt) Ministry of Water Resources, New Delhi vide No.8/49/97-Estt.I dt.24.11.97, the office order No.MBD/Gau/Estt-54(CAT)/97/6781-86 dt.9.10.97 issued to Smt.Anima Talukdar attached to M.B. Sub-division, CWC, Guwahati is hereby withdrawn.


(R.ALAM)
EXECUTIVE ENGINEER

1. The Superintending Engineer, Hydrological Observation Circle, CWC, Nabin Nagar, Janapath, Guwahati-24.
2. The Director (Estt), M.O.W.R., New Delhi.
3. The Director (Estt), Central Water Commission, New Delhi-66.
4. The Assistant Engineer, M.B.Sub-division, CWC, Guwahati.
5. Accounts Branch, MBD, CWC, Guwahati.
- ✓ 6. Smt.Anima Talukdar, through the A.E., MBSD, CWC, Guwahati.
7. File 24(A).


Attested

Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Review Application No.15 of 1994 (O.A.248/93) ←

Md. Babul Ali . . . Applicant

- Vs -

Union of India & Ors. . . . Respondents.

Review Application No.16 of 1994 (O.A.249/93) ←

Md. Aiubuddin Ahmed . . . Applicant

- Vs -

Union of India & Ors. . . . Respondents.

Review Application No.3 of 1994 (O.A.248/93) ←

- Vs -

Union of India & Ors. . . . Applicants.

- Vs -

Md. Babul Ali . . . Respondent.

Review Application No. 4 of 1994 (O.A.249/93) ←

Union of India & Ors. . . . Applicants.

- Vs -

Md. Aiubuddin Ahmed . . . Respondent.

Date of Order : This the 28th Day of June, 1994.

Justice Shri S. Haque, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative)

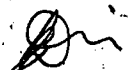
Md. Babul Ali and Md. Aiubuddin Ahmed

By Advocate Shri B.K. Sharma & B. Mehta.

Union of India & Ors.

By Advocate Shri S. Ali, Sr.C.G.S.C.

Attested



Advocate.

28/6/94

O R D E R

HAQUE J.

Md. Babul Ali and Md. Aiubuddin Ahmed have filed the Review Applications No.15/94 and 16/94 respectively praying to convert the common direction dated 7.12.93 in O.A.248 and 249 of 1993 into a direction on respondents to regularise their services in Group-D posts on the ground that the relevant office memorandum/circulars concerning regularisation of services of casual employees could not be placed before the Tribunal on 7.12.93. On the other hand, the respondents have also filed Review Applications No.3/94 and No.4/94 praying to convert the common directions dated 7.12.93 into a direction for engaging the two applicants as retrenched casual employees in order of preference in the retrenched workers list.

2. The two applicants were serving as Work Charge Khalasi (Casual Worker) in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1982 and 1983 respectively. Their last appointment orders were under Memorandum No.MBD/WC/ESTT-24(A)/93/4265-70 dated 25.6.93 and Memorandum No.MBD/WC/ESTT-24(A)/93/3063-90 dated 3.5.93 respectively indicating that their appointments were adhoc and would not continue beyond 15.10.93.

Therefore, they filed the applications No.O.A.248 and 249 of 1993 for regularisation of services. The Tribunal directed the respondents vide common order dated 7.12.93 to appoint the two applicants as Khalasi (Casual Worker) against available vacancies.

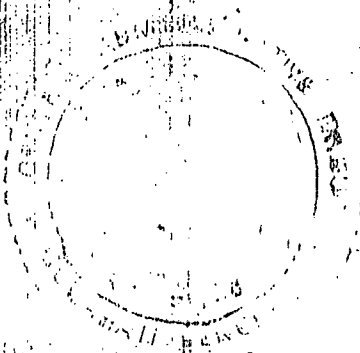
3. Learned counsel Mr B.K.Sharma on behalf of the applicants submit that they had acquired temporary status by serving for 240 days prior to 7.6.1988 in one year and thereafter also they served in successive years

contd... 3/-

similarly and thereby became eligible for regularisation in Group 'D' post. Relevant Office Memorandum/Circulars have been referred to in support of his submissions. Learned Sr.C.G.S.C Mr S.Ali submits that they were not eligible for regularisation and can only be considered for reengagement in order of preference in the retrenched workers list. The policies in the office memorandum/ circulars referred to in this case have not been disputed.

4. The office memorandum No.49014/4/90-Estt(C) dated New Delhi the 8.4.1991 of the Government of India, Ministry of Personnel, Public Grievances and Pension relates to Regularisation of Services of Casual Workers in Group 'D' posts - Relaxation of Employment Exchange Procedure and Upper Age limit. This has referred to O.M.No.49014/4/77-Estt(C) dated 21.3.1979 and further expressed that the previous policies with regard to engagements, remuneration and regularisation of Casual Workers in Central Government Offices have been reviewed from time to time and detailed guidelines in these matters were issued vide office memorandum No.49014/2/86-Estt(C) dated 7.6.1988. It also contained that in view of the fact that the Casual Employees belong to the economically weaker sections of the society and termination of their services would naturally cause undue hardship and therefore, as a one time measure it was decided that casual workers recruited before 7.6.1988 and who are in service on the date of issue of these instructions may be considered for regular appointment to Group 'D'

contd...4/-



post, in terms of general instructions, even if they are recruited otherwise than through the Employment Exchange and had crossed upper age limit prescribed for the post, provided that they are otherwise eligible for regular appointment in all other aspects. It was further reiterated that recruitment of casual workers in Central Government offices are to be regulated strictly in accordance with the guidelines contained in the department's O.M.No.49014/2/86-Estt(C) dated 7.6.1988.

5. It was further notified vide office memorandum No.51016/2/90-Estt(C) dated New Delhi the 10.9.1993 that the policy under O.M. dated 7.6.1988 had further been reviewed in the light of the judgment of C.A.T., New Delhi dated 16.2.1990, wherein it was decided that while the existing guidelines in O.M. dated 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees who are presently employed and have rendered one year of continuous service in Central Government offices (excluding Telecom, Posts and Railway) may be regulated by the scheme, namely, 'Casual Labourers (Grant of Temporary Status of Regulation Scheme) of Government of India 1993' of the department of Personnel and Training which came into force with effect from 1.9.1993. It was specifically mentioned in the O.M. dated 10.9.1993 (para 2) that the appointing authority should ensure that recruitment of casual workers is done in accordance with the guidelines under O.M. dated 7.6.1988. In Clauses 4(1) and 4(11) of the Scheme 1993 provide that temporary status would be conferred on all casual labourers who are in employment on 10.9.1993 and who have rendered a continuous

contd... 5/-

service on atleast one year, i.e. engaged for atleast 240 days (206 days for offices observing 5 days week); and that such acquirement of temporary status would be without reference to the creation/availability of regular Group 'D' posts. The instructions in the Scheme 1993 have conferred/declared the right and privileges/benefits to the casual workers included in the procedure of regularisation in Group 'D' posts. All policies/provisions in the casual labourers Scheme of 1993 are in addition to the guidelines in O.M. dated 7.6.1988.

6. The applicants Md. Babul Ali and Md. Aiubuddin Ahmed did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and their periods (days) of service in every year are as under :

<u>Md. Babul Ali</u>		<u>Md. Aiubuddin Ahmed</u>	
1982 to 1986	- 154 days each year.	1983 to 87	- 154 days each year
1987	- 340 days	1988	- 224 days
1988	- 360 days	1989	- 319 days
1989	- 319 days	1990	- 340 days
1990	- 340 days	1991	- 330 days
1991	- 330 days.		

In 1992 and 1993 also they served similarly under the respondents. But the appointing authority made artificial breaks in their service periods in order to delink continuity of service to their disadvantage. Such breaks should not be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat their right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the

contd... 6/-



Central Government from time to time for protection and privileges for casual labourers. We treat their entire service period as in continuity in each year in order to confer temporary status to them. They had worked for 240 days in a year prior to 7.6.1988 and thereafter also they worked similarly in successive years and thereby acquired temporary status. They became eligible for regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. They were not retrenched employees as claimed by the respondents. This being the position, our order dated 7.12.93 deserves to be reviewed.

7. The orders dated 25.6.93 and 3.5.93 of the respondents terminating the services of the applicants Md Babul Ali and Md Aiubuddin Ahmed beyond 15.10.93 were arbitrary and bad in law because they had already acquired temporary status. However, the Executive Engineer (respondent No.3) again appointed Md Babul Ali and Md Aiubuddin Ahmed vide Memorandum No.MBD/WC/ESTT-24(A)/94/2640-430 dated 11.5.94 and Memorandum No.MBD/WC/24(A)/94/2484-97 dated 4.5.94 as Work Charge Seasonal Khalasi and presently they are serving as such. The arbitrary and illegal termination of service orders dated 25.6.93 and 3.5.93 in respect of both the applicants referred to above were liable to be quashed. But, no specific order of this nature is now required in view of their appointment in the services vide Memorandum dated 11.5.94 and 4.5.94 referred to above.

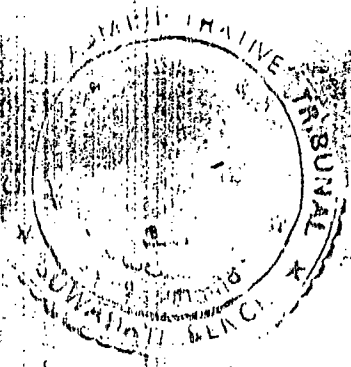
8. These two Review Applications No.15/94 and 16/94 are allowed. The common judgment/order dated 7.12.93 in O.A.No.248 and 249 of 1993 are hereby reviewed and the following directions are made :-

The respondents are directed not to terminate the services of the applicants Md Babul Ali and Md Aiubuddin Ahmed in future and shall regularise their services in Group 'D' posts in terms of O.M. dated 10.9.1993/Casual Labourers Scheme 1993.

9. Consequently, the Review Applications No.3/94 and 4/94 preferred by the respondents are dismissed.

10. We make no order as to costs.

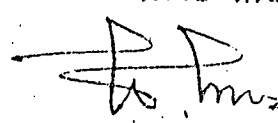
11. Inform all concerned.



Sd/- S. HAQUE
VICE-CHAIRMAN

Sd/- G.L.SANGLYINE
MEMBER (ADMN)

Certified to be true Copy
प्रमाणित प्रतिलिपि


Section Officer (4) 14/7/94

प्रमाणित प्रतिलिपि (कॉपी)
Central Administration Unit
Guwahati Bench, Guwahati-5
गुवाहाटी बेंच, गुवाहाटी-5

GRAM : FORECAST.

ANNEXURE - 6

PHONE : 20799

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
P.O. CENTRAL REVENUE BUILDING
DIBRUGARH-786003

NO. UBD/D1b/WC-17/97/8977-83 Dated, Dibrugarh the 6.10./97.

OFFICE ORDER

In accordance with Ministry of Water Resources, New Delhi's letter No.8/3/95-Estt.I(Vol.II) dtd. 20.6.97 communicated vide Under Secretary, Estt.XII, CWC, New Delhi's letter No.A-11013/1-95.Estt.XII/1096 dated 30.6.97. and as per direction of Under Secretary, CWC, New Delhi's letter No.A-11019/1/95-Estt.XII dated 1.10.97 and Superintending Engineer, H.O. Circle, CWC, Guwahati's letter No.A-15017/12(36)/97-Estt.II dated 3.10.97, Md. Aibuddin Ahmed is hereby granted temporary status with effect from 1.6.97. The service of Md. Aibuddin Ahmed will stand terminate with effect from 15.10.97 (afternoon).

He will be entitled for the benefits as stipulated in the scheme "Grant of Temporary Status and Regularisation of Seasonal Khalasi of W/C establishment of CWC, 1997". The terms and condition governing the service in Temporary Status will be as per the provision contained in the above scheme.

RSingh 6/10
(Ravinder Singh)
Executive Engineer

Copy to :-

1. The Superintending Engineer, Hydrological Observation Circle, CWC, Nabin Nagar, Janapath, Guwahati- 781024 for information.
2. The Assistant Engineer, D(S)K Sub-Division, CWC, Nagaon for compliance. The person concern may be informed accordingly.
3. Md. Aibuddin Ahmed, Seasonal W/C Khalasi (Through A.E., Nagaon).
4. Accounts Branch/DB/PF/Service Book.

Attested
Di
Advocate.

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
P.O. CENTRAL REVENUE BUILDING
DIBRUGARH-786 003

No.UBD/Dib/WC-17/97/10.11.97-13 Dated, Dibrugarh the 27th Nov.1997.

OFFICE ORDER

As per the direction of the Director(Estt.), Ministry of Water Resources, New Delhi vide No. 8/49/97-Estt.I dt. 24.11.97, the Office Order No. UBD/DIB/WC-17/97/8977-83 dated 6.10.97 issued to Md. Aibuddin Ahmed attached to D(S)K Sub-Divn., CWC, Nagaon is hereby withdrawn.

R.Singh
(RAVINDER SINGH) 27/11
EXECUTIVE ENGINEER
On 27.11.97

Copy to:

1. The Superintending Engineer,, Hydrological Observation Circle,CWC,Nabin Nagar, Janapath,Guwahati-781024.
2. The Director(Estt.), M.O.W.R., New Delhi.
3. The Director(Estt.), Central Water Commission, New Delhi-66.
4. The Asstt.Executive Engineer,D(S)K Sub-Divn.,CWC,Nagaon.
5. Md. Aibuddin Ahmed, (Through AEE, Nagaon)

6. Accounts Branch/Drawing Branch? THE DIRECTOR (ESTT.), MINISTRY OF WATER RESOURCES, NEW DELHI-66

NO - 2
alt 07/12/97
Copy passed on to Mr A. Ahmed. S.K.

Attested
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.100 of 2003
With

Original Application No.157 of 2003

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

The Hon'ble Shri Shanker Raju, Judicial Member

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

O.A.No.100/2003

Aibuddin Ahmed
S/o Late Rabiruddin Ahmed
Working as Work Charged Khalasi
Under D(S) K Subdivision,
Central Water Commission,
Nagaon.

.....Applicant

By Advocates Mr S. Sarma and Ms U. Das

- versus -



1. The Union of India,
Represented by Chairman
Central Water Commission,
New Delhi.

2. The Director,
Central Water Commission,
New Delhi.

3. The Superintending Engineer
Hydrological Observation Circle,
Adabari, Guwahati.

4. The Executive Engineer
Central Water Commission,
Upper Brahmaputra Division,
Dibrugarh.

5. The Executive Engineer
Middle Brahmaputra Division,
Central Water Commission,
Guwahati.

.....Respondents

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

O.A.No.157/2003

Anima Talukdar
D/o Late Tapan Talukdar Gopal Talukdar
Casual Worker
Working under the Executive Engineer,
Middle Brahmaputra Division,
Central Water Commission,
Adabari, Guwahati.

.....Applicant

By Advocates Shri S. Sarma and Ms U. Das.

- versus -

1. The Union of India, represented by the
Chairman, Central Water Commission,
New Delhi.

Attested

Advocate.

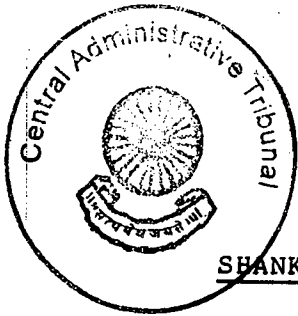
69

2. The Director,
Central Water Commission,
New Delhi.
3. The Superintending Engineer
Hydrological Observation Circle,
Adabari, Guwahati.
4. The Executive Engineer,
Central Water Commission,
Middle Brahmaputra Division,
Guwahati.

.....Respondents

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

.....

O R D E RSHANKER RAJU, MEMBER (J)

As the facts and law raised are identical the O.A.s are disposed of by this common order.

2. The applicant in O.A.No.100 of 2003 had earlier approached this Tribunal in O.A.249 of 1993. Having regard to their working till 1992 directions have been issued by the Tribunal on 7.12.1993 to appoint them as Khalasis against available vacancies or in the alternative be appointed as casual workers in the seasonal works. As the services of the applicants was to be dispensed with, R.A. 15 of 1994 filed by the applicants was disposed of on 28.6.1994 with a direction to the respondents not to terminate their services and to consider them for regularisation in Group 'D' post in terms of O.M. dated 10.9.1993.

3. Subsequently, complying with the directions of the court the respondents have framed a Scheme known as "Grant of Temporary Status and Regularisation of Seasonal Khalasis in the Work Charged Establishment of Central Water Commission, 1997". This Scheme was to be in effect

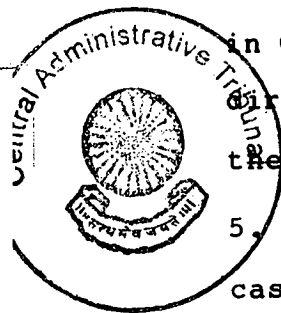
from 1.6.1997. Accordingly by an order dated 5.5.2003 the applicants have been re-engaged as Work Charged Seasonal Khalasis in the scale of pay of 2550-3200. The Scheme stipulated that whosoever has completed 120 days of service prior to commencement of the Scheme would be conferred with temporary status and on availability of posts would be regularised.

4. The applicant in O.A.157 of 2003 earlier filed O.A.201 of 1993 which was disposed of by this Tribunal on 16.11.1993 with directions to the respondents to dispose of the application for regularisation of the applicant. On review in R.A.13 of 1993, by an order dated 28.6.1994 directions have been issued to the respondents not to terminate her service and consider her for regularisation in Group 'D' post. Being aggrieved with the Scheme *ibid*, a direction has been sought for to accord her the benefit of the 1993 Scheme.

5. In the above O.A.s treating the applicants as casual workers directions have been issued to consider their cases under the DOPT's Scheme of 10.9.1993.

6. Learned counsel for the applicants states that once they have been absorbed as casual workers the Scheme of 1997 would not apply and their cases ought to be considered under the DOPT's Scheme of 10.9.1993 as they completed the requisite period of service.

7. On the other hand the respondents have filed their reply in O.A.100/2003 and adopted the same in O.A.157/2003 as despite our orders no reply has been filed in O.A.157/2003.

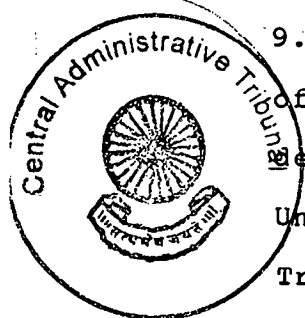


8. The learned counsel for the respondents contends that the applicants were engaged on Work Charged Establishment as Seasonal Khalasis and the Scheme of DOPT of 10.9.1993 would not apply to such Work Charged Seasonal Khalasis as the staff does not belong to regular establishment of the Department and their payment is borne out from projects. Accordingly it is stated that a decision has been taken to frame the Scheme of 1997 in which the case of the applicants for grant of temporary status has been considered and for regularisation as per the Scheme their cases would be considered.

9. We have carefully considered the rival contentions of the parties and perused the materials on record. As per decision of the Full Bench in Mahabir and others Vs. Union of India and others, 1997-2001 Administrative Tribunal Full Bench Judgments 99, a casual labourer is a person who has been engaged for execution of work on emergent basis of a temporary nature. Their services are dispensed with the moment the work at hand is completed. Moreover, a casual worker is a worker who has been asked to perform duties of a casual nature and is not a regular employee. Moreover, it is no more res integra that the cases of the applicants in hand had proceeded in review on the premises that they are casual workers. Accordingly directions have been issued not to terminate their services and consider them for engagement for regularisation under DOPT's Scheme of 10.9.1993. The Scheme of 10.9.1993 envisages casual worker with temporary status eligible for regularisation.

10. We find that the decision in the Review Application has not been carried to the High Court and has

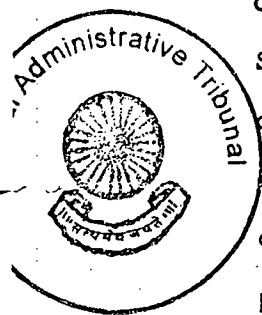
attained.....



attained finality. Accordingly, giving new interpretation to the status of the applicants would amount to sitting over the decision of the Tribunal in a co-ordinate Bench. Accordingly, we hold that once the Tribunal earlier in review has assigned nomenclature of casual employee to the applicants and they had worked for the requisite days and on employment as on 1.9.1993 the Scheme of DOPT of 10.9.1993 is applicable and as per directions of the Tribunal (Supra) is to be applied to them.

11. In the result the O.A.s are partly allowed and the impugned orders are quashed. The respondents are directed to treat the cases of the applicants beyond the Scheme of 1997 and be considered under the DOPT's scheme of 10.9.1993 within a period of two months from the date of receipt of a copy of this order. However, such consideration shall be strictly in accordance with the provisions of the DOPT's Scheme of 10.9.1993 as well as suitability of the applicants to the post.

Copy of this order be placed on record of each case.



Sd/MEMBER (J)

Sd/MEMBER(ADM)

Certified to be true Copy
প্রমাণিত প্রতিলিপি

N. S. Sanyal
27/2/04
Section Officer (J)
C.A.T. GUWAHATI BANCH
Guwahati-781005

KS
27/2/04

CWC Complex
Behind Adabari Bus Stand
P.O. Guwahati University
GUWAHATI - 781014 (ASSAM)
Dated the 13th December 2004.

MEMORANDUM

WHEREAS Shri Aibuddin Ahmed working as Work charged Seasonal Khalasi under D(S)-K Sub-Division, Central Water Commission, Nagaon and Smt. Anima Talukdar, working as Casual worker/ Seasonal Khalasi under Middle Brahmaputra Division, CWC, Guwahati have filed the OA No.100/2003 and OA No.157/2003 respectively before the Hon'ble Central Administrative Tribunal, Guwahati Bench, inter-alia seeking benefits of grant of temporary status/ regularization of the services under the provisions of the Scheme of 1993 issued by the DOPT vide OM No.51016/2/90-Estt(C) dated 10.09.1993.

2. WHEREAS the Hon'ble Tribunal, vide their common judgement dated 26.02.2004 had disposed of the said OAs, with the direction to the Respondents " ...to treat the cases of the applicants beyond the Scheme of 1997 and be considered under the DOPT's Scheme of 10.09.1993 within a period of two months from the date of receipt of a copy of this order. However, such consideration shall be strictly in accordance with the provisions of the DOPT's Scheme of 10.09.1993 as well as suitability of the applicants to the post....."

3. AND WHEREAS the competent authority, in compliance of above directions of the Hon'ble Tribunal has considered the case of both the applicants with reference to and in accordance with the provisions/ conditions laid down in the DOPT Scheme of 1993, which are highlighted here under:

4. That the primary conditions envisaged in the DOPT Scheme of 1993 stipulates that Casual labourers have to fulfill the following conditions/ provisions in order to be eligible for grant of temporary status under the Scheme 1993:

Temporary Status:

- (i) Temporary status would be conferred on all Casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (ii) Such conferment of temporary status would be without reference to the creation/ availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily

Attested

14/12/04
Assistant Engineer (BQ)
M.B. DIVN. C.W.C.
GHY-1.

13/12/04

Cont. 1/2

Attested

Advocate.

rates of pay on need basis. He may be deployed anywhere within the recruitment unit/ territorial circle on the basis of availability of work.

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

5. WHEREAS, Smt. Anima Talukdar has rendered a total of only 154 days of engagement as Casual Labourer/ Seasonal Khalasi, with break periods (01.09.92 to 15.10.92 and 15.05.93 to 31.08.93) and Shri Aibuddin Ahmed, Casual Labourer/ Seasonal Khalasi has rendered a total of only 150 days of engagement with break periods (01.09.92 to 15.10.92, 15.05.93 to 13.06.93 and 18.06.93 to 31.08.93) during the stipulated period of one year, i.e. 01.09.1992 to 31.08.1993 and hence both the applicants do not fulfill one of the primary conditions laid down in the said Scheme that they should have rendered continuous service of 240 days in the year, i.e. just preceding the date of commencement of the Scheme-1993 (i.e. 01.09.1993) for making them eligible for consideration for grant of temporary status/ regularization under provisions of the Scheme-1993.

6. AND NOW, THEREFORE, in the light of the above findings, it is established that the applicants are not eligible for the benefits they sought through above mentioned OAs under DOPT Scheme of 1993, as they do not fulfill the conditions laid down in the Scheme. Hence, the applicants are hereby informed accordingly in compliance of the directions of the Hon'ble Tribunal as quoted at para 2 above.



SUPERINTENDING ENGINEER

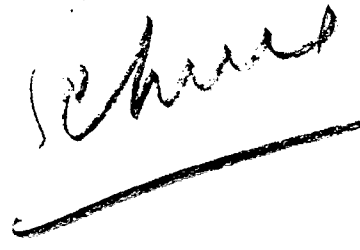
Copy to:

1. (Through Executive Engineer, UBD, CWC, Dibrugarh)
Shri Aibuddin Ahmed, W/c Seasonal Khalasi
D(S) K Sub-Division
Central Water Commission
Nagaon.
- ✓ 2. (Through Executive Engineer, MBD, CWC, Guwahati)
Smt. Anima Talukdar, Casual worker/ Seasonal Khalasi
Middle Brahmaputra Division,
Central Water Commission
Adabari, Guwahati.

Copy for information and necessary action to:

1. Chief Engineer, B&BBO, CWC, Shillong.
2. Executive Engineer, UBD, CWC, Dibrugarh
3. Executive Engineer, MBD, CWC, Guwahati.
4. Under Secretary, Estt. XII, CWC, New Delhi.


10/12/94 (100)
Assistant Engineer
E.B. DIVN. C.W.C.
GHS-1.

1984 / 1993 / 

ANNEXURE - 10

To.
The Supdt. Engineer. CWC.
Behind Odabari Bus Stand,
P.O Guwahati University,
Guwahati 781014. Assam.

Sub :- Order issued vide Memo No 15817/16(37)/04/4139-35 dated
13.12.04.

Sir,

With due deference and profound submission I beg to lay the following few lines for your kind consideration and necessary action thereof,

That before dealing with the issue against the order cited above, I beg to lay the background of the case for better appreciation of the factual aspect of the case.

That in the early part of the year 1984, I got my initial appointment as Casual worker in the Dept. and as such I continuing till date. However, in the year 1993, my service was sought to be terminated w.e.f, 15.10.93 and to that effect concerned authority issued an Office Memorandum dated 4.5.93. I made requests to the concerned authority to cancel the said order but same yielded no result in positive. Situated thus, I had to approach the Hon'ble Central Administrative Tribunal (in short the Hon'ble Tribunal) by way of filing O.A No 201/03, praying for setting aside of the said O.M dated, with a further prayer for regularisation of my service in terms of the various guidelines issued by the Govt. of India from time to time. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said O.A directing the CWC authority not to terminate my service. However, the Hon'ble Tribunal did

Attested

[Signature]
Advocate.

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not discuss the matter on the issue of regularisation of my service in terms of OM dated 7.6.88 issued by the Govt of India and its subsequent clarifications issued from time to time for grant of temporary status and subsequent regularisation of the services of casual workers. It was under these peculiar situation I had to approach the Hon'ble Tribunal once again by way of filing Review Application 13/93 praying for review of the said judgment and order dated 16.11.83 so far it relates to regularisation of my service in terms of OM dated 7.6.88 and the subsequent OM dated 10.9.93. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said Review Application (R.A 13/93) by judgment and order dated 28.06.94. It is pertinent to mention here that the Hon'ble Tribunal while dealing with the matter elaborately discussed the facts in details. The relevant portion of the said judgment and order dated 28.06.94 is quoted below for ready reference;

"6) The applicant, Smt. A. Talukdar did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and her periods (days) of service in every year are as under:

1984	:	294 days	1989	-	390 days
1985	:	245 days	1990	-	340 days
1986	:	330 days	1991	-	330 days
1987	:	240 days			

In 1992 and 1993 also she served similarly under the respondents. But the appointing authority made artificial breaks in her service to her disadvantage.

Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat his/her right and privilege including right of regularisation in service granted by the office

memorandum/ circulars issued by the Central Government from time to time for protection and privileges for casual labourers. We treat her entire service period as in continuity in each year in order to confer temporary status to her. She had worked for 240 days in a year prior to 7.6.1980 and thereafter also she worked similarly in successive years and thereby acquired temporary status. She became eligible for regularisation in terms of O.M. dated 10.9.1973/ Scheme 1973 referred to above. She was not retraced employee as claimed by the respondents. This being the position, our order dated 16.11.1993 deserves to be reviewed.

7. The order dated 4.9.1993 of the respondents terminating service of the applicant from 16.10.1993 was arbitrary and bad in law because the applicant had already acquired temporary status. Again the office memorandum No.MBD/WC-Estt-24/93-6443-47 dated 16.10.1993 issued by the Executive Engineer (respondent No.3) terminating her service with effect from 16.10.1993 (AN) was bad in law. However, the Executive Engineer (respondent No.3) again appointed the applicant, Smt A. Jalukdar, as Work Charge Seasonal Khalasi vide memorandum No.MBD/WC/Estt-24(A)/94/2542-51 dated 9.5.1994. Presently the applicant is serving pursuant to this appointment. The arbitrary and illegal termination of service orders dated 4.9.1993 and 16.11.1993 referred to above were liable to be quashed. But, no specific order of this nature is now required in view of her appointment in the service vide Memorandum No.MBD/WC/Estt-24(A)/94/2542-51 dated 9.5.1994.

- 55 -

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8. This Review Application is allowed. The judgment/order dated 16.11.1993 in O.A.No.201/93 is hereby reviewed and the following directions are made:

The respondents are directed not to terminate the services of the applicant, Smt Anima Talukdar in future and shall regularise her service in Group 'D' post in terms of O.M. dated 10.9.1993/Casual Labourers Scheme 1993.

(Judgment dated 20.06.94 is enclosed.)

It is pertinent to mention here that similarly situated employees like that of me namely Babul Ali and Aibuddin Ahmed, also preferred OA and subsequently Review Applications. On the other hand the authorities of the CWC also filed Review Applications R.A No 3/94 and R.A No 4/94 praying for dismissal of their (Babul Ali & Aibuddin Ahmed's O.A) but these two R.As were dismissed.

That however, even after long persuasion of the matter the judgment dated 20.06.94 was not implemented. However, all on a sudden the CWC authority issued an order dated 1.6.97 I have been granted with the benefit of the scheme of 1997 w.e.f, 1.6.97. In fact the said scheme was prepared in respect of seasonal khilashies working in the CWC. Under any circumstances my case could not have been considered under the said scheme. My case was required to be considered in terms of the OM dated 7.6.88 and its subsequent clarifications issued vide OM dated 10.09.93 scheme. I apprised the concerned authority regarding the fact that I am a casual worker and has been working since 1984 and as such my case should have been considered in terms of the

- 55 -

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OM dated 7.6.88 and its subsequent clarifications issued vide OM dated 10.09.93 scheme. The authority considering the fact issued an order dated 26.11.97 withdrawing the earlier order dated 9.10.92. The CWC authorities have been assuring me for implementation of the Hon'ble Tribunal's order dated 28.06.94 by regularising my service under the scheme of 7.6.88 and 10.09.93 but same never been materialised. It was on my repeated persuasion the CWC authority issued an order dated 04.06.02 intimating the fact that the matter for regularisation of my service under the said two scheme are in progress and matter would be informed immediately. However, ignoring my such legitimate claim, the CWC authorities have started filing up the posts on regularisation by my juniors who joined in the year 1994 onwards.

The aforesaid action on the part of the CWC authority has forced me once again to approach the Hon'ble Tribunal by way of filing OA No 157/03. The Hon'ble Tribunal after hearing the OA on merit was pleased to allow the same directing the CWC authorities to grant the benefit of the scheme of 10.09.93, vide its Judgment and order dated 26.02.2004. The Hon'ble Tribunal in its judgment clearly indicated the fact and circumstances of the case and in its finding held that I am entitled to the benefit of the said scheme. The relevant portion of the said judgment is reproduced below for ready reference;

10. We find that the decision in the Review Application has not been carried to the High Court and has attained finality. Accordingly, giving new interpretation to the status of the applicants would amount to sitting over the decision of the Tribunal in a Co-ordinate Bench. Accordingly, we hold that once the

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Tribunal in review has assigned nomenclature of casual employee to the applicants and they had worked for the requisite days and on employment as on 1.9.93 the Scheme of DOPT of 10.7.1993 is applicable and as per directions of the Tribunal (Supra) is to be applied to them.

Immediately after the receipt of the copy of the said judgment and order dated 26.02.04, I made a representation dated 1.3.04 requesting the CWC authorities to implement the same and to regularise my service in terms of the schemes. However, I had to wait for long and being constrained I had to approach the doors of the Hon'ble Tribunal once again praying for implementation of the said judgment. But surprisingly enough a copy of the order dated 13.12.2004 has been issued by the CWC authorities rejecting my case holding that I am not entitled to the said benefit of the scheme of 1993.

That the order dated 13.12.04, as referred to above is in clear violation of the judgment and order dated 28.06.94 which was affirmed by the subsequent judgment and order dated 26.02.04. In the aforesaid judgment dated 28.06.94 the Hon'ble Tribunal has held that I was in employment as casual worker since 1984 and I had the requisite qualification to receive the benefit of the said schemes of 1988 and 1993. It is noteworthy to mention here that the Hon'ble Tribunal in fact noted the days of casual service while explaining the artificial breaks. The said judgment was never challenged by you before the appropriate forum i.e. before the Hon'ble Apex Court and same has attained its finalities. Apart from that the subsequent judgment also clarifies the fact that I am entitled to get the benefit of the said schemes and as such rejection of my case again on the ground

Tribunal in review has assigned nomenclature of casual employee to the applicants and they had worked for the requisite days and on employment as on 1.9.93 the Scheme of DOPT of 10.9.1993 is applicable and as per directions of the Tribunal (Supra) is to be applied to them.

Immediately after the receipt of the copy of the said judgment and order dated 26.02.04, I made a representation dated 1.3.04 requesting the CWC authorities to implement the same and to regularise my service in terms of the schemes. However, I had to wait for long and being constrained I had to approach the doors of the Hon'ble Tribunal once again praying for implementation of the said judgment. But surprisingly enough a copy of the order dated 13.12.2004 has been issued by the CWC authorities rejecting my case holding that I am not entitled to the said benefit of the scheme of 1993.

That the order dated 13.12.04, as referred to above is in clear violation of the judgment and order dated 20.06.94 which was affirmed by the subsequent judgment and order dated 26.02.04. In the aforesaid Judgment dated 20.06.94 the Hon'ble Tribunal has held that I was in employment as casual worker since 1984 and I had the requisite qualification to receive the benefit of the said schemes of 1989 and 1993. It is noteworthy to mention here that the Hon'ble Tribunal in fact noted the days of casual service while explaining the artificial breaks. The said judgment was never challenged by you before the appropriate forum i.e. before the Hon'ble Apex Court and same has attained its finalities. Apart from that the subsequent judgment also clarifies the fact that I am entitled to get the benefit of the said schemes and as such rejection of my case again on the ground

of non fulfillment of the requisite qualification virtually means
rewriting of the judgments passed by the Hon'ble Tribunal.

Apart from that I was in employment prior to
commencement of the schemes of 1988 and 1993 and I had the
requisite qualification of 240 days even prior to 1988 and 1993
and as such the question of rejecting my case on the ground of
non-fulfillment of requisite qualification does not arise. Again
on the other hand admittedly I have been discharging my duties
with the utmost satisfaction of the authorities without there
being any blemish since 1984 and even otherwise also my service
is required to be regularised.

In that view of the matter I earnestly request your
Honour to regularise my service in terms of the scheme or even
otherwise by modifying the order dated 13.12.04, and pass
necessary orders in this regard.

I hope that your honour would be pleased to look in to
the matter taking into consider the over all facts and
circumstances of the case and thereafter pass an reasoned order
regularising my service by providing the related service
benefits.

Thanking you,

Sincerely yours,

Anima Talukdar 05
Anima Talukdar.
Casual worker, CWC. 30/3/05

Copy to :-
The Director, CWC, New Delhi.

1/ Serial not in
Causal worker

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To,
The Supdt. Engineer, CWC.
Behind Adabari Bus Stand,
P.O. Guwahati University,
Guwahati 781014. Assam.

Date: 30-3-2005

Sub: - Order issued vide Memo No 15017/16(37)/04/4130-35 dated 13.12.04.

Sir,

With due deference and profound submission I beg to lay the following few lines for your kind consideration and necessary action thereof,

That before dealing with the issue against the order cited above, I beg to lay the background of the case for better appreciation of the factual aspect of the case.

That in the early part of the year 1983, I got my initial appointment as Casual worker in the Dept. and as such I continuing till date. However, in the year 1993, my service was sought to be terminated w.e.f, 15.10.93 and to that effect, concerned authority issued an Office Memorandum dated 4.5.93. I made requests to the concerned authority to cancel the said order but same yielded no result in-positive. Situated thus, I had to approach the Hon'ble Central Administrative Tribunal (in short the Hon'ble Tribunal) by way of filing O.A No 249/93, praying for setting aside of the said O.M dated, with a further prayer for regularisation of my service in terms of the various guidelines issued by the Govt. of India from time to time. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said O.A vide its judgment and order dated 7.12.93, directing the CWC authority not to terminate my service. However, the Hon'ble Tribunal did not discuss the matter on the issue of regularisation of my service in terms of O.M dated 7.6.80 issued by the Govt of India and its subsequent

Attested

Advocate.

clarifications issued from time to time for grant of temporary status and subsequent regularisation of the services of casual workers. It was under these peculiar situation I had to approach the Hon'ble Tribunal once again by way of filing Review Application 16/94 praying for review of the said judgment and order dated 07.12.93 so far it relates to regularisation of my service in terms of OM dated 7.6.88 and the subsequent OM dated 10.9.93. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said Review Application (R.A 16/93) by judgment and order dated 28.06.94. It is pertinent to mention here that the Hon'ble Tribunal while dealing with the matter elaborately discussed the facts in details. The relevant portion of the said Judgment and order dated 28.06.94 is quoted below for ready reference;

"6. The applicants Md. Babul Ali and Md. Aibuddin Ahmed did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and their periods (days) of service in every year are as under:

<u>Md. Babul Ali</u>		<u>Md. Aibuddin Ahmed</u>	
1982 to 1986	-154 days each year	1983 to 87-	154 days each year
1987	- 340 days	1988	- 224 days
1988	- 360 days	1989	- 319 days
1989	- 319 days	1990	- 340 days
1990	- 340 days	1991	- 330 days
1991	- 330 days		

In 1992 and 1993 also they served similarly under the respondents. But the appointing authority made artificial breaks in their service periods in order to defile continuity of service to their disadvantage. Such

breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat their right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the Central Government from time to time for protection and privileges for casual labourers. We treat their entire service period as in continuity in each year in order to confer temporary status to them. They had worked for 240 days in a year prior to 7.6.1988 and thereafter also they worked similarly in successive years and thereby acquired temporary status. They became eligible for regularisation in terms of O.M. dated 10.7.1993/Scheme 1993 referred to above. They were not retrenched employees as claimed by the respondents. This being the position, our order dated 7.12.93 deserves to be reviewed.

7. The orders dated 25.6.93 and 3.5.93 of the respondents terminating the services of the applicants Md. Babul Ali and Md. Aibuddin Ahmed beyond 15.10.93 were arbitrary and bad in law because they had already acquired temporary status. However, the Executive Engineer (respondent No.3) again appointed Md. Babul Ali and Md. Aibuddin Ahmed vide Memorandum No.MBD/WC/ESTT-24 (A)/94/2640-430 dated 11.5.94 and Memorandum No.MBD/WC/24(A)/942464-97 dated 4.5.94 as Work Charge Seasonal Khalasi and presently they are serving as such. The arbitrary and illegal termination of service orders dated 25.6.93 and 3.5.93 in respect of both the applicants referred to above were liable to be quashed. But, no specific order of this nature is now required in

view of their appointment in the services vide Memorandum dated 11.5.94 and 4.5.94 referred to above.

8. These two Review Applications No.15/94 and 16/94 are allowed. The common judgment/order dated 7.12.93 in O.A.No.248 and 249 of 1993 are hereby reviewed and the following directions are made:-

The respondents are directed not to terminate the services of the applicants Md. Babul Ali and Md. Aibuddin Ahmed in future and shall regularise their services in Group 'D' in terms of O.M. dated 10.9.1993/Casual Labourers Scheme 1993.

(Judgment dated 28.06.94 is enclosed.)

It is pertinent to mention here that similarly situated employees like that of me namely Babul Ali and Aibuddin Ahmed, also preferred OA and subsequently Review Applications. On the other hand the authorities of the CWC also filed Review Applications R.A No 3/94 and R.A No 4/94 praying for dismissal of their (Babul Ali & Aibuddin Ahmed's O.A) but these two R.As were dismissed.

That, however, even after long persuasion of the matter the judgment dated 28.06.94 was not implemented. However, all on a sudden the CWC authority issued an order dated 6.10.97 I have been granted with the benefit of the scheme of 1997 w.e.f, 01.06.97. In fact the said scheme was prepared in respect of seasonal Khalashies working in the CWC. Under any circumstances my case could not have been considered under the said scheme. My case was required to be considered in terms of the OM dated 7.6.88 and its subsequent clarifications issued vide OM dated 10.09.93 scheme. I apprised the concerned authority regarding the

fact that I am a casual worker and has been working since 1984 and as such my case should have been considered in terms of the OM dated 7.6.88 and its subsequent clarifications issued vide OM dated 10.09.93 scheme. The authority considering the fact issued an order dated 27.11.97 withdrawing the earlier order dated 6.10.97. The CWC authorities have been assuring me for implementation of the Hon'ble Tribunal's order dated 28.06.94 by regularising my service under the scheme of 7.6.88 and 10.09.93 but same never been materialised. It was on my repeated persuasion, the CWC authority issued an order dated 04.06.02 intimating the fact that the matter for regularisation of the service of one of the colleague under the said two scheme are in progress and matter would be informed immediately. However, ignoring my such legitimate claim, the CWC authorities have started filling up the posts on regularisation by my juniors who joined in the year 1994 onwards.

The aforesaid action on the part of the CWC authority has forced me once again to approach the Hon'ble Tribunal by way of filing OA No 100/03. The Hon'ble Tribunal after hearing the OA on merit was pleased to allow the same directing the CWC authorities to grant the benefit of the scheme of 10.09.93, vide its Judgment and order dated 26.02.2004. The Hon'ble Tribunal in its judgment clearly indicated the fact and circumstances of the case and in its finding held that I am entitled to the benefit of the said scheme. The relevant portion of the said judgment is reproduced below for ready reference;

10. We find that the decision in the Review Application has not been carried to the High Court and has attained finality. Accordingly, giving new interpretation to the status of the applicants would amount to sitting over the decision of the Tribunal in a

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Co-ordinate Bench. Accordingly, we hold that once the Tribunal in review has assigned nomenclature of casual employee to the applicants and they had worked for the requisite days and on employment as on 1.9.93 the Scheme of DOP of 10.9.1993 is applicable and as per directions of the Tribunal (Supra) is to be applied to them.

Immediately after the receipt of the copy of the said judgment and order dated 26.02.04, I made a representation dated 15.3.04 requesting the CWC authorities to implement the same and to regularise my service in terms of the schemes. However, I had to wait for long and being constrained I had to approach the doors of the Hon'ble Tribunal once again praying for implementation of the said judgment. But surprisingly enough a copy of the order dated 13.12.2004 has been issued by the CWC authorities rejecting my case holding that I am not entitled to the said benefit of the scheme of 1993.

That the order dated 13.12.04, as referred to above is in clear violation of the judgment and order dated 28.06.94 which was affirmed by the subsequent judgment and order dated 26.02.04. In the aforesaid Judgment dated 28.06.94 the Hon'ble Tribunal has held that I was in employment as casual worker since 1984 and I had the requisite qualification to receive the benefit of the said schemes of 1988 and 1993. It is noteworthy to mention here that the Hon'ble Tribunal in fact noted the days of casual service while explaining the artificial breaks. The said judgment was never challenged by you before the appropriate forum i.e., before the Hon'ble Apex Court and same has attained its finalities. Apart from that the subsequent judgment also clarifies the fact that I am entitled to get the benefit of the said schemes and as such rejection of my case again on the ground of non fulfillment of the requisite qualification virtually means

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rewriting of the judgments passed by the Hon'ble Tribunal.

Apart from that I was in employment prior to commencement of the schemes of 1988 and 1993 and I had the requisite qualification of 240 days even prior to 1988 and 1993 and as such the question of rejecting my case on the ground of non-fulfillment of requisite qualification does not arise. Again on the other hand admittedly I have been discharging my duties with the utmost satisfaction of the authorities without there being any blemish since 1983 and even otherwise also my service is required to be regularised.

In that view of the matter I earnestly request your Honour to regularise my service in terms of the scheme or even otherwise by modifying the order dated 13.12.84, and pass necessary orders in this regard.

I hope that your honour would be pleased to look in to the matter taking into consider the over all facts and circumstances of the case and thereafter pass an reasoned order regularising my service by providing the related service benefits.

Thanking you,

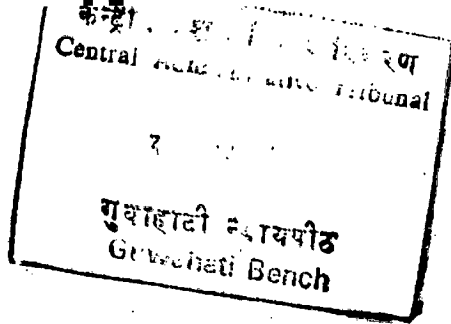
Sincerely yours,

A. Ahmed
30-3-2005

Aibuddin Ahmed.

Casual worker, CWC.

Copy to:-
The Director, CWC, New Delhi.



File in Court on... 30/11/08
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
AT GUWAHATI

O. A. 325 / 2006

MRS. ANIMA TALUKDAR & ORS.

..... APPLICANTS

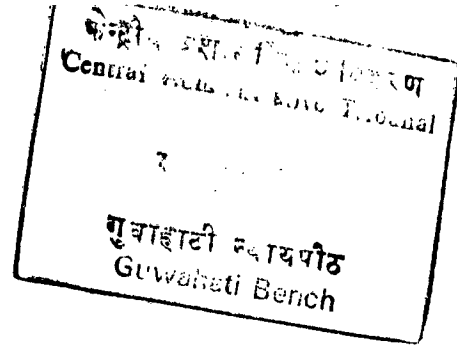
- VERSUS -

UNION OF INDIA & ORS.

..... RESPONDENTS

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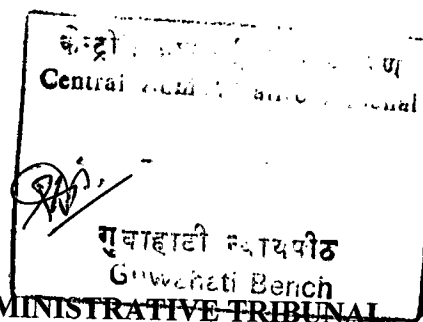
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Filed by -

Pratima Baruah
Advocate's



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

OA No.235 OF 2006
Mrs. ANIMA TALUKDAR & ORS

.....APPLICANTS

VERSUS
UNION OF INDIA & ORS

.....RESPONDENTS

The written statement on behalf of
the respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

A.1 BRIEF HISTORY OF THE CASE

The main work of HOC, CWC, Guwahati and its three Divisions viz. Upper Brahmaputra Division, Dibrugarh, Middle Brahmaputra Division, Guwahati and Lower Brahmaputra Division, Jalpaiguri is flood forecasting in whole of Northeastern Region and North Bengal besides other works of hydrological observation etc. For additional work of round the clock data observation and issuing flood forecast and for its dissemination Khalasis are engaged during monsoon season i.e. 15th May – 15th October every year, called seasonal Khalasis.

Smt. Anima Talukdar, Md. A. Ahmed and Md. Babul Ali were first engaged as seasonal Khalasis on 06-03-84, 12-05-03 respectively. Due to some additional works, they were further engaged as casual labour beyond flood season also.

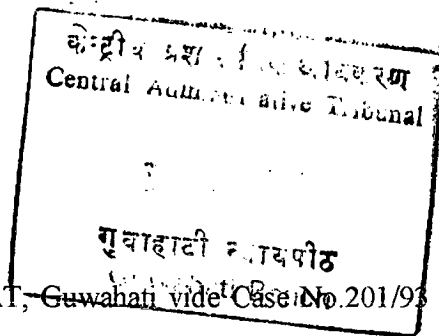
Filed by

SHIV DUTTA SHARMA

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Monophy Bramham Bin Dye
Sr (Lisc)
28.01.08

Received by
H. V.
28.1.08



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SHIV PUJIA SHARMA

Smt. Anima Talukdar approached Hon'ble CAT, Guwahati vide Case No.201/93 on 04-10-1993 praying for regularization of her services as she was working continuously for last 9 years in CWC. It was also prayed, as an interim order, that CWC be directed not to terminate her services. The reply filed by the Department countered the contention of the petitioner. The CAT, Guwahati on 16-11-93 directed 'to consider appointment of the applicant whenever vacancies will occur by maintaining seriality of the retrenched list' in this case. It is to mention that the petitioner was at seniority No.45 in the prevailing seniority list. With the available old records the action taken by the Department is not clear, however, seeing the judgement it seems that there was no immediate action required by the Department.

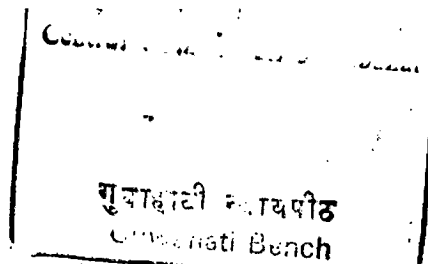
Other two seasonal Khalasis viz. Md. Babul Ali and Md. A. Ahmed also approached the CAT, Guwahati vide case No.248/93 and 249/93 respectively in Nov. 1993 for absorption / engagement of the petitioner in the next session i.e. 1994 as they served the department for more than 11 years. It was also prayed as an interim order that CWC be directed not to terminate their services and also regularization of their services. The reply filed by the Department countered the contention of the petitioner. The CAT, Guwahati on 07-12-93, clubbing both the cases, directed 'the respondents to appoint both the applicants as Khalasi against available vacancies and in absence of available regular vacancies or till availability of such vacancy, the respondents shall appoint them as casual workers in the seasonal works' in this case. The CAT also cited its judgement delivered in the case No.201/93 referred above. The department filed Review Applications No.03/94 against decision of CAT in respect of case No.248/93 citing that Md. Babul Ali did not joined services in flood season of 1993 even though department offered the services to him and therefore, his case may be excluded from the judgement of CAT dated 07/12/93. The department also filed Review Applications No.04/94 against decision of CAT in respect of case no.249/93.

गुवाहाटी न्यायपीठ

Again on 18-06-94, Smt. Anima Talukdar approached CAT, Guwahati by way of Review Application no.13/93 against decision of CAT in respect of case No.201/93 citing judgement of CAT in the cases of 248/93 and 249/93 cited above. Md. Babul Ali and Md. A. Ahmed also approached the CAT, Guwahati by way of Review Application No.14/94 against decision of CAT in respect of case No.248/93 and Review Application no.15/94 against decision of CAT in respect of case no.249/93 respectively. The CAT, Guwahati disposed off the RA No.13/93 on 28-06-94 directing CWC 'not to terminate the services of applicants, Smt. Anima Talukdar in future and shall regularize her services in Group 'D' post in terms of OM dated 10-09-93 / Casual Labours Scheme 1993. The CAT, Guwahati clubbed the RAs i.e. 3/94 and 4/94 (both filed by the department) and 15/94 and 16/94 (filed by Md. Babul Ali and Md. A. Ahmed respectively) and disposed off on the same day i.e. 28-06-94 directing CWC 'not to terminate the service of applicants, Md. Babul Ali and Md. A. Ahmed in future and shall regularize their services in Group 'D' post in terms of OM dated 10-09-93 / Casual Labours Scheme.

SHIV DUTTA MAHANTA

The concerned Division requested CWC, New Delhi for according permission to confirm the above Khalasis on temporary status vide No.MBD/Gau/WC/Estt-54/(CAT)/93/4002-04 dated 26-07-94. CWC directed HOC, Guwahati for implementing the decision of CAT regarding non-termination of services of applicants vide No.1/62/93-Estt/XII/1626 dated 11-10-94. It was also informed that a scheme is under formulation in CWC for retention and regularization of casual labourers employed by CWC. However, after CWC scheme of 1997 they were disengaged but soon after in compliance of the direction of MoWR vide DO No.8/49/97-Estt.I dated 24-11-97 (copy at Annexure-VII), to not to disengage them in view of CAT direction, all of them were re-engaged. All of the petitioners were conferred up on temporary status in compliance to 1997 scheme of CWC. However, they have not been given periodical increment and a few other benefits like maternity leave etc. in the absence of regularization.



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SHIN PUJA SHARMA

Attempt for regularization of the services of the petitioners:

B&BBO, Shillong got permission from Planning Circle, Faridabad vide No.16/I/Adm.IV/6001 dated 29-11-02 to fill up three vacancies of Chowkidars in Nov. 2002 who further directed HOC, Guwahati for necessary action vide No.1/4/(D)/2000-BBB/130 dated 07-01-2003 for which these petitioners were called for interview vide Nos. UBD/DIB/Recruitment-I/2003/881-969, 970-71 and 972-73 all dated 30-01-93 for Md. A. Ahmed, Smt. Anima Talukdar and Md. Babul Ali respectively. The interviews were held on 15 - 16-02-2003, but Smt. Anima Talukdar and Md. A. Ahmed did not turn up for the same. Md. Babul Ali who was one of the petitioners in the case filed in 1993, appeared in the interview and selected by the Committee and thus appointed by Planning Circle, Faridabad vide No.18/09/Adm.IV/Vol.VI/2003/1077-85 dated 04-03-2003. He did not approach any court thereafter till now.

Md. A. Ahmed and Smt. Anima Talukdar again approached CAT, Guwahati by filing the cases OA No.100/03 and OA No.157/03 respectively. It was prayed in OA No.157/03 that 'to direct the department to extend all the benefits of 1988 and 1993 schemes to the present applicant with retrospective effect, with all consequential service benefits including arrear salary and seniority etc. and to regularize her services, with retrospective effect'. In OA No.100/03 almost similar prayer had been made. The department filed its reply in the case No.100/03 refuting contentions of the petitioner. The attempt of the Department to regularize their services was also clearly brought out in the reply **but CAT did not take cognizance of the same.** Both the cases were clubbed by CAT, Guwahati, without waiting for the filing of reply of department in case No.157/03, for which Department requested for extension of time and directed the CWC 'to treat the cases of the applicants beyond the scheme of 1997 and be considered under the DoPT's scheme of 10-0-9-93 within a period of two months from the date of receipt of a copy of this order. However, such considerations shall be strictly in accordance with the provisions of the DoPT's scheme of 10-09-03 as well as suitability of the applicants to the post'. The order was received in MBD, CWC, Guwahati on 16-03-2004.

गुवाहाटी न्यायपीठ

Smt. Anina Talukdar and Md. A. Ahmed approached the Hon'ble CAT, Guwahati

Bench by filing a contempt petition to direct the respondents to show cause as to why contempt proceedings should not initiated against them for not having complied with directions dated 26-02-2004 of this tribunal in OA No.100/2003 with OA 157/2003, returnable on 15-12-2004 and to show cause as to why contempt proceedings should not initiated against them for not having complied with directions dated 26-02-2004 of this tribunal in OA No.100/2003 with OA 157/2003, returnable on 15-01-2005 respectively.

The competent authority, in compliance of above directions of the Hon'ble Tribunal had considered the cases of both the applicants with reference to and in accordance with the provisions / conditions laid down in the DoPT Scheme of 1993, which are highlighted hereunder:-

The primary conditions envisaged in the DoPT Scheme of 1993 stipulates that Casual Labourers have to fulfill the following conditions / provisions in order to be eligible for grant of temporary status under the Scheme 1993.

- (a) Temporary Status would be conferred on all Casual Labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (b) Such conferment of temporary status would be without reference to the creation / availability of regular Group 'D' posts.
- (c) Conferment of temporary status on Casual Labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit / territorial circle on the basis of availability of work.
- (d) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

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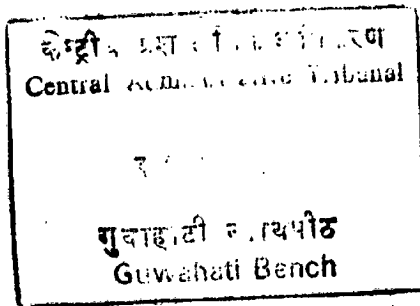
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The Hon'ble CAT was apprised vide Superintending Engineer, HO Circle, CWC, Guwahati vide his No.A15017/16(37)/04/4130-35 dated 13-12-2004 that Smt. Anima Talukdar had rendered a total of only 154 days of engagement as Casual Labourer / Seasonal Khalasi, with break periods (01-09-1992 to 15-10-1992 and 15-05-1993 to 31-08-1993) and Md. Aibuddin Ahmed, Casual Labourer / Seasonal Khalasi had rendered a total of only 150 days of engagement with break periods (01-09-1992 to 15-10-1992, 15-05-1993 to 13-06-1993 and 18-06-1993 to 31-08-1993) during the stipulated period of one year, i.e. 01-09-1992 to 31-08-1993 and hence both the applicants did not fulfill one of the primary conditions laid down in the said Scheme that they should have rendered continuous service of 240 days in the year, i.e. just preceding the date of commencement of the Scheme 1993 (i.e. 01-09-1993) for making them eligible for consideration for grant of temporary status / regularization under provisions of the Scheme, 1993.

In the light of the above findings, the Hon'ble CAT was also apprised that the applicants were not eligible for the benefits under DoPT's Scheme 1993, they were seeking through the Hon'ble Tribunal, as they did not fulfill the conditions laid down in the said Scheme.

The contempt petition No.50/2004 and 51/2004 were dismissed vide the Hon'ble CAT Order.

Now, again Smt. Anima Talukdar and Md. Aibuddin Ahmed, have approached the Hon'ble CAT, Guwahati Bench vide OA No.235/2006 to set aside and quash the impugned order dated 13-12-2004 issued by the respondents rejecting the claim of the applicants and to direct the respondents to extend all the benefits of 1988 and 1993 scheme to the present applicants with retrospective effect, with all consequential service benefits including arrear salary and seniority etc. and to regularize their services as per the direction contained in the judgement and order dated 28-06-1994, with retrospective effect, i.e. from the date when they become eligible, with all consequential benefits etc. and also to draw up contempt proceedings against the respondents for their willful and deliberate violation of the judgement and order dated 28-06-1994 passed in RA No.13/93 and to punish them severely for such action.

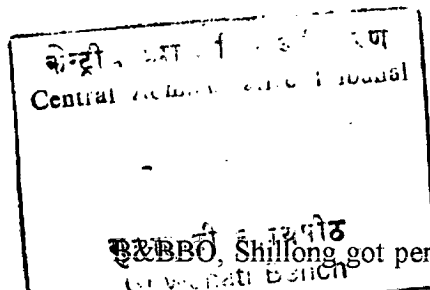


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SHIN DUTTA SUMARMA

1. That with regard to the statement made in paragraph 1 of the instant application the answering Respondents beg to state that these are matters of record and the Respondents do not admit anything which are not borne out of records.
2. That with regard to the statements made in paragraphs 2 of the instant application the answering Respondents beg to state that those are untrue, false and concocted and the answering Respondents denied that the case has been filed within limitation period.
- 2A. That with regard to the statements made in paragraphs 3 of the instant application, the answering Respondents beg to state that those are within the specific knowledge of the applicant and the respondent can not admit or deny the same.
3. That with regard to the statements made in paragraph 4.1 of the instant application the answering Respondents beg to state that those are the matters in personal knowledge of the applicants and therefore need no comments.
4. That with regard to the statements made in paragraph 4.2 of the instant application the answering Respondents beg to state that Ms. Anima Talukdar and Md. Aibuddin Ahmed were initially engaged on 06-03-84 and on 12-05-83 respectively. Thereafter they were working as seasonal khalasis during monsoon season only and after that they were further engaged as casual labour beyond flood season with break in service.

Copy of the detail of their engagement are annexed herewith as Annexure-1.
5. That with regard to the statements made in paragraph 4.3 of the instant application, the answering Respondents beg to state that both Ms. Anima Talukdar and Md. Aibuddin Ahmed could not be conferred with the temporary status under Scheme 1993, as they were not fulfilling the requisite requirements. However, they were given a chance to avail themselves getting regularized to the grade of Group-D during February, 2003 as detailed below:-



SHIN DUTTA

B&BBO, Shillong got permission from Planning Circle, Faridabad vide No.16/II/Adm.IV/6001 dated 29-11-02 (Annexure-2) to fill up three vacancies of Chowkidars in Nov. 2002 who further directed HOC, Guwahati for necessary action vide No.1/4/(D)/2000-BBB/130 dated 07-01-2003 (Annexure-3) for which these petitioners were called for interview vide Nos. UBD/DIB/Recruitment-I/2003/881-969, 970-71 and 972-73 all dated 30-01-93 (Annexure - 4 & 5) for Md. A. Ahmed, Smt. Anima Talukdar and Md. Babul Ali respectively. The interviews were held on 15th to 16th of February, 2003, but Smt. Anima Talukdar and Md. A. Ahmed did not turned up for the same. Md. Babul Ali who was one of the petitioners in the case filed in 1993, appeared in the interview and selected by the Committee and thus appointed by Planning Circle, Faridabad vide No.18/09/Adm.IV/Vol.VI/2003/1077-85 dated 04-03-2003. (Annexure-6).

6. That with regard to the statement made in paragraph A.1 of the instant application the answering Respondents beg to state that Ms. Anima Talukdar was initially engaged on 06-03-1984. She worked as seasonal Khalasi during monsoon season and was further engaged labour beyond flood season also. She did not fulfill the conditions laid down in the scheme to be given temporary status under Scheme 1993. However, her services are continued as per the Court Order dated 28-06-1994. (Annexure-7)

Ms. Anima Talukdar was not engaged as Casual Worker continuously. She was engaged as Seasonal Khalasi only during monsoon season which cannot be treated as continuous service. Since she was not working as Casual Worker continuously, her request for regularization to a post to which she has not worked i.e. Casual Worker could not be acceded to.

However, the concerned Division requested CWC, New Delhi for according permission to confirm the above Khalasis on temporary status vide No. MBD/Gau/WC/Estt-54/(CAT)/93/4002-04 dated 26-07-94. CWC directed HOC, Guwahati for implementing the decision of CAT regarding non-termination of services of applicants vide No.1/62/93-Estt/XII/1626 dated 11-10-94. It was also informed that a scheme is under formulation in CWC for retention and regularization of casual labourers employed by CWC. However, after CWC scheme of 1997 they were disengaged but soon after in compliance of the direction of MoWR vide DO

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SHIN DUTTA

8. That with regard to the statement made in paragraph A-3 of the instant application the answering Respondents beg to state that again on 18-06-1994, Ms. Anima Talukdar approached Hon'ble CAT, Guwahati by way of Review Application No.13/93 against decision of CAT in respect of case No.201/93 (Annexure-8) citing judgement of CAT in the cases of 248/93 and 249/93. Md. Babul Ali and Md. A. Ahmed also approached the CAT, Guwahati by way of Review Application No.14/94 against decision of CAT in respect of case No.248/93 and Review Application No.15/94 against the decision of CAT in respect of the case No.248/93 respectively. The CAT, Guwahati disposed off the RA No.13/93 on 28-06-94 directing CWC 'not to terminate the services of applicants, Smt. Anima Talukdar in future and shall regularize her services in Group 'D' post in terms of OM dated 10-09-93 / Casual Labours Scheme 1993. The CAT Guwahati clubbed the RAs i.e. 3/94 and 4/94 (both filed by the department) and 15/94 and 16/94 (filed by Md. Babul Ali and Md. A. Ahmed respectively) and disposed off on the same day i.e. 28-06-94 (Annexure-9) directing

CWC 'not to terminate the service of applicants, Md. Babul Ali and Md. A. Ahmed in future and shall regularize their services in Group 'D' post in terms of OM dated 10-09-93 / Casual Labours Scheme.

As per directions of the Hon'ble Court vide judgement and order dated 28-06-94 Ms. Anima Talukdar was allowed to continue in service.

Copies of the Review application and orders are annexed herewith as Annexure-8 & 9.

9. That the statements made in paragraph A-4 of the instant application are denied however the answering Respondents beg to state that the primary conditions/provisions envisaged in the DoPT Scheme of 1993 have to be fulfilled by the casual labourers in order to be eligible for grant of temporary status under the Scheme 1993. Since the requisite conditions were not fulfilled, Ms. Anima Talukdar was not given temporary status under Scheme 1993.

10. That the statements made in paragraph A-5 of the instant application are denied however the answering Respondents beg to state that Ms. Anima Talukdar was not working as casual worker continuously. She was engaged only as seasonal khalasi during monsoon season. Since she was not working as casual worker continuously, her request for regularization to a post to which she has not worked i.e. casual worker for the required time frame, could not be acceded to.

Copies of the letters are annexed herewith as Annexure - 10 & 11.

11. That with regard to the statements made in paragraph A-6 of the instant application the answering Respondents beg to state that as directed by the Director (Estt.), Ministry of Water Resources, New Delhi the conferment of temporary status under the Scheme 1997 to Ms. Anima Talukdar was withdrawn.

SHIV DUTTA SHARMA
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12. That the statements made in paragraph B-1 of the instant application are denied however the answering Respondents beg to state that the applicant No.2 was appointed as Casual Worker in the year 1983. Md. Aibuddin Ahmed did not fulfill the conditions for the post laid down in the scheme to be given temporary status under Scheme 1993. However, his services were continued as per directions of the Hon'ble Court vide a judgment and order dated 8-06-1994.

13. That with regard to the statements made in paragraph B-2 of the instant application the answering Respondents beg to state that the termination notice served on 15-10-1993 has since been withdrawn / reverted on the direction of the Hon'ble Court vide the common judgment and order dated 05-12-93 in response to the OA No.249/93.

14. That with regard to the statements made in paragraph B-3 of the instant application the answering Respondents beg to state that these are matters of record hence need no comments.

As per directions of the Hon'ble Court, Md. Aibuddin Ahmed was allowed to continue in service.

15. That with regard to the statements made in paragraph B-4 of the instant application the answering Respondents beg to state that Md. Aibuddin Ahmed did not fulfill the conditions for the post laid down in the scheme to be given temporary status under Scheme 1993. He has served as casual worker for a very limited period, which is not giving him the right to be considered for regularization as casual worker. For rest of the period, he was seasonal Khalasi, which also does not cover the period required to be rendered for regularization.

However, the concerned Division requested CWC, New Delhi for according permission to confirm the above Khalasi on temporary status vide No. MBD/Gau/WC/Estt-54/(CAT)/93/4002-04 dated 26-07-94. CWC directed HOC, Guwahati for implementing the decision of CAT regarding non-termination of services of applicants vide No.1/62/93-Estt/XII/1626 dated 11-10-94. It was also informed that a scheme is under formulation in CWC for retention and regularization of casual labourers employed by CWC. Thus, directions of CAT, Guwahati were partially implemented by the department i.e. all the above three petitioners were not disengaged

Central Board of Secondary Education
राष्ट्रीय माध्यमिक शिक्षा बोर्ड
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from service. However, after CWC scheme of 1997 they were disengaged but soon after in compliance of the direction of MoWR vide DO No.8/49/97-Estt.I dated 24-11-97 (Annexure-12), to not to disengage them in view of CAT direction, all of them were re-engaged. All of the petitioners were conferred upon temporary status in compliance to 1997 scheme of CWC. However, they have not been given periodical increment and a few other benefits like maternity leave etc. in the absence of regularization.

SHIN DUTTA

16. That with regard to the statements made in paragraph B-5 of the instant application the answering Respondents beg to state that as directed by the Director (Estt.), Ministry of Water Resources, New Delhi the conferment of temporary status under Scheme 1997 to Md. Aibuddin Ahmed was withdrawn.

17. That with regard to the statements made in paragraph 4.4 of the instant application the answering Respondents beg to state that Md. A. Ahmed and Ms. Anima Talukdar again approached CAT, Guwahati by filing the cases O.A. Nos.100/2003 and OA No.157/2003 respectively. It was prayed in OA No.157/2003 that "to direct the department to extend all the benefits of 1988 and 1993 schemes to the present applicant with retrospective effect with all consequential service benefits including arrear salary and seniority etc. and to regularize her services with retrospective effect". In OA No.100/03 almost similar prayer had been made. The Department filed its reply in the case No.100/03 refuting contentions of the applicant. The attempt of the Department to regularize their services was also clearly brought out in the reply but CAT did not take cognizance of the same. Both the cases were clubbed by CAT, Guwahati without waiting for the filing of reply of Department in Case No.157/03, for which Department requested for extension of time and directed the CWC "to treat the cases of the applicants beyond the scheme of 1997 and be considered under the DoPT's Scheme of 10-09-1993 (Annexure-13) within a period of two months from the date of receipt of a copy of the said order. However, such considerations shall be strictly in accordance with the provisions of the DoPT's scheme of 10-09-1993 as well as suitability of the applicants to the post.

Copies of the applications and orders are annexed herewith as Annexure-12 & 13.

गुवाहाटी न्यायापीठ

18. That with regard to the statements made in paragraph 4.5. of the instant application the answering Respondents beg to state that both Ms. Anima Talukdar and Md. Aibuddin Ahmed could not be conferred with the temporary status under scheme 1993, as they were not fulfilling the requisite requirements. However, they were given a chance to avail themselves getting regularized to the grade of Group-D during February, 2003 as detailed below:

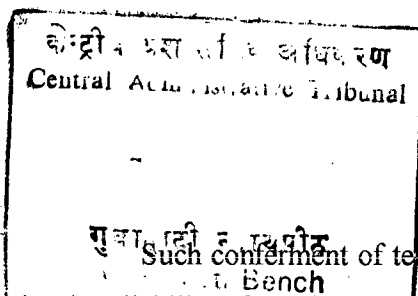
B&BBO, Shillong got permission from Planning Circle, Faridabad vide No.16/I/Adm.IV/6001 dated 29-11-02 to fill up three vacancies of Chowkidars in Nov. 2002 who further directed HOC, Guwahati for necessary action vide No.1/4/(D)/2000-BBB/130 dated 07-01-2003 for which these petitioners were called for interview vide Nos. UBD/DIB/Recruitment-I/2003/881-969, 970-71 and 972-73 all dated 30-01-93 for Md. A. Ahmed, Smt. Anima Talukdar and Md. Babul Ali respectively. The interviews were held on 15th to 16th February, 2003, but Smt. Anima Talukdar and Md. A. Ahmed did not turned up for the same. Md. Babul Ali who was one of the petitioners in the case filed in 1993, appeared in the interview and selected by the Committee and thus appointed by Planning Circle, Faridabad vide No. 18 / 09 / Adm.IV / Vol.VI / 2003 / 1077-85 dated 04-03-2003. He did not approach any court thereafter till now.

19. That the statements made in paragraph 4.6 of the instant application are matters of record however the answering Respondents beg to state that the competent authority in compliance of above directions of the Hon'ble Tribunal had considered the case of both the applicant with reference to an in accordance with the provisions / conditions laid down in the DoPT Scheme of 1993, which are highlighted hereunder:

The primary conditions envisaged in the DoPT Scheme of 1993 stipulates that casual workers have to fulfill the following conditions / provisions in order to be eligible for grant of temporary status under the Scheme 1993.

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

SHU BUITA JARANG 104



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DU 71/14/14/14/14

- b) Such conferment of temporary status would be without reference to the creation / availability of regular Group = D posts.
- c) Conferment of temporary status on casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit / territorial circle on the basis of availability of work.
- d) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group-D posts.

So the Hon'ble CAT was appraised vide Superintending Engineer. HO Circle, CWC, Guwahati vide his No.A-15017/16(37)/04/4130-35 dated 13-12-2004 (Annexure-14) that Smt. Anima Talukdar had rendered a total of only 154 days of engagement as Casual Labourer / Seasonal Khalasi with break periods (01-09-1992 to 15-10-1992 and 15-05-1993 to 31-08-1993) and Md. Aibuddin Ahmed, Casual Labourer / Seasonal Khalasi had rendered a total of only 150 days of engagement with break periods (01-09-1992 to 15-10-1992, 15-05-1993 to 14-06-1993 and 18-06-1993 to 31-08-1993) and hence both the applicants did not fulfill one of the primary conditions laid down in the said Scheme that they should have rendered continuous service of 240 days in the year i.e. just preceding the date of commencement of the Scheme 1993 (i.e. 01-09-1993) for making them eligible for consideration for grant of temporary status / regularization under provisions of the Scheme, 1993.

20. That the statements made in paragraph 4.7 of the instant application are matters of records hence the answering Respondents have no comments.

21. That the statements made in paragraph 4.8 of the instant application other than matters of records are denied the answering Respondents beg to state that the applicants have not fulfilled one of the primary conditions that they have to work for 240 days as Casual Labour continuously in a year (details of engagements are given in Para 4.1). So their request for regularization to a post to which they have not worked i.e. Casual Worker for the required time frame, cannot be acceded to.

22. That the statement made in paragraph 4.9 of the instant application other than matter of records are denied. However the answering Respondents beg to state that

The Hon'ble CAT was appraised vide Superintending Engineer. HO Circle, CWC, Guwahati vide his No.A=15017/16(37)/04/4130=35 dated 13-12-2004 that Smt. Anima Talukdar had rendered a total of only 154 days of engagement as Casual Labourer / Seasonal Khalasi with break periods (01-09-1992 to 15-10-1992 and 15-05-1993 to 31-08-1993) and Md. Aibuddin Ahmed, Casual Labourer / Seasonal Khalasi had rendered a total of only 150 days of engagement with break periods (01-09-1992 to 15-10-1992, 15-05-1993 to 14-06-1993 and 18-06-1993 to 31-08-1993) and hence both the applicants did not fulfill one of the primary conditions laid down in the said Scheme that they should have rendered continuous service of 240 days in the year i.e. just preceding the date of commencement of the Scheme 1993 (i.e. 01-09-1993) for making them eligible for consideration for grant of temporary status / regularization under provisions of the Scheme, 1993.

The contempt petitions CP No.50/2004 (OA No.157/2003) and CP No.51/2004 (OA No.100/2003) have been closed vide judgment and order dated 09-03-2005.

23. That with regard to the statements made in paragraph 4.10 of the instant application the answering Respondents beg to state that the application has been forwarded to the higher authorities.

24. That with regard to the statements made in paragraph 4.11 of the instant application being found the answering Respondents have no comment.

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25. That with regard to the statement made in paragraph 5.1 to 5.5 of the instant application, the answering Respondents beg to state that there was no deliberate denial to extending them regular status. They were considered for conferment of regular status. Since they were not fulfilling the requisite requirements, they could not be conferred the temporary status. However, they were given a chance to avail themselves getting regularized to the grade of Group-D during November, 2022. Out of the three applicants only one namely Md. Babul Ali appeared, got selected and have withdrawn himself from the court cases. There is no illegality or deliberate denial of rights of the applicants.

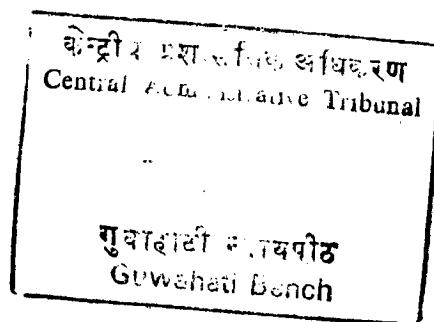
26. That with regard to the statement made in paragraph 5.6 of the instant application, the answering Respondents beg to state that the Department has not left any stone unturned to extend maximum possibility of their regularization. But since they were not fulfilling the prescribed criteria, the department is also helpless in the matter. Therefore, efforts may be made to arrive at a final decision of the matter as may deem fit, to avoid further prolongation of the case. The Respondents further beg to state that the grounds are set forth in the instant application are not good valid grounds and also not tenable in the eye of law and therefore this instant application is liable to be dismissed.

27. That with regard to the statements made in paragraphs 6 and 7 of the instant application the answering Respondents state that applicants have been continuously filing applications seeking regularizations.

28. That with regard to the statements made in paragraph 8 of the instant application the answering Respondents beg to state that in view of the facts and circumstances mentioned above, the applicants are not entitled to any relief or interim relief as prayed for and the application is liable to be dismissed.

Paras 9,10,11 and 12 need no reply be

29. That the Respondents submit that the original application has no merit and as such the same is liable to be dismissed.



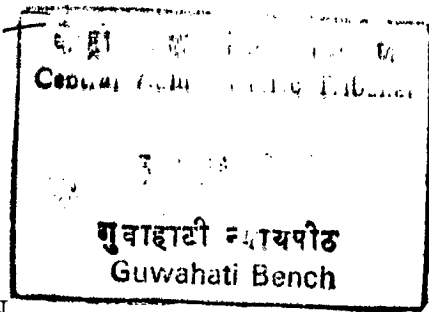
SHIN DUTTA SHARMA
(DEPONENT)

At:

Through

Dt:

(COUNSEL)



VERIFICATION

I, SHIV DUTT SHARMA S/o Shri. RAMESWAR DAYAL SHARMA .. aged about 41..years, Resident of Dishant Apartment, Kamakhya Nagar, Guwahati District Kamrup and competent officer of the answering Respondents, do hereby verify that the statement made in paras / to 3, 5, 6, 9, 11 to 16, 18 to 29 are true to my knowledge and those made in paras 4, 7, 8, 12, ... 17, ... being matters of record are true to my information derived there from which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal. *and I have not suppressed any material fact*

And I sign this verification on this 14th day of December.2007 at Guwahati.

SHIV DUTTA SHARMA

SHIV DUTTA SHARMA

(DEPONENT)

30 JAN 1985

Smt. Anima Talukdar, Seasonal Khalasi

ANNEXURE - I

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Sl. No.	Year	From	To	No. of days
1	1984	06-03-1984	02-06-1984	89
2		04-06-1984	31-08-1984	89
3		03-09-1984	30-11-1984	89
4		02-12-1984	31-12-1984	30
				297

5	1985	01-01-1985	27-02-1985	68
6		03-06-1985	15-10-1985	135
7		14-11-1985	31-12-1985	38
				241

8	1986	01-01-1986	31-01-1986	26
9		03-02-1986	30-04-1986	87
10		02-05-1986	13-05-1986	12
11		15-05-1986	31-10-1986	170
12		11-11-1986	31-12-1986	51
				346

13	1987	01-01-1987	31-01-1987	31
14		01-02-1987	14-05-1987	103
15		01-02-1987	31-05-1987	17
16		01-06-1987	15-10-1987	137
17		02-11-1987	31-12-1987	60
				337

18	1988	01-01-1988	25-01-1988	25
19		28-01-1988	25-04-1988	89
20		27-04-1988	13-05-1988	17
21		15-05-1988	15-10-1988	154
22		22-10-1988	31-10-1988	10
				295

23	1989	02-01-1989	02-03-1989	60
24		05-04-1989	12-05-1989	38
25		15-05-1989	15-10-1989	154
26		15-11-1989	31-12-1989	47
				299

27	1990	01-01-1990	11-02-1990	42
28		13-02-1990	31-03-1990	47
29		03-04-1990	11-05-1990	39
30		14-05-1990	31-10-1990	171
31		10-12-1990	31-12-1990	22
				321

These details have been duly verified from the Fixed Charge Registers and found correct.

32	1991	01-01-1991	08-03-1991	67
33		13-03-1991	10-05-1991	59
34		13-05-1991	31-05-1991	19
35		01-06-1991	22-10-1991	144
36		06-11-1991	31-12-1991	56
				335

37	1992	01-01-1992	01-02-1992	32
38		07-02-1992	04-05-1992	88
39		19-05-1992	14-06-1992	27
40		16-06-1992	06-07-1992	21
41		02-07-1992	03-08-1992	27
42		25-08-1992	15-10-1992	52
				247

43	1993	15-05-1993	16-11-1993	186
				186

44	1994	16-05-1994	25-05-1994	10
45		27-05-1994	02-06-1994	7
46		04-06-1994	31-12-1994	211
				228

47	1995	01-01-1995	31-12-1995	365
				365

48	1996	01-01-1996	08-01-1996	8
49		10-01-1996	13-01-1996	4
50		18-01-1996	--	1
51		20-01-1996	31-12-1996	347
				360

52	1997	01-01-1997	31-03-1997	90
53		06-04-1997	06-07-1997	92
54		12-07-1997	31-12-1997	173
				355

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

31/12/1997

गुवाहाटी न्यायपीठ
Guwahati Bench

These details have been duly verified from the Fixed Charge Registers and found correct.

ANNEXURE - I(a)Md. Aibuddin Ahmed, Seasonal Khalasi

Sl. No.	Year	From	To	No. of days
1	1983	12-05-1983	31-05-1983	21
		06/1983		30
		07/1983		31
		08/1983		31
		09/1983		30
		01-10-1983	15-10-1983	15
				158

2	1984	15-05-1984	31-05-1984	17
		06/1984		30
		07/1984		31
		08/1984		31
		09/1984		30
		01-10-1984	15-10-1984	15
				154

3	1985	15-05-1985	31-05-1985	17
		06/1985		30
		07/1985		31
		08/1985		31
		09/1985		30
		01-10-1985	15-10-1985	15
				154

4	1986	15-05-1986	31-05-1986	17
		06/1986		30
		07/1986		31
		08/1986		31
		09/1986		30
		01-10-1986	31-10-1986	31
				160

5	1987	15-05-1987	31-05-1987	17
		06/1987		30
		07/1987		31
		08/1987		31
		09/1987		30
		01-10-1987	15-10-1987	15
				154

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

These details have been duly verified from the Fixed Charge Registers and found correct. 3

6	1988	15-05-1988	31-05-1988	17
		06/1988		30
		07/1988		31
		08/1988		31
		09/1988		30
		01-10-1988	15-10-1988	15
		21-10-1988	31-10-1988	11
				165

7	1989	02-01-1989	31-01-1989	30
		02/1989		28
		01-03-1989	02-03-1989	2
		05-04-1989	30-04-1989	26
		01-05-1989	12-05-1989	12
		15-05-1989	15-10-1989	154
		15-11-1989	30-11-1989	16
		12/1989		31
				329

8	1990	01-01-1990	31-01-1990	31
		01-02-1990	11-02-1990	11
		13-02-1990	28-02-1990	16
		03/1990		31
		03-04-1990	30-04-1990	28
		01-05-1990	11-05-1990	11
		14-05-1990	31-05-1990	18
		06/1990		30
		07/1990		31
		08/1990		31
		09/1990		30
		10/1990		31
		10-12-1990	31-12-1990	22
				321

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

These details have been duly verified from the Fixed Charge Registers and found 4 correct.

9	1991	01-01-1991	31-01-1991	31
		02/1991		28
		01-03-1991	08-03-1991	8
		13-03-1991	31-03-1991	19
		04/1991		30
		01-05-1991	10-05-1991	10
		13-05-1991	31-05-1991	19
		06/1991		30
		07/1991		31
		08/1991		31
		09/1991		30
		01-10-1991	22-10-1991	22
		06-11-1991	30-11-1991	25
		12/1991		31
				335

10	1992	01-01-1992	31-01-1992	31
			01-02-1992	1
		07-02-1992	29-02-1992	23
		03/1992		31
		01-04-1992	21-04-1992	21
		23-04-1992	30-04-1992	8
		01-05-1992	04-05-1992	4
		10-06-1992	30-06-1992	21
		07/1992		31
		08/1992		31
		09/1992		30
		01-10-1992	15-10-1992	15
				246

11	1993	15-05-1993	31-05-1993	17
		01-06-1993	13-06-1993	13
		18-06-1993	30-06-1993	13
		07/1993		30
		08/1993		31
		09/1993		30
		01-10-1993	12-10-1993	12
		14-10-1993	15-10-1993	2
				149

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुप्त न्यायपीठ

These details have been duly verified from the Fixed Charge Registers and found correct.

15

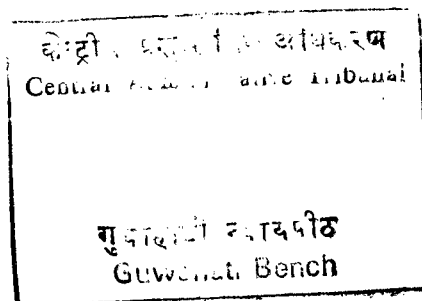
225

12		17-05-1994	31-05-1994	15
			06/1994	30
			07/1994	31
			08/1994	31
			09/1994	30
			10/1994	31
			11/1994	30
			12/1994	31
				229

13		01/1995	12/1995	365
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14		01/1996	03/1996	304
15		05/1996	11/1996	

N.B: Administrative control goes under Upper Brahmaputra Division, CWC, Dibrugarh with effect from 01-12-1996



These details have been duly verified from the Fixed Charge Registers and found 6 correct.

-25-

ANNEXURE - 2

09 MED 10:58 ID:CEBBB,CWC,SHILLONG.
भारत सरकार

TEL: 282284

P.02

केन्द्रीय जल आयोग

योजना परिमण्डल

1065-68 टाइप-V.

एनो एचो 4, फरीदाबाद

पिन : 121001

फोन : 0129-5412956, 5415092

फैक्स : 0129-5412956



सत्यमेव जयते

Gram : SEPLAN

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
PLANNING CIRCLE (22)
1065-68, TYPE-V,
NH-IV, FARIDABAD -121 00
☎ : 0129-5412956, 5415092
FAX : 0129-5412956

केन्द्रीय प्रशासिक अदालत
Central Administrative Tribunal

No.16/1/Adm.IV/6001

To

The Chief Engineer(B&BB)
CWC., Shillong.

गुवाहाटी बेंच
Guwahati Bench

DD-29.11.02

Sub: Permission for filling up of direct recruitment posts.

Sir,

In pursuance of DOP's O.M.No. 2/8/2001-PIC dated 16.5.2001 and subsequent O.M. dated 18.6.2002, the approval of Min. of Water Resources for filling up the following posts in Gr. 'D' categories have been received through CWC's letter No.A-42011/3/2002-Estt.IV/1105 dated 18.10.2002.

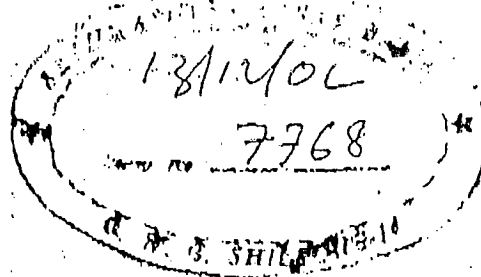
✓ Barkandaz : 2

Chowkidar : 3

The Surplus Cell of Min. of Personnel Public Grievances & Pension have been approached for issuing clearance certificate in this regard. In the meantime, it is requested that the other formalities such as obtaining names from local employment exchange and preparing panel of the candidates may please be made so that the appointment letters could be issued immediately on receipt of clearance from Surplus Cell. The vacancies are to be filled up before 1.3.2003 positively, failing which the posts will be abolished. The details of recruitment shall follow.

Yours faithfully,

(Pradeep Kumar)
Superintending Engineer



10/12

LOC-I

Annexure - 3

Government of India

केन्द्रीय जल आयोग

CENTRAL WATER COMMISSION

ब्रह्मपुत्र एवं बराक बेसिन

Brahmaputra & Barak Basin

शिलांग - 793006

Shillong - 793006

Date 07-01-03

Ref No.

1/4(D)/2000-BBB/130

To

The Superintending Engineer
Hydrological Observation Circle
Central Water Commission
Guwahati.

केन्द्रीय जल आयोग
Central Water Commission

गुवाहाटी न्यायपीठ
Guwahati Bench

Subject: Permission for filling up of direct recruitment of posts.

Sir,

Please find enclosed herewith a copy of letter No.16/1/Adm.IV/6001 dated 29.11.2002 received from Superintending Engineer, Planning Circle, CWC, Faridabad. Vide his letter Superintending Engineer, Planning Circle has conveyed the permission of competent authority to filling up by direct recruitment of 2 (two) post of Barkardaz and 3 (three) posts of Chowkidar from Employment Exchange after observing formalities as per rules laid down at Recruitment Rules of Group-D staff. Regarding 'No Objection' Superintending Engineer, Planning Circle has written to the Surplus Cell which will be conveyed by them on receipt of the same.

As per your letter No.A15917/11(3)/Estt(M)/3525-26 dated 11.09.2001 there are 10 Nos of Chowkidar posts are lying vacant under your Circle. It is, therefore, requested that the filling up of 3 (three) posts of Chowkidar only may please be initiated at your Circle and completed before 01.03.2003 positively.

The progress report of filling up the vacancy may be sent to Superintending Engineer, Planning Circle, CWC, Faridabad and this office on fortnightly basis on 1st and 15th of every month.

Yours faithfully

Encl: As above.

C.L. Wadhawan
(C.L. WADHAWAN)
Superintending Engineer (Coord.)

IMMEDIATE

ESTT(M)

8.11.03

"मारानाथा", पोहकरो, पो.आ. रिंजा (उम्पलिंग), शिलांग-७९३००६

"Maranatha", P.O. Rynjahi (Umplint), Shillong-793006. Phone : 0364-230424, 232294, 534928 Fax : 036

Gram: Forecast.

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
P.O. CENTRAL REVENUE BUILDING
DIBRUGARH - 786003

Tele/Fax: 2314398

NO.UBI/DIB/Recruitment-1/2003/881-969

Date: Dibrugarh the 30.1.2003

To, Mr. Dibuddhin Ahmed.

গুৱাহাটী সচিবালয়

On inspection which is conducted on 12.2.2003 in the office of the Executive Engineer, Upper Brahmaputra Division, Jiwai Phukan Nagar, P.O. C R Building, Dibrugarh-786003 for the post of Chowkidar. If you are interested in above post you may kindly attend the interview along with original certificates including date of birth and original Employment Exchange Registration Card who sponsored for the post of Seasonal Khalasi at the first appointment.

Mere appearing for interview does not guarantee the job. No TADA will be admissible.

The interview may prolong for a one more day and you may kindly make your own arrangement for the stay at Dibrugarh.

(G. PENCHALAIAM)
EXECUTIVE ENGINEER

Received
on 13/2/03

No. 1132/DIB/Recruitment-1/2003/881-969
List of candidates (Seasonal Khalasi) under U.B.
called for interview.

1. Sh. P. N. Roy
Dibrujan Colony,
Dibrugarh-5
2. Sh. Jaggydhar Das
Maricha Gaon,
P.O. Chatiagaon
Via. Chabua, Dibrugarh
3. Sh. Ujjal Das
Vill. Sukhan Pukhari,
P.O. Mohanaghat, Dibrugarh
4. Sh. Khagendra Nath Konwar
Jamirah Gohain Gaon,
P.O. Gohai Gaon,
Via. Borborua, Dibrugarh
5. Sh. Suresh Das
Pologround Road,
P.O. Grahma Bazar,
Dibrugarh
6. Sh. Biju Sankar Das
Santipara, B.C. Das Road
Dibrugarh
7. Sh. Naren Das
Puhari Khania Gaon
P.O. Mohanaghat, Dibrugarh
8. Sh. Ganesh Baruah
Near B.N.P. High School
North Amolapatty, Dibrugarh
9. Sh. Premananda Das
Puhari Khania Gaon,
P.O. Mohanaghat, Dibrugarh
10. Sh. Debon Baruah
Chenimari Gaon,
P.O. Khowang, Dibrugarh
Na-Kotoha
11. Sh. Deba kumar Das
Puhari Khania Gaon,
12. Sh. Dibakar Das
K.P. Road, Dibrugarh

7 Chowkidar
Date of Interview
15.2.2

8. ✓ Miss Minu Gogoi
South Amolapatty,
P.O. Mohanaghat, Dibrugarh

9. ✓ Mrs. S. Mitra
T.K. Das Lane, Khalihamari,
(Near Bengali H.S. School)
Dibrugarh

10. ✓ Sh. Bolin Sonowal,
Nowjan Gaon,
P.O. Kotoha, Dibrugarh

11. ✓ Sh. Pronoy Chakraborty
Subanchani Road,
Tinsukia-786125

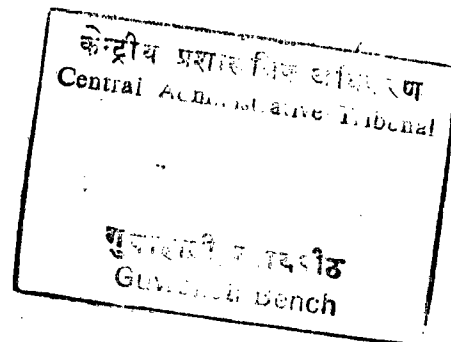
17. ✓ Sh. Bhaban Baruah
Jamira Kopon Gaon,
P.O. Dhamal Gaon,
Dibrugarh

20. ✓ Sh. Ajoy Saikia,
Vill. 1 No. Naujan,
P.O. Kotoha, Dibrugarh

21. ✓ Sh. Jitendra Nath Saikia
Naujan Gaon, P.O. Kotoha,
Dibrugarh

22. ✓ Sh. Ajit Handique
Kotoha Baligaon,
P.O. Baligaon, Dibrugarh

23. ✓ Sh. B. Gohain
Kotoha Nagaon
P.O. Baligaon, Dibrugarh



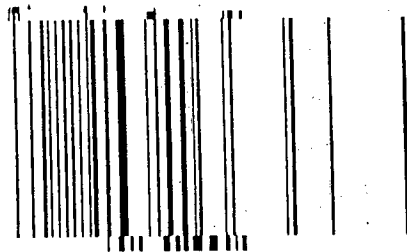
24. ✓ Sh. Jiten Phukan
Dhemechi Majgaon,
P.O. Khowang, Dibrugarh

32. ✓ Sh. Laksheswar Das
Vill. Narhuj, P.O. Panichakura,
Jorhat

5. ✓ Sh. Ratneswar Gogoi
Khalihamari
P.O. Kadamoni, Dibrugarh

23. ✓ Sh. J. Pathari
Vill. Gutung
P.O. Mohura Mukh, Golaghat

34. ✓ Sh. M. Loing
Vill. Doriga, P.O. Bankouri



✓ Sh. Khagen Chatia
Chenimari Gaon
P.O. Kalaua, Dibrugarh

Via. Ghuronia,
P.O. Borbarua, Dibrugarh

✓ Sh. Khalin Ch. Das
Tingkhong Bhangali,
P.O. Mohanaghat, Dibrugarh

27. ✓ Sh. Bipul Dutta
Vill. & P.O. Bhatamora Gaon,
Jorhat

28. ✓ Sh. Sushil Handique

aramananda Das
1. Khowang Kaibatra Gaon
O. Khowang, Dibrugarh

29-

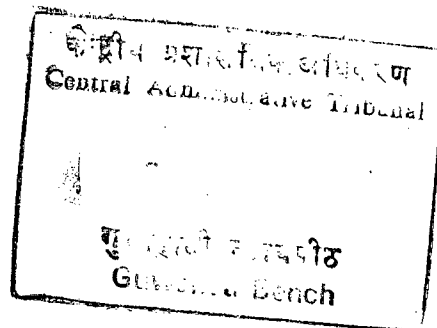
Na-Ali Dhekiajuli
Handque Gaon,
Jorhat

225
73

120

Sh. Ranjit Khati
Binyatia Gaon, Via. Borbarua
P.O. Ghurania, Dibrugarh

39. Sh. M. Rahman
Vill. Mohanaikigaon,
P.O. Bokakhat, Golaghat



40. Md. Firoz Ali
Vill. Islampatty
P.O. & Dist. Golaghat

49. Sh. Jiban Ch. Saikia
Vill. Mardholi, P.O. Banuajan
Jorhat

41. Sh. Deben Ch. Gogoi
Charakapur Khalia Gaon,
P.O. Cherekapur, Sibsagar

50. Sh. C. K. Nath
Jatakia Gaon,
P.O. Jatakia, Sivasagar

42. Sh. Sunit Changmai
P.O. Bethari
Dist. Sibsagar

51. Sh. Bipul Neog
Vill. Nowkholia
P.O. Satia, Jorhat

43. Sh. Keshab Borah
Vill. Meilang Lakhar Gaon
P.O. Borkhelia, Jorhat

52. Sh. Brojen Dutta
Rajgarh Loonpuria
P.O. Silachakua, Sibsagar

44. Sh. T. C. Bordoloi
Tarajan Sonari Gaon
Path No. 1, Jorhat

53. Sh. U. C. Gogoi
Naragaon, P.O. Golaghat
Vill. Bhagchuna
Golaghat

45. Sh. Suren Morang
Vill & P.O. Bankowal
Dist. Golaghat

54. Sh. H. K. Loing
Vill. Bortika Gaon,
P.O. Bonkowal, Golaghat.

Sh. S. N. Barua

7. Bamun Gaon,
J. Changali Gaon, Jorhat

Sh. Toroni Kr. Sharma
Vill. & P.O. Dahoti, Jorhat

Sh. Sondhar Khound
Vill. Charaibali Bamun Gaon
P.O. Charaibali, Jorhat

-30-
55 ✓ Md. Imran Hussain
Mission Patty,
P.O. Golaghat, Dist. Golaghat

57. ✓ Sh. Pabitra Medhi
Vill. Nayabali Ward No. 1,
P.O. & Dist. Golaghat

Md. Fikrullah - Ahmed.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

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57. ✓ Babul Ch. Das
Vill. Kolongpar
Haluwagaon, P.O. Kolongpar
Nagaon

58. ✓ Sh. Harihar Das
Vill & P.O. Hariamukh
Nagaon

59. ✓ Sh. Golap Ch. Deka
Vill. Bhebengaati,
P.O. Kampur, Nagaon

60. ✓ Sh. Chani Ram Borah
Vill. Chagali Chuburi,
P.O. Bihaguri,
Dist. Sonitpur-784153

61. ✓ Sh. Jyotish Kr. Das
Vill. Patahar Chok
P.O. Jamuguri Hat, Sonitpur

62. ✓ Sh. Jiban Bhuyan
Vill. & P.O. Halawagaon
Dist. Nagaon

63. ✓ Sh. Hem Ram Nath
Vill. Kumar Chuburi
P.O. Thelamora, Sonitpur

64. ✓ Sh. Chitra Rajkhowa
C/O Late Purna Kt. Rajkhowa
Vill. Hooj Rangagara,
Via. Halbargaon,
Dist. Nagaon-782002.

65. ✓ Sh. Niranjan Kalita
C/O Krishna Kanta Kalita
Vill. Bhurapara (Kaliapara)
P.O. Bijoy Nagar, Kampur

66. ✓ Sh. Mukut Ch. Borah
Vill. Khutikatia, Kolongpar
P.O. Hoibargaon, Nagaon

67. ✓ Sh. Durga Ram Dokadoloi
Vill. Leophulabori,
P.O. Dighaliati, Nagaon.

68. ✓ Sh. Mono Prasad Kalita
Vill & P.O. Dharamtul
Morigaon, Nagaon.

69. ✓ Sh. Dhani Ram Nath
Vill & P.O. Dighaldari
Via. Roha, Dist. Nagaon,

केन्द्रीय प्रशासनिक अपील
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
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ANNEXURE-3
123 228

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
P.O. CENTRAL REVENUE BUILDING
DIBRUGARH - 786003

NO. UBD/DIR/WC-4/2003/
Dibrugarh - 1/2003/970-71

Dated, Dibrugarh the 30.1.2003

To,

The Executive Engineer,
Middle Brahmaputra Division,
Central Water Commission,
Rajgarh Road, Guwahati - 7

Sub :- Interview for the post of Chowkidar - regarding.

Sir,

Enclosed please find herewith 92 Nos call letters to attend the interview to be held at Upper Brahmaputra Division, CWC, Dibrugarh on 15.2.2003 for the post of Chowkidar which was sent to the seasonal Khalasis who were working under M.B. Division, CWC, Guwahati.

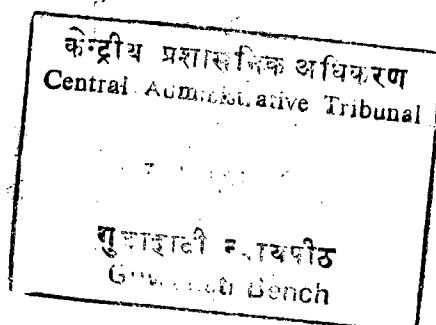
Encl : 92 Nos Call letters

Yours faithfully,

Copy to :-

(G. PENCHALAIAN)
EXECUTIVE ENGINEER
31/1/03

1. The Superintending Engineer, Hydrological Observation Circle, CWC, Nabin Nagar, Janapath, Guwahati - 781024 for information.



(G. PENCHALAIAN)
EXECUTIVE ENGINEER
31/1/03

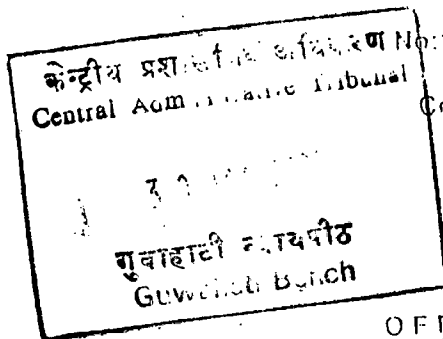
- ✓1. Sh. M. Barman ✓
- ✓2. Sh. D.D. Kalita ✓
- ✓3. Sh. K.C. Deka ✓
- ✓4. Sh. U.C. Das ✓
- ✓5. Sh. S.R. Nath ✓
- ✓6. Md. M. Rahman ✓
- ✓7. Sh. S.C. Sharma ✓
- ✓8. Sh. Labanya Kalita ✓
- ✓9. Sh. B.R. Haloi ✓
- ✓10. Md. R. Ali ✓
- ✓11. Md. F.H. Borghuyan ✓
- ✓12. Sh. A.K. Das ✓
- ✓13. Sh. H.C. Das ✓
- ✓14. Sh. B.C. Das ✓
- ✓15. Miss P. Das ✓
- ✓16. Sh. D.C. Khatanlar ✓
- ✓17. Miss S. Paul ✓
- ✓18. Sh. D.D. Purkayastha ✓
- ✓19. Sh. K.C. Kumar ✓
- ✓20. Sh. R.K. Roy ✓
- ✓21. Sh. D. Dutta ✓
- ✓22. Sh. S. Sinha ✓
- ✓23. Sh. B. Das ✓
- ✓24. Sh. J.C. Das ✓
- ✓25. Sh. F.K. Laskar ✓
- ✓26. Sh. A.S. Borbhuyan ✓
- ✓27. Sh. P.K. Dey ✓
- ✓28. Miss A. Talukdar ✓
- ✓29. Sh. T. Hamir ✓
- ✓30. Sh. A.K. Das ✓
- ✓31. Sh. N. Narsudra ✓
- ✓32. Sh. S. Das ✓
- ✓33. Sh. S.K. Das ✓
- ✓34. Sh. D.C. Das ✓
- ✓35. Sh. P. Khound ✓
- ✓36. Sh. K.C. Sharma ✓
- ✓37. Sh. J.C. Rabha ✓
- ✓38. Sh. H.H. Nunia ✓
- ✓39. Sh. B.C. Rabha ✓
- ✓40. Sh. D. Das ✓
- ✓41. Sh. P.C. Sharma ✓
- ✓42. Md. A. Hakim ✓
- ✓43. Sh. K.K. Baskhya ✓
- ✓44. Sh. A. Pathak ✓
- ✓45. Sh. K.H. Das ✓
- ✓46. Sh. S.C. Das ✓

- ✓47. Sh. D.R. Nath ✓
- ✓48. Sh. G. Barman ✓
- ✓49. Sh. S. Mahanta ✓
- ✓50. Sh. D. Deka ✓
- ✓51. Sh. N.S. Pitter ✓
- ✓52. Sh. R. Kalita ✓
- ✓53. Sh. H. Dutta ✓
- ✓54. Sh. H. Das ✓
- ✓55. Sh. R. Kalita ✓
- ✓56. Sh. H.C. Dashya ✓
- ✓57. Sh. N. Kalita ✓
- ✓58. Sh. H. Sharma ✓
- ✓59. Md. G. Ali ✓
- ✓60. Md. J. Ali ✓
- ✓61. Sh. K.R. Deka ✓
- ✓62. Md. Mainul Haque ✓
- ✓63. Sh. A. Rajbanshi ✓
- ✓64. Sh. P.C. Deka ✓
- ✓65. Sh. A.K. Rabha ✓
- ✓66. Md. C. Ahmed ✓
- ✓67. Sh. H.C. Barman ✓
- ✓68. Sh. G. Bharali ✓
- ✓69. Sh. R. Sharma ✓
- ✓70. Sh. C.R. Das ✓
- ✓71. Sh. P. Kakoty ✓
- ✓72. Smt. H. Das ✓
- ✓73. Sh. D.R. Gogoi ✓
- ✓74. Sh. H. Sangkhun ✓
- ✓75. Sh. R.C. Chowdhury ✓
- ✓76. Sh. N.H. Das ✓
- ✓77. Sh. H.C. Kakoty ✓
- ✓78. Sh. B.C. Rabha ✓
- ✓79. Sh. H.C. Das ✓
- ✓80. Sh. R. Kalita ✓
- ✓81. Md. H. Ali ✓
- ✓82. Md. M.K. Ali ✓
- ✓83. Sh. S. Dey ✓
- ✓84. Sh. A. Rajak ✓
- ✓85. Md. H. Hussain ✓
- ✓86. Sh. H.C. Das ✓
- ✓87. Miss S. Bhattacharjee ✓
- ✓88. Md. E. Haque ✓
- ✓89. Md. T. Ahmed ✓
- ✓90. Sh. D.R. Debnath ✓
- ✓91. Sh. K.D. Parman ✓
- ✓92. Miss P.R. Das ✓

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

12/12/2019



No: 18/ 09/Adm-IV/Vol. VI/2003/
Government of India
Central Water Commission
Planning Circle

1077-23

Quarter No 1065-68
NH-IV, Faridabad
Date 4 March '03

OFFICE MEMORANDUM

Subject: Offer of appointment to the post of Chowkidar in Central Water Commission (Subordinate offices of services).

The undersigned hereby offers to Shri Md. Babul Ali a temporary post of Chowkidar in the pay scale of Rs. 2550-55-2660 60-3200/- plus other allowances at the rate as admissible under the relevant rules/provisions and subject to the conditions laid down in rules and orders governing the grant of such allowances in force from time to time.

2. THE TERMS OF APPOINTMENT ARE AS FOLLOWS:
- The appointment is temporary in the first instance and will not confer any title to Permanent employment.
 - The appointment may be terminated at any time by a month's notice given by either side, viz. the appointee or the appointing authority without assigning any reasons. The appointing authority however, reserves the right of terminating the services of the appointee forthwith or before expiry of the stipulated period of notice by making payment to him a sum equivalent to the Pay and Allowances for the period of notice or the un-expired portion thereof. In case the appointee leaves the post before the completion of one month's notice, without permission, he will render himself liable to disciplinary action which may extend to recommending the authorities concerned that, he is not a fit person for employment under Government.
 - The appointment carries with it the liability to serve in any part of India.
 - The other conditions of services will be governed by the relevant rules and orders in force from time to time.
 - He will be on probation for 2(two) years.

3. THE APPOINTMENT WILL BE FURTHER SUBJECT TO :-

- Production of Certificate of Physical fitness from the competent Medical Authority viz. Civil Surgeon or District Medical Officer.
- Submission of declaration in the prescribed form in the event of the candidate having more than one wife living or being married to a person having more than one wife living, the appointment will be subject to his being exempted from enforcement of the requirements on this behalf.
- Taking of an Oath of allegiance/fidelity to the Constitution of India (or making solemn affirmation to the effect) in the prescribed form.
- Before joining : The candidate should produce a Character Certificate from the Head of the Educational Institution last attended by him duly attested or from a Gazetted Officer and similar certificate from the Employer if any.
- Verification of his Character and antecedents in the prescribed Form by District Magistrate, any adverse remarks would render him unfit for Government service.

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- Certificate of Educational and other Technical Qualifications.
- Certificate of Age
- Discharged Certificate in the prescribed form of previous employment, if any.
- He is further to submit 3 (three) copies of pass-port size photographs.

- If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have willfully suppressed any material information, he will be liable to removal from services or such other action as Government deem necessary.
- If Shri Md. Babul Ali accepts the offer of appointment on the above terms, he should communicate his acceptance and report for duty in the office of Executive Engineer, Upper Bihamputra Division, CWC, Dibrugarh (Assam) within 15 days from the date of issue of this Memorandum. If no reply is received or the candidate fails to report for duty by the prescribed date/time, the offer will be treated as cancelled.
- The appointment will take effect from the date he actually reports for duty.
- No Travelling Allowance will be allowed for joining the above appointment.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

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गुवाहाटी न्यायालय
Guwahati Bench

Pradeep Kumar
(Pradeep Kumar)
Superintending Engineer
Planning Circle

To,
Shri Md. Babul Ali,
(Through Executive Engineer, UBD,
CWC, Dibrugarh. (Assam).

Copy to:-

- The Director Adm. (Alln. Section Officer, Estt.IV), CWC, New Delhi.
- The Superintending Engineer, H&BB, CWC, Shillong w.r.to his letter No. 1/4(D)/2000-BBD/907-08 dt. 24.02.03.
- ☒ The Superintending Engineer, HOC, CWC, Gauhati.
- Executive Engineer, UBD, CWC, Dibrugarh (Assam) for information and necessary action. On production of Original documents the same may be verified as per offer of appointment. Intimation regarding his joining may be sent to his office. He may be
- Officer Order File — *pushed to order logun*

Review Application No. 13 of 1993

Date of decision this the 20th day of June 1994

Hon'ble Justice Shri S. Haque, Vice-Chairman

Hon'ble Shri G.L. Sangliya, Member (Administrative).

Also Anna Indukar

.... Applicant

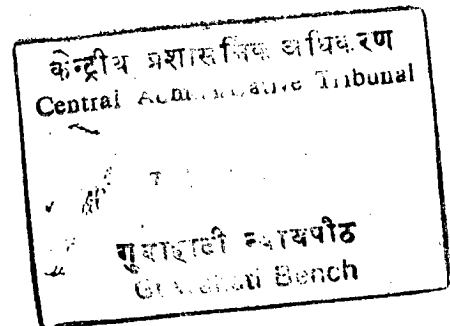
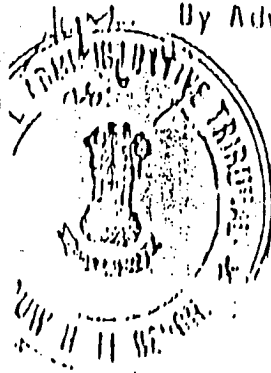
By Advocate Shri B.K. Sharma and
Shri M.K. Choudhury

-versus-

Union of India and Others

.... Respondents

By Advocate Shri S. All, Sr. C.G.S.C.



Shri Anil Lalukdar has filed this Review Application praying to convert the order dated 16.11.1993 of U.A.No.201/93 into a direction to regularise her service in Group 'B' post on the ground that the relevant office memorandum/circulars concerning regularisation of services of casual employees could not be placed before the Tribunal on 16.11.1993. Copies of the office memorandum have been annexed with the Review Application. The respondents resisted the prayer for review by filing written objection stating that the applicant became a retrenched worker and can get reappointment in order of seniority/preference in the retrenched workers list.

केन्द्रीय प्रशासिक अदालत Central Administrative Tribunal	
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2. The applicant was serving as Work Charge Khulad (Casual Worker) in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984. The last appointment order under Memorandum No.FMD/JC/1311-24(A)/93/3150-71 dated 4.5.1993 indicated that the appointment was adhoc and would not continue beyond 15.10.1993. Therefore, she filed that application(U.A.No.201/93) for regularisation of service. Assuming the applicant to be a retrenched employee, the Tribunal vide order dated 16.11.1993 disposed of U.A.No.201/93 directing the respondents to consider her appointment against available vacancy in order of seniority of retrenched persons list.

3. Learned counsel Mr O.K. Sharma on behalf of the applicant submits that she had acquired temporary status by serving for 240 days prior to 7.6.1988 in one year and thereafter also she served in successive years similarly and thereby became eligible for regularisation

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Learned Sr. C.G.S.C. No. 3. All submit that she was not
eligible for regularization and can only be considered
for engagement in order of preference in the retrenched
workers list. The policies in the office memorandum/
circulars referred to in this case have not been disputed.

4. The office memorandum No. 49014/4/90-Cott(C) dated
New Delhi the 0.4.1991 of the Government of India, Ministry
of Personnel, Public Relations and Pension relates to
Regularization of Services of Casual Workers in Group 'D'
posts - Relaxation of Employment Exchange Procedure and
Upper Age Limit. This has referred to O.P. No. 49014/4/77-
Cott(C) dated 21.3.1979 and further expressed that the
previous policies with regard to engagements, regularization
and regularization of Casual Workers in Central Government
Offices have been reviewed from time to time and detailed
guidelines in these matters were issued vide office
memorandum No. 49014/2/86-Cott(C) dated 7.6.1988. It also
contained that in view of the fact that the Casual Employees
belong to the economically weaker sections of the society
and termination of their services would naturally cause
severe hardship and therefore, as a one time measure it was
decided that casual workers recruited before 7.6.1988 and
who are in service on the date of issue of these instruc-
tions may be considered for regular appointment to Group 'D'
post, in terms of general instructions, even if they are
recruited otherwise than through the Employment Exchange
and had crossed upper age limit prescribed for the post,
provided that they are otherwise eligible for regular
appointment in all other aspects. It was further reiterated

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that recruitment of casual workers in Central Government
offices are to be regulated strictly in accordance with
the guidelines contained in the department's O.M.No.49014/2/
06-Entt(C) dated 7.6.1988.

B. It was further notified vide office memorandum
No.51016/2/90-Entt(C) dated New Delhi the 10.9.1993 that
the policy under O.M. dated 7.6.1988 had further been
revised in the light of the judgment of C.A.I., New Delhi
dated 16.2.1990, wherein it was decided that while the
existing guidelines in O.M. dated 7.6.1988 may continue to
be followed; the grant of temporary status to the casual
employees who are presently employed and have rendered one
year of continuous service in Central Government offices
(excluding Telecom, Posts and Railways) may be regulated
by the scheme, namely, 'Casual Labourers (Grant of
Temporary Status of Regulation Scheme) of Government of
India 1993' of the department of Personnel and Training
which came into force with effect from 1.9.1993. It was
specifically mentioned in the O.M. dated 10.9.1993
(para 2) that the appointing authority should ensure that
recruitment of casual workers is done in accordance with
the guidelines under O.M. dated 7.6.1988. In Clauses 4(1)
and 4(11) of the Scheme 1993 provided that temporary status
would be conferred on all casual labourers who are in
employment on 10.9.1993 and who have rendered a continuous
service on atleast one year, i.e. engaged for atleast 240
days (200 days for offices observing 5 days week); and
that such requirement of temporary status would be without
reference to the creation/availability of regular Group 'D'
posts. The instructions in the Scheme 1993 have conferred/

केन्द्रीय सचिव, प्रशासन
Central Secretariat, New Delhi

गुवाहाटी बेंच
Guwahati Bench

terminating service of the applicant from 16.10.1993 was arbitrary and bad in law because the applicant had already acquired temporary status. Again the office memorandum No.FHB/JC-Lett-24/93-6443-47 dated 16.10.1993 issued by the Executive Engineer (respondent No.3) terminating her service with effect from 16.10.1993 (AD) was bad in law. However, the Executive Engineer (respondent No.3) again appointed the applicant, Smt A. Indukar as Work Charge Sanamul Khairat with memorandum No.FHB/JC/Lett-24(A)/94/2542-51 dated 9.5.1994. Presently the applicant is serving pursuant to this appointment. The arbitrary and illegal termination of service orders dated 4.9.1993 and 16.11.1993 referred to above were liable to be quashed. But, no specific order of this nature is now required in view of her appointment in the service with Memorandum No.FHB/JC/Lett-24(A)/94/2542-51 dated 9.5.1994.

8. This Review Application is allowed. The judgment/order dated 16.11.1993 in O.A.No.201/93 is hereby reviewed and the following directions are made:

The respondents are directed not to terminate the services of the applicant, Smt Anima Indukar in future and shall regularise her service in Group 'D' post in terms of O.A. dated 10.9.1993/General Labourers Scheme 1993.

9. We make no order as to costs.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- O.L. SAUGLYNE
MEMBER (ADJUT)

Certified to be true Copy
अभिप्राय प्रमाणित

10/10/2002
10/10/2002

Central Administrative Tribunal
Gawhati Bench

केन्द्रीय प्रशासनिक अपील बोर्ड
Central Administrative Tribunal
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declared the right and privileges/benefits to the casual workers including the procedure of regularization in Group 'D' posts. All policies/provisions in the casual Labourers Scheme of 1993 are in addition to the guidelines in O.M. dated 7.6.1988.

6. The applicant, Smt. A. Talukdar did serve under the respondents in the Central Motor Commission, Middle Brahmaputra Division, Guwahati since 1984 and her periods (days) of service in every year are as under:-

1984	1	294 days	1989	1	390 days
1985 - 1986	1	245 days	1990	1	340 days
1987	1	330 days	1991	1	330 days
1988	1	240 days			

In 1992 and 1993, also she served similarly under the respondents. But the appointing authority made artificial breaks in her service periods in order to deny continuity of service to her disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat his/her right and privilege including right of regularization in service granted by the office memorandum/circulars issued by the Central Government from time to time for protection and privileges for casual labourers. We treat her entire service period as in continuity in each year in order to confer temporary status to her. She had worked for 240 days in a year prior to 7.6.1988 and thereafter also she worked similarly in successive years and thereby acquired temporary status. She became eligible for regularization in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. She was not intruded employee as claimed by the respondents. This being the position, our order dated 16.11.1993 stands to be reviewed.

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Central Administrative Tribunal
गुवाहाटी बंगला
C.A.T. Guwahati

25/11/97
11/11/97

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI-5

Dt. Guwahati, the 15/10/93

No. 3502

To,
Dy. Director,
Central Water Commission, WBS Flood
Forecasting Divn. No. 1, Pub. Sarania,
Rajgarh Road, Guwahati-3

Original Application No. 201/93

Sub :-

Smt. Anima Talukdar..... APPLICANT

VERSUS

U.O.I. & ors.....

RESPONDENTS

In the matter of an application U/S 19 of the Central Administrative Tribunal Act, 1985, I am directed to forward herewith a copy of application alongwith a copy of Order dtd. 4.10.93 passed in the above noted case for information and necessary action.

Please take notice that the above mentioned case will be listed for Admission/Orders/ Hearing on 16.11.93 at 10:30 A.M. before this Tribunal.

You are therefore directed to appear on the said date and at the appointed time either in person or through an Advocate duly appointed by you for the purpose. In default of your appearance on the date fixed, the case will be heard ex-parte.

Records, if any, connected with this case should be submitted before the fixed date.

Encls - 1) Copy of Application
with annexures.

2) Copy of Order dtd.
4.10.93

BY ORDER

DEPUTY REGISTRAR (JUDGE)

केन्द्रीय प्रशासकीय न्यायालय
Central Administrative Tribunal

गुवाहाटी बेंच
Guwahati Bench

Smti.Anima Talukdar . .Applicant.
vrs.

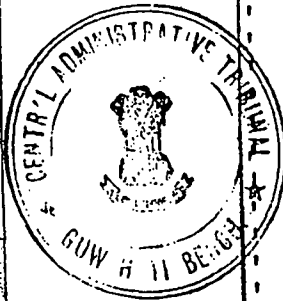
U..I.&ers . . . Respds.

P R E S E N T

THE HON'BLE MEMBER SRI G.L.SANGLYINE,ADMN.

For the Applicant,Mr.A.Hai,Advocate.

For the Respds,Mr.S.Ali,Sr.C.G.S.C.



4.10.93.

Learned counsel Mr A.Hai moves this application under Section 19 of the A.T.Act,1985 on behalf of Smti Anima Talukdar who is working as an adhoc khalasi in the office of the Central Water Commission, Middle Brahmaputra Division,Guwahati. Perused the statements of grievances and reliefs sought for in this application. Issue notice on the respondents under Registered Post. Learned Sr.C.G.S.C.Mr S.Ali is present and has taken notice of the application.

Heard learned counsel Mr A.Hai and learned Sr.C.G.S.C.Mr S.Ali. This application is admitted. Learned Sr.C.G.S.C.Mr S.Ali, is allowed six weeks time to file counter as prayed for by him.

List on 16.11.93 for counter and further orders.

contd.

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

गुवाहाटी बेंच
Guwahati Bench

respondents to show cause as to why the interim relief prayer made by the applicant as per para 8 of the application should not be granted.

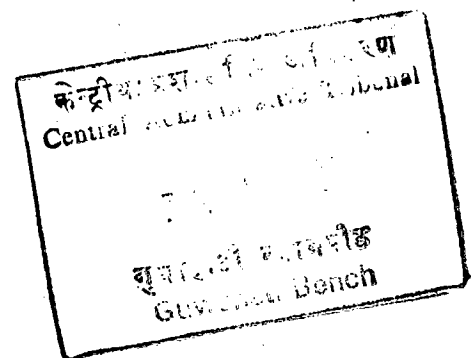
List on 16.11.93 for consideration and disposal of above show cause. Pending disposal of the show cause, the respondents are directed to allow the applicant to continue in her present service and not to terminate her service.

SD/ G.L.SANGLYINE
MEMBER (ADMN)

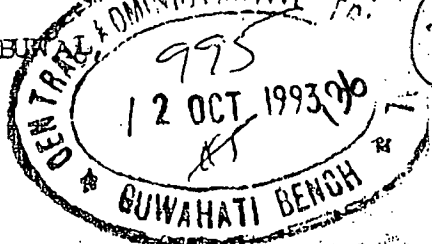
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Deputy Registrar (Judicial)
Central Administrative Tribunal
Guwahati Bench, Guwahati.

15/11/93



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT GUWAHATI.



G.C. NO. 201 OF 1993.

BETWEEN

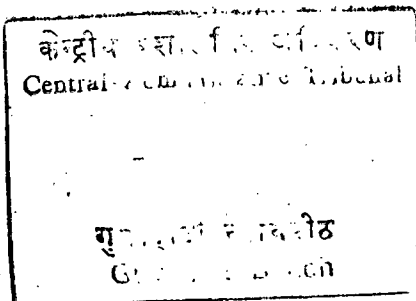
Smt. Anima Talukdar,
Daughter of Shri Gopal Ch. Talukdar,
Zoo Narangi Road (Hem Baruah Path),
Guwahati-24.

Applicant.

AND

1. Union of India,
represented by the
Secretary,
Central Water Commission,
New Delhi.
2. Chief Engineer,
Central Water Commission,
Eastern Zone, Shrikrishnapuri,
House No. 177-B,
Patna.
3. Executive Engineer,
Central Water Commission,
Middle Brahmaputra Division,
Guwahati.
4. Assistant Executive Engineer,
Central Water Commission,
WR & Flood Forecasting Division No.1,
Pub-Sarania, Rajgarh Road, Guwahati-3.
5. The Deputy Director,
Central Water Commission,
WR & Flood Forecasting Division No. 1,
Pub-Sarania, Rajgarh Road, Guwahati-3.

Respondents.



1. Particulars of the applicant :

- (i) Name of the Applicant : Smt i Anima Talukdar.
- (ii) Name of Father/ : Shri Golap Ch. Talukdar.
- (iii) Designation and Office in which employed. :- Work Charge Khalasi,
Central Water Commission,
WR & Flood Forecasting
Division No. 1
Pub-Sarania, Rajgarh Road,
Guwahati-3.
- (iv) Office address : Miss Anima Talukdar,
work charge Khalasi,
Central Water Commission,
WR & Flood Forecasting
Division No. 1,
Pub-Sarania, Rajgarh Road,
Guwahati-3.
- (v) Address for service of notice. : As above,

2. Particulars of the Respondents.:

- (1) Name and designation of the Respondents.
1. Union of India,
represented by the
Secretary,
Central Water Commission,
New Delhi.
 2. Chief Engineer,
Central Water Commission,
Eastern Zone,
Shrikrishnapuri,
House No. 177-B,
Patna.
 3. Executive Engineer,
Central Water Commission,
Middle Brahmaputra Division,
Guwahati.

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Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

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4. Assistant Executive Engineer,
Central Water Commission,
WR & Flood Forecasting
Division No. 1, Pub-Sarania,
Rajgarh Road, Guwahati-3.

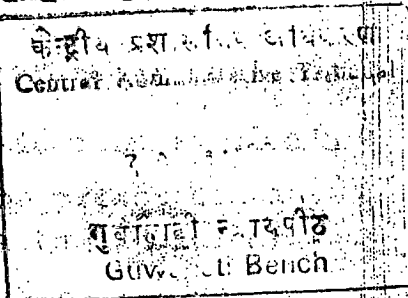
5. The Deputy Director,
Central Water Commission,
WR & Flood Forecasting
Division No.1, Pub-Sarania,
Rajgarh Road, Guwahati-3.

(ii) Office address of the
Respondents.

-do-

(iii) Address for service of
notice.

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3. Particulars of the order
against which application
is made

: For non-disposal of appeal/
representation dated 15.10.92
submitted by the Applicant
before the Executive Engineer,
Central Water Division,
Middle Brahmaputra Division,
Guwahati and before the
Chief Engineer, Central Water
Division, Eastern Zone,
Shrikrishnapuri, House No. 177B,
Patna.

4. The application is against
the following order.

(i) Order No.

: Memo No. MBD/WC/ESTT-24(A)/
93/3/58-7

(ii) Date

: 4.5.1993

(iii) Passed by

: Executive Engineer,
Central Water Commission,
Middle Brahmaputra Division,
Guwahati.

(iv) Subject in brief

: Regularisation of service
of the applicant.

5. Jurisdiction of the Tribunal, : The Applicant declares that

the subject matter of the
order against which she wants
redressal is within the
jurisdiction of the Central
Administrative Tribunal,
Guwahati.

6. Limitation

: The Applicant further declares
that the application is within
the limitation prescribed in
Section 21 of the Administra-
tive Tribunals Act, 1985.

7. Facts of the case.

1. That your humble applicant was appointed as work charge
Khalasi after observing due formalities by the Deputy Director,
Central Water Commission, WR & Flood Forecasting Division-1
Pub-Sarania, Rajgarh Road, Guwahati-3 by his office Memorandum
No. CFF/WC/Estt-24/84/1053-58 dated 5.3.1984.

A copy of appointment letter dated 5.3.1984
annexed herewith and marked as Annexure-1.

2. That the applicant begs to state that on 4th March, 1985
the Deputy Director, DWC, WR & Flood Forecasting Division-1
issued a certificate stating inter alia that the applicant

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Central Administrative Tribunal

गुवाहाटी न्यायालय
Guwahati Bench

worker in his office on and from 6.3.84 to 27.2.85

on purely temporary and ad-hoc basis as work Charge

Khalasi.

A copy of certificate dated 4th March, 85
is annexed herewith and marked as Annexure-2.

3. That the Applicant begs to state that the
Deputy Director passed a communication to the applicant
vide No. CFF/WC/Estt/24/A/86/3091-94 dated 1.5.86 stating
inter alia that she has been selected for the post of
Work Charge Khalasi and again thereafter she was appointed
in the above post on ad-hoc basis and extended for period
of service.

A copy of Memo dated 1.5.86 is annexed
herewith as Annexure-3.

4. That the Applicant begs to state that there-
after by office Memorandum No. CFF/wc/Estt/24/87/671/75
dated 30.1.87 the Executive Engineer issued an order
engaging the Applicant as casual Khalasi and posted to
the Data Cell, M.B. Division, CWC, Guwahati-3.

A copy of office order dated 30.1.87

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5. That the Applicant begs to state that the Executive Engineer Vide No. MB/ WC/ORGL/CERT/98/3206 dated 16.6.88 issued a certificate showing the working period of the Applicant from 15.5.85 to 15.10.87

A copy of certificate dated 16.6.88 is annexed herewith and marked as Annexure-5.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

6. That the Applicant begs to state that again the Executive Engineer by his Office Order No. MSO/WC/ESTT-24/3741 dated 2.1.89 engaged the Applicant as Casual Labourer for the period from 2.1.89 to 2.3.89.

गुवाहाटी बेंच
Guwahati Bench

A copy of office order dated 2.1.89 is annexed herewith and marked as Annexure-6.

7. That the applicant begs to state that the Executive Engineer again by his Office order No. MB/ WC/ESTT-3490/2160/65 dated 2.4.90 extended the period of service of the Applicant.

A copy of office order dated 3.4.90 is annexed herewith and marked as Annexure-7.

8. That the Applicant begs to state that the Executive Engineer vide his office order No. MB/ WC/ESTT-24/91/1327 -31 Date 25.3.91 appointed the Applicant as work charge Labourer.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

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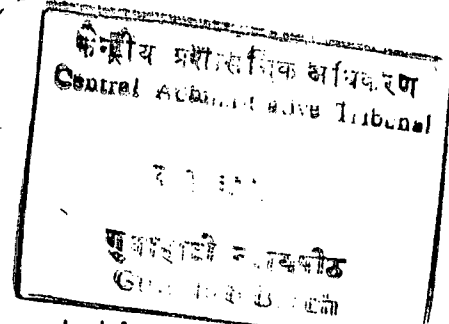
गुवाहाटी न्यायाधीश
25.3.91 Bench

A copy of the said order dated 25.3.91 Bench is annexed herewith and marked as Annexure-8

9. That the applicant begs to state that the Executive Engineer vide Office Order No. MBD/WC/ESTT-24(A)/92/2944-47 dated 12.5.92 appointed the Applicant and Khelasi.

A copy of office order dated 12.5.92 is annexed herewith and marked as Annexure-9.

10. That the applicant begs to state that thereafter on 15.10.92 she submitted an appeal/representation before the Executive Engineer, Middle Brahmaputra Division, CWC, Gauhati through proper channel praying for regularisation of her services and the same was duly recommended to the higher authority for regularisation of her services. Again on 15.10.92 she filed another appeal/representation before the Chief Engineer, CWC, Eastern Zone, Patna for regularisation of her services. Thereafter on 7.12.92 she again filed an application before the Executive Engineer, Middle Brahmaputra Division, CWC, Gauhati regarding payment of her arrear bonus.



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Copies of appeal/representation dt. 15.10.92 before the Executive Engineer, dated 15.10.92 before the Chief Engineer and dated 7.12.92 before the Executive Engineer are annexed herewith and marked as Annexures-10, 11 & 12.

11. That the applicant begs to state that the Executive Engineer, Middle Brahmaputra Division, CWC by his Memorandum No. MED/WC/ESTT/24(A)/93/B/58-71 dated 4.5.93 appointed her on ad-hoc basis upto 15.10.93 i.e. for about some more than 5 months as work charge seasonal Khalasi and she found place at Serial No. 1

A copy of Memo dated 4.5.93 is annexed herewith and marked as Annexure 13

7. Relief(s) sought for :

The applicant prays for the following reliefs :

- 1) As the Applicant has been working on and from 5.3.84 till today and extension of her service is upto 15.10.93 and as such her services should be regularised though she has been working since last 9 years. She made several representations before the authorities concerned for regularisation of her service but no head has

144 (249)

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It is to be mentioned here that as per the law laid down by the Supreme Court, after completion of more than 5 years of service, the service of the applicant must be deemed to have been regularised.

Central Administrative Tribunal

गुवाहाटी बेंच
Guwahati Bench

8.

Interim order, if prayed for :

The Applicant is working on and from 5.3.84 till today and her service period will be expired on 15.10.93 and as such your Lordships may be pleased to pass an order directing the respondents not to terminate or disturb the service of the Applicant and allow her to continue in her service and also direct inter-alia to regularise her services otherwise the Applicant will suffer irreparable loss and injury as except her there is none to look after her family members and maintain their livelihood and at the same time there is also no other source of income in their family. The applicant craves Your lordship's indulgence that she will produce all papers/documents at the time of hearing of this case.

9.

Details of the remedies exhausted :

The applicant declares that she has availed of all the remedies available to her under the relevant service rules, etc.

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
गुजराती बेंच
Gujarati Bench

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All her appeals/representations are lying pending before the authority concerned without any action and result.

10. Matter not pending with any other court, etc; the Applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal order in respect of the application fee :

BANK DRAFT

Name of the Bank on which drawn : State Bank of India Bank Draft No.

Dated

12. Details of index : The index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures : Annexures 1 to 13.

केन्द्रीय प्रशासकीय न्यायालय
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

In Verification :

I, Smti Anima Talukdar, daughter of Shri Gopal Ch. Talukdar, aged about 32 y ars, working as work Charge Khalasi, resident of Zoo Narengi Road (Hem Baruah Path) Guwahati-24 do hereby verify that the contents from 1 to 13are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place : Guwahati.

Signature of the Applicant.

Date.

-PRESENT-

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN
THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (ADMN)
For the Applicant - Mr. A. Hai, Advocate
For the Respts. - Shri S. Ali, Sr. C.G.S.C.

DATE

7.12.93

ORDER

Both these cases are taken up together for consideration and disposal as the cause of action and reliefs sought for are common in both the cases.

Heard learned counsel Mr A. Hai on behalf of applicants Md Babul Ali and Md Aiubuddin Ahmed. Also heard learned Sr. C.G.S.C Mr S. Ali. Counsel of the parties submit to dispose of these two cases with similar directions dated 16.11.1993 in O.A. 201/93.

Both the applicants worked as Seasonal and Casual worker under the Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Guwahati since 1982 to 1992. They were engaged in the work in every year as under :

Babul Ali 1982-85 154 days in every year

1987	340 days
1988	250 days
1989	319 days
1990	340 days
1991	330 days
1992	60 days upto February, 1992.

Aiubuddin Ahmed :

1983-87 154 days in every year.

1988	224 days
1989	319 days
1990	340 days
1991	330 days
1992	60 days upto February, 1992.

Now they had been retrenched from their service on 15.10.93. A list of retrenched persons had been prepared by the respondents. They have worked for long period and action to retrench them are not looked happy.



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Central Administrative Tribunal

गुवाहाटी बेंच
Guwahati Bench

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7.12.93

Upon hearing the counsel of the parties and considering the facts and circumstances including the representation dated 18.2.92 of the applicants, we direct the respondents to appoint both the applicants as Khalasi against available vacancies, and in absence of available regular vacancies or till availability of such vacancy, the respondents shall appoint them as Casual Workers in the seasonal works.

Both the applications are disposed of with the above directions. Intimate all concerned.

Sd/-S.Haque
VICE CHAIRMAN

Sd/-G.L.Sanglyine
MEMBER(A)

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केन्द्रीय न्यायिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Review Application No.15 of 1994 (O.A.248/93)

Md Babul Ali . . . Applicant

- Vs -

Union of India & Ors. . . Respondents.

Review Application No.16 of 1994 (O.A.249/93)

Md Aiubuddin Ahmed . . . Applicant

- Vs -

Union of India & Ors. . . Respondents.

Review Application No.3 of 1994 (O.A.248/93)

- Vs -

Union of India & Ors. . . Applicants.

- Vs -

Md Babul Ali . . . Respondent.

Review Application No. 4 of 1994 (O.A.249/93)

Union of India & Ors. . . Applicants.

- Vs -

Md Aiubuddin Ahmed . . . Respondent.

Date of Order : This the 28th Day of June, 1994.

Justice Shri S. Haque, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative)

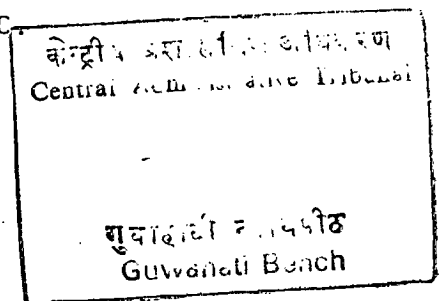
Md Babul Ali and Md Aiubuddin Ahmed

By Advocate Shri B.K.Sharma & B. Mehta.

Union of India & Ors.

By Advocate Shri S.Ali, Sr.C.G.S.C.

✓
26/6/94



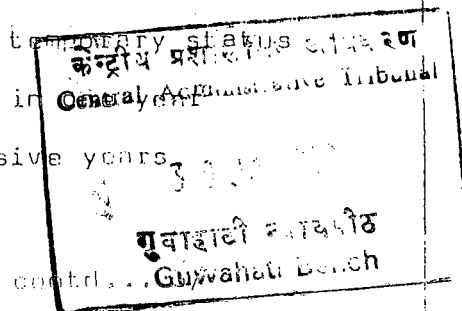
O R D E RHAQUE J

Md. Babul Ali and Md. Aiubuddin Ahmed have filed the Review Applications No.15/94 and 16/94 respectively praying to convert the common direction dated 7.12.93 in O.A.248 and 249 of 1993 into a direction on respondents to regularise their services in Group-D posts on the ground that the relevant office memorandum/circulars concerning regularisation of services of casual employees could not be placed before the Tribunal on 7.12.93. On the other hand, the respondents have also filed Review Applications No.3/94 and No.4/94 praying to convert the common directions dated 7.12.93 into a direction for engaging the two applicants as retrenched casual employees in order of preference in the retrenched workers list.

2. The two applicants were serving as Work Charge Khalasi (Casual Worker) in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1982 and 1983 respectively. Their last appointment orders were under Memorandum No.MBD/WC/ESTT-24(A)/93/4265-70 dated 25.6.93 and Memorandum No.MBD/WC/ESTT-24(A)/93/3063-90 dated 3.5.93 respectively indicating that their appointments were adhoc and would not continue beyond 15.10.93.

Therefore, they filed the applications No.O.A.248 and 249 of 1993 for regularisation of services. The Tribunal directed the respondents vide common order dated 7.12.93 to appoint both the applicants as Khalasi (Casual Worker) against available vacancies.

3. Learned counsel Mr B.K.Sharma on behalf of the applicants submit that they had acquired temporary status by serving for 240 days prior to 7.6.1980 in

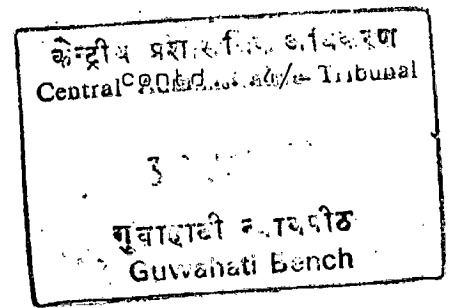


similarly and thereby became eligible for regularisation in Group 'D' post. Relevant Office Memorandum/Circulars have been referred to in support of his submissions.

Learned Sr.C.G.S.C Mr S.Ali submits that they were not eligible for regularisation and can only be considered for reengagement in order of preference in the retrenched workers list. The policies in the office memorandum/circulars referred to in this case have not been disputed.

4. The office memorandum No.49014/4/90-Estt(C) dated New Delhi the 8.4.1991 of the Government of India, Ministry of Personnel, Public Grievances and Pension relates to Regularisation of Services of Casual Workers in Group 'D' posts - Relaxation of Employment Exchange Procedure and Upper Age limit. This has referred to O.M.No.49014/4/77-Estt(C) dated 21.3.1979 and further expressed that the previous policies with regard to engagements, remuneration and regularisation of Casual Workers in Central Government Offices have been reviewed from time to time and detailed guidelines in these matters were issued vide office memorandum No.49014/2/86-Estt(C) dated 7.6.1988. It also contained that in view of the fact that the Casual Employees belong to the economically weaker sections of the society and termination of their services would naturally cause undue hardship and therefore, as a one time measure it was decided that casual workers recruited before 7.6.1988 and who are in service on the date of issue of these instructions may be considered for regular appointment to Group 'D'

14
28/6/94



post, in terms of general instructions, even if they are recruited otherwise than through the Employment Exchange and had crossed upper age limit prescribed for the post, provided that they are otherwise eligible for regular appointment in all other aspects. It was further reiterated that recruitment of casual workers in Central Government offices are to be regulated strictly in accordance with the guidelines contained in the department's O.M.No. 49014/2/86-Estt(C) dated 7.6.1988.

5. It was further notified vide office memorandum No.51016/2/90-Estt(C) dated New Delhi the 10.9.1993 that the policy under O.M. dated 7.6.1988 had further been reviewed in the light of the judgment of C.A.T., New Delhi dated 15.2.1990, wherein it was decided that while the existing guidelines in O.M. dated 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees who are presently employed and have rendered one year of continuous service in Central Government offices (excluding Telecom, Posts and Railway) may be regulated by the scheme, namely, 'Casual Labourers (Grant of Temporary Status of Regulation Scheme) of Government of India 1993' of the department of Personnel and Training which came into force with effect from 1.9.1993. It was specifically mentioned in the O.M. dated 10.9.1993 (para 2) that the appointing authority should ensure that recruitment of casual workers is done in accordance with the guidelines under O.M. dated 7.6.1988. In Clauses 4(I) and 4(II) of the Scheme 1993 provide that temporary status would be conferred on all casual labourers who are in employment on 10.9.1993 and who have rendered a continuous

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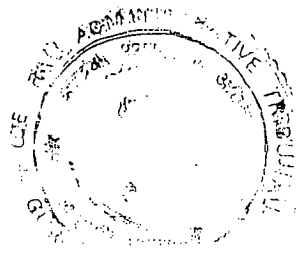
service on atleast one year, i.e. engaged for atleast 240 days (206 days for offices observing 5 days week); and that such acquirement of temporary status would be without reference to the creation/availability of regular Group 'D' posts. The instructions in the Scheme 1993 have conferred/declared the right and privileges/benefits to the casual workers included in the procedure of regularisation in Group 'D' posts. All policies/provisions in the casual labourers Scheme of 1993 are in addition to the guidelines in O.M. dated 7.6.1988.

6. The applicants Md. Babul Ali and Md. Aiubuddin Ahmed did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and their periods (days) of service in every year are as under :

<u>Md. Babul Ali</u>		<u>Md. Aiubuddin Ahmed</u>	
1982 to 1986	- 154 days each year	1983 to 87	- 154 days each year
1987	- 340 days	1988	- 224 days
1988	- 360 days	1989	- 319 days
1989	- 319 days	1990	- 340 days
1990	- 340 days	1991	- 330 days
1991	- 330 days.		

In 1992 and 1993 also they served similarly, under the respondents. But the appointing authority made artificial breaks in their service periods in order to delink continuity of service to their disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat their right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the

28/6/94



contd... 6/-

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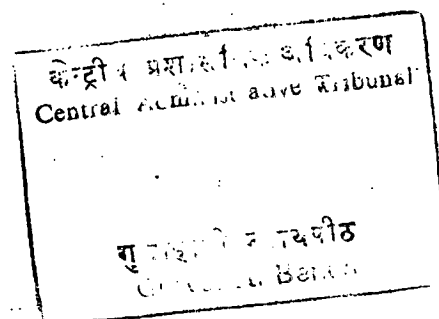
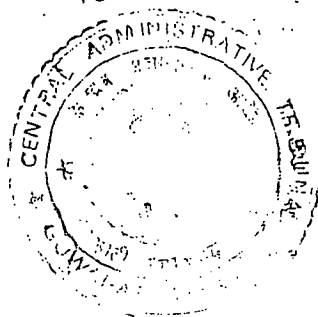
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Central Government from time to time for protection and privileges for casual labourers. We treat their entire service period as in continuity in each year in order to confer temporary status to them. They had worked for 240 days in a year prior to 7.6.1988 and thereafter also they worked similarly in successive years and thereby acquired temporary status. They became eligible for regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. They were not retrenched employees as claimed by the respondents. This being the position, our order dated 7.12.93 deserves to be reviewed.

7. The orders dated 25.6.93 and 3.5.93 of the respondents terminating the services of the applicants Md Babul Ali and Md Aiubuddin Ahmed beyond 15.10.93 were arbitrary and bad in law because they had already acquired temporary status. However, the Executive Engineer (respondent No.3) again appointed Md Babul Ali and Md Aiubuddin Ahmed vide Memorandum No.MBD/WC/ESTT-24(A)/94/2640-430 dated 11.5.94 and Memorandum No.MBD/WC/24(A)/94/2484-97 dated 4.5.94 as Work Charge Seasonal Khalasi and presently they are serving as such. The arbitrary and illegal termination of service orders dated 25.6.93 and 3.5.93 in respect of both the applicants referred to above were liable to be quashed. But, no specific order of this nature is now required in view of their appointment in the services vide Memorandum dated 11.5.94 and 4.5.94 referred to above.

8. These two Review Applications No.15/94 and 16/94 are allowed. The common judgment/order dated 7.12.93 in O.A.No.248 and 249 of 1993 are hereby reviewed and the following directions are made :-



contd... 7/

-64-

-: 7 :-

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The respondents are directed not to terminate the services of the applicants Md Babul Ali and Md Aiubuddin Ahmed in future and shall regularise their services in Group 'D' posts in terms of O.M. dated 10.9.1993/Casual Labourers Scheme 1993.

9. Consequently, the Review Applications No.3/94 and 4/94 preferred by the respondents are dismissed.
10. We make no order as to costs.
11. Inform all concerned.

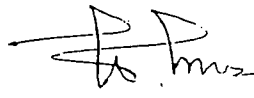


Sd/- S. HAQUE
VICE CHAIRMAN

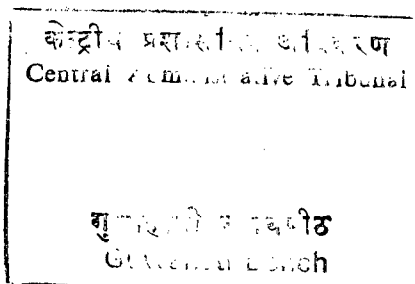
Sd/- G.L.SANGLYINE
MEMBER (ADMN)

Certified to be true Copy

প্রমাণিত প্রতিলিপি


Section Officer (A) 14/7/94
কেন্দ্রীয় প্রশাসনিক আদালত
Central Administrative Tribunal
কেন্দ্রীয় প্রশাসনিক আদালত
Guwahati Bench, Guwahati-5
গুৱাহাটী ন্যায়বীঠ, গুৱাহাটী-৫

p9



NO. MED/CAU/NC/ESIT-54(CAT)/93/ 4002-04
 Government of India
 Middle Brahmaputra Divn
 Central Water Commission
 Rajgarh Road., Guwahati- 7

To

Dated 26/7/1994

The Secretary,
 Central Water Commission,
 Sewa Bhawan, R.K. Furam,
 New Delhi - 110 066

Subject :-

CAT cases for regularisation of services of Seasonal Khalasis

- (i) O.A.No.201/93 and R.A.No.13/93 between Anima Talukdar, Seasonal Khalasis Vs U.O.I. & Ors.
- (ii) O.A.No.248/93, R.A.No.3/94 and R.A.No.15/94 between Babul Ali, Seasonal Khalasi Vs. U.O.I. & Ors.
- (iii) O.A.No.249/93 R.A. No.4/94 and R.A.No.16/94 between Aibuddin Ahmed, Seasonal Khalasi Vs. U.O.I. & Ors.

Sir,

I am to enclose herewith the copies of the Judgements of the Hon'ble C.A.T., Guwahati Bench in the above mentioned cases. The Hon'ble CAT has given the direction, as under :-

The respondents are directed not to terminate services of the applicants in future and shall regularise the services in Group D Posts in terms of O.M. dated 10.9.1993, Casual labourers Scheme 1993.

The details of these cases are given below in chronological order :-

(a)

Miss Anima Talukdar, Seasonal Khalasi submitted the order of the Hon'ble CAT Guwahati Bench dated 4.10.93 vide her letter dated 13.10.93 (Copy enclosed as Appendix-I)

The court order was -

..... Pending disposal of above show cause the respondents are directed to allow the applicant to continue in her present service and not to terminate her service.

Central Administrative Tribunal

30.10.1993

गुवाहाटी न्यायपीठ
 Guwahati Bench

Contd..... 2

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157 (263)

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The copy of the Hon'ble CAT's order dated 4.10.93 is enclosed as Appendix-II .

- (c) In accordance with the direction of Hon'ble CAT Guwahati Bench the services of Miss Anima Talukdar, Seasonal Khaleasis was extended upto 16.11.93, the date fixed for next hearing, vide letter No.MED/WC/Estt-24/93/6078-80 dated 16.10.93 (Copy enclosed as Appendix III) *ep-37*
- (d) A copy of the original application No.201/93 together with all its enclosures, were sent to you vide T.O.No.MED/GAU/WC/Estt-54(CAT)/93/6267-70 dated 29.10.93 . A copy of the, O.A.No.201/93 is again enclosed as Appendix IV for ready reference . *ep-4*
- (e) As suggested by the Central Govt. Standing Counsel (CGSC), CAT Guwahati, (a) parwise reply to the points raised in the O.A.No.201/93 and (b) points against continuation of the Interim order were submitted to the CGSC for submitting a reply before the Hon'ble CAT . These were sent to you vide T.O. No.MED/GAU/WC/Estt-54(CAT)/93/6267-70 dated 29.10.93. Copies of these two replies together with enclosures are enclosed herewith as Appendix V and VI respectively for ready reference . *ep*
- (f) Section Officer, Estt.XII Section, C.W.C., New Delhi vide his letter No.1/62/93-Estt.XII/1205 dated 28.10.93 (copy enclosed as Appendix VII) intimated to engage the CGSC and to defend the case under intimation to the Commission . *ep-3*
- (g) Show cause reply was submitted before the Hon'ble CAT through CGSC on 16.11.93 .
- ep-43(A)*
- A copy of the show cause reply is enclosed herewith as Appendix-VIII
- (h) The Hon'ble CAT disposed off the case on 16.11.93 itself with the direction

We direct the respondents to consider appointment of the applicant whenever vacancies will occur by maintaining seriality of the retrained list (Seniority list of Seasonal Khaleasis)

केन्द्रीय प्रशासकीय आयोग Central Administrative Tribunal
गुवाहाटी न्यायपीठ Guwahati Bench

Contd..... 3

CP-43

A copy of the judgement was sent to you vide T.O. No. MBD/GAU/WC/Estt-54(CAT)/93/6619-21 dated 27.11.93. For ready reference a copy of this letter together with its enclosure is enclosed as Appendix-IX.

Subsequently her services were terminated vide T.O.No. MBD/WC/Estt-24/93/6443-47 dt.16.11.93 (Copy enclosed as Annexure-X) CP-41

(1)

Mr. Babul Ali and Mr. Aibuddin Ahmed, both Seasonal Khalasis, approached the Hon'ble CAT vide O.A. nos 248/93 and 249/93

These two cases were heard together and disposed off at the time of admission itself on 7.12.93 with the direction :-

..... we direct the respondents to appoint both the applicants as khalasis against available vacancies and in absence of available regular vacancies or till availability of such vacancy, the respondents shall appoint them as casual workers in the seasonal works. CP-

A copy of the judgement dated 7.11.93 is enclosed as Appendix XI.

(1)

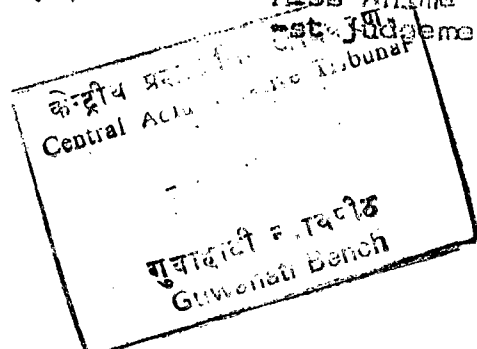
The Central Govt. Standing Counsel was requested vide T.O.No. MBD/GAU/WC/Estt-54(CAT)/93/49-52 dated 6.1.94 to file Review Applications against judgement dated 7.12.93 O.A.Nos 248/93 and 249/93 respectively to modify the judgement in line with the judgement given in O.A. No.201/93 dated 16.11.1993 (ref. item No. (h) above). A copy of this letter is enclosed as Appendix XII for ready reference. CP-49

(k)

The copies of R.A.'s in O.A. Nos. 248/93 and 249/93 were sent to you vide T.O.No. MBD/GU/WC/Estt-54(CAT) 93/294-96 dated 17.1.94. Copies of the same are enclosed herewith as Appendix XIII and XIV for ready reference.

(1)

Miss Anima Talukdar filed Review Application against judgement of Hon'ble CAT dated 16.11.93.



Contd..... 4

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A copy of the R.A. 13/93 alongwith parawise reply filed before the Hon'ble CAT was sent to you vide T.O. No. MED/GAU/WC/Estt.54(CAT)/94/388-90 dated 29.1.94 . A copy of the same is again enclosed herewith as Appendix XV .

(m)

Mr. Babul Ali and Mr. Aibuddin Ahmed also filed R.A. nos. 15/94 and 16/94 respectively against common judgement in O.A. nos 248/93 and 249/93 dated 7.12.93 .

CGSC opined that since CWC has already filed R.A. nos. 3/94 and 4/94, so there was no need to submit further rejoinder .

The copies of R.A.'s 15/94 and 16/94 are enclosed as Appendix XVI and XVII .

(n)

These cases were disposed off on 28.6.94 by two judgements in R.A. nos.13/94 (O.A.201/93) and common judgement in R.A.nos. 3/94, 4/94, 15/94, 16/94 (O.A. nos. 248/93 and 249/93) with similar direction -

The respondents are directed not to terminate the services of the applicants, in future and shall regularise her service in Group- D post in terms of O.M. dated 10.9.93/Casual Labourers Scheme 1993 .

The copies of these judgements are enclosed as Appendix XVII and XIX

(o)

The Central Govt. Standing Counsel, CAT Guwahati has opined that there are no good grounds of appeal to the Supreme Court . Photocopies of the legal opinions given by CGSC are enclosed as Appendix - XX, XXI, XXII, XXIII and XXIV .

The Hon'ble CAT, Guwahati Bench has directed to regularise the services of the three applicants in terms of O.M. No.51016/2/90-Estt(C) Ministry of Pen, P.G. and Pensions, Deptt. of Personnel and Training dated 10.9.93 .

The above mentioned O.M. has not been received in this Office from C.W.C., New Delhi . A copy has been received with the application before Hon'ble CAT and is enclosed for ready reference as Appendix XXV .

केन्द्रीय प्रशासनिक न्यायाधीश
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

Contd..... 5

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160 266-65

The DOPT's O.M. dated 10.9.93 has detailed the procedure in its Appendix . The Appendix states :-

- (A) that Temporary status would be conferred on all casual Labourers who are in employment on the date of issue of this O.M. and who have rendered a continuance service of atleast one year which means that they must have been engaged for a period of atleast 240 days (206 days in the case of Offices observing 5 days week) (Ref. item 4(i) of the Appendix)
- (B) Such confirmant of temporary status would be without reference to the creation/availability of regular Group - 'D' posts (Ref. items 4(ii) of the Appendix)

Points For Consideration

It is proposed to confer the Temporary status to those who are eligible in accordance with the DOPT's O.M. dated 10.9.93 . About 12 persons will be eligible under Middle Brahmaputra Division, C.W.C., Guwahati . Since this confirmation of temporary status would be without reference to the creation/availability of regular Group - D posts, the ban imposed on creation of regular W.C. posts is not applicable in the present case .

It is therefore, requested to give permission to confirm them on temporary status as per Hon'ble CAT Order at an early date to avoid a contempt of Court Case .

Yours faithfully,

A.S.
26/7/94
(A.S.P.SINHA)
EXECUTIVE ENGINEER

COPY with a copy each of the two judgements and a copy of DOPT's O.M. dated 10.9.93, forwarded to :-

1. The Chief Engineer, NERO C.W.C., 'Jamir Mansion', Nongshilliang, Shillong - 793 014 (Meghalaya) for favour of his kind information, please .
2. The Superintending Engineer, Brahmaputra-Barak Circle C.W.C., Nabin Nagar, Janapath, Guwahati-24 for favour of his kind information, please.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

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260794

A.S.
26/7/94
(A.S.P.SINHA)
EXECUTIVE ENGINEER

CAT CASE
MOST IMMEDIATE

267

No.1/62/93-Entt.XII/1626
Government of India
Central Water Commission

Room No. 312, Sewa Bhawan,
R.K. Puri, New Delhi-110066.

Dated, the 11th October, 1994.

To

The Superintending Engineer,
Brahmaputra Bank Circle,
Central Water Commission,
Nabin Nagar, Janpath,
GUWAHATI - 781 024 (ASSAM).

Subject:- CAT cases for regularization of services of
Seasonal Khaleasi in the matters of:-

- i) O.A. No.201 and R.A. No.13/93 between Anima Talukdar, Seasonal Khaleasi V/s. Union of India and Others.
- ii) O.A. No.248/93, R.A. 3/94 and 15/94 between Bab Ali, Seasonal Khaleasi V/s. Union of India & Oth
- iii) O.A. No.249/93, R.A.4/94 and 16/94 between Abu Ahmed V/s. Union of India & Others.

Sir,

I am to refer to the correspondence relating with your letter No.A-15017/12(2)/94-Entt.II/2464-66, dated 8.8.94 on the subject, and to say that the matter was referred to Ministry of Water Resources for seeking advice of Ministry of Law & Justice (Department of Legal Affairs). In consultation with Department of Legal Affairs, Ministry of Water Resources have advised as under:-

- i) Implement the orders dated 28.6.94 of the CAT, Guwahati Bench, regarding non-termination of the services of the applicants in the matter; and
- ii) Inform the CAT, Guwahati that on a similar matter the Principal Bench, New Delhi have passed an order on 10 (reiterated on 9.5.94 and 19.5.94) for preparation of scheme for retention and regularization of the casual labourers employed by the Central Water Commission and that the matter is under active consideration in consultation with other Depts." (i.e. Deptt. of Personnel & Training and Deptt. of Legal Affairs).

2. It is, therefore, requested that services of the above mentioned seasonal khaleasi may not be terminated and they be allowed to continue. The issue of regularization of their services and grant of temporary status will be considered later after the matter is finalised in consultation with Department of Personnel & Training and Department of Legal Affairs. CAT, Guwahati may be informed accordingly.

contd..... 2/-

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

HC
28/10/94

This issues with the approval of Director (Adm.),
Central Water Commission.

Yours faithfully,

P.C. Jain

(P.C. JAIN)
UNDER SECRETARY (TS)
CENTRAL WATER COMMISSION
TELE. NO. 601094.

Copy to:-

Chief Engineer, NERD, Central Water Commission, Jorhat
Mansion, Nong-shilliang, Shillong-793 014 (Meghalaya).

2. Executive Engineer, Middle Brahmaputra Division,
Central Water Commission, Rajgarh, Guwahati-781 007 (Assam)
with reference to his letter No. MBN/Gau./WC/Estt..54(CAT)/
93/4369-71, dated 16.8.94.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE-12
Annex-12

- 72 -

S.B. DASU,
DIRECTOR(B)
TEL: 8716747

GOVERNMENT OF INDIA
राज्य संचालन मंत्रालय
MINISTRY OF WATER RESOURCES
प्रम राशि, भवन, राशि मार्ग,
SHIRAM BHAKTI BHAWAN, RAJIV MARG,

D.O. No. 8/49/97-Estt.1

नई दिल्ली-110001

NEW DELHI-110001

Dear Sir,

As you are aware, a large number of Seasonal Khalasis working in the Middle Brahmaputra Division, Central Water Commission, Guwahati, have approached the Central Administrative Tribunal (Guwahati Bench) against the Union of India praying, inter-alia, regularisation of their services with retrospective effect with all consequential benefits, direction to the respondents not to terminate their services and to allow them to continue in service throughout year without any discontinuity, to set aside the scheme for grant of temporary status and regularisation of seasonal khalasis in the work charged establishment of the Central Water Commission issued by the Ministry of Water Resources. A number of OAs have been filed one of them being No. 233/97. When these applications came up before the Tribunal, it was pleased to direct termination of the applications, issue of notices to the respondents and also directed that the applicants shall not be removed from service in the meanwhile.

The immediate cause of grievance of the applicants appears to be Office Order dated 1.10.1997 issued by the Middle Brahmaputra Division, Guwahati vide No. MB/CE/Estt.1-24(A)(Estt) 11/6682-91 dated 1.10.1997 intimating that the seasonal work-charged khalasis appointed during Monsoon Season 1997 were no more required of their services beyond 15.10.1997 due to completion of monsoon season for which they were engaged.

The case was listed for hearing on 21.11.1997. In view of the serious implication involved in these cases, the undersigned as well as Shri Rajendra Mishra, Director(A), CWC, were deputed to advise and assist the Government Counsel in getting stay order vacated. It came to our notice that the Middle Brahmaputra Division vide their Office Order of 1.10.1997 above, not only terminated the services of the seasonal khalasis, but also that of Smt. Anima Talukder. It was also learnt that similar termination order in respect of S/Shri Babul Ali and Alubuddin Ahmed were issued. These are irrespective of the fact that the Guwahati Bench of the Tribunal had passed orders on 28.6.1994 not to terminate the services of these three persons in future and to regularise their services in Group 'D' posts in terms of CM dated 10.9.1993/ Casual Labourer Scheme 1993. The orders of the Tribunal dated 29.6.93 are in full knowledge of the Central Water Commission not only in the office/Division offices, but also at the Headquarters.

Since the termination of services of Smt. Anima Talukder, S/Shri Babul Ali and Alubuddin Ahmed by the said order amounts to contempt of court, you are requested to ensure that orders in respect of these three persons are cancelled immediately, under intimation to this Ministry.

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

Yours sincerely,

(S.B. DASU)

Shri I.D. Garg,
Chief Engineer(HM),
Central Water Commission, NEW DELHI

Copy to: (BY FAX/BY SPEED POST):

Observation Circle, Middle Brahmaputra Division, CWC, Navig Nagar,
Janpath, Guwahati. FAX- 661073
2. Executive Engineer, Middle Brahmaputra Division, CWC, Rajgarh Road,
Guwahati.

(S.B. DASU)

No. 51016/2/90-Estt(C)
Government of India
Min. of Per, P.O. and Pensions,
Deptt. of Per. & Trg.

New Delhi, the 10th Sep. 1993.

OFFICE MEMORANDUM

Subject: Grant of Temporary status and regularisation of Casual workers- formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, judgement dated 16th Feb. 1990 in the case of Shri Raj Kamal & others Vs. U.O.I.

The guidelines in the matter of recruitment of persons on daily wages basis in Central Government offices were issued vide this Department's O.M.No. 49014/2/86-Estt (C), dated 7-6-1988. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi, delivered on 16.2.1990 in the writ petition filed by Shri Raj Kamal and others Vs. Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7-6-1988 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Govt. offices other than Department of Telecom, posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in O.M. dated 7-6-1988. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Bd/-

(Y. G. FAHIAN DE)
DIRECTOR

केन्द्रीय प्रशासनिक आयोग Central Administrative Tribunal
गुवर्नर बेंच Governor Bench

All Mins./Deptts. of the Govt. of India.

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This scheme shall be called "casual labourers (Grant & Temporary Status and Regularisation) Scheme of Govt. of India".

2. This scheme will come into force w.e.f. 1-9-1973.

3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Govt. of India and their attach and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Deptt. of posts who already have their own schemes.

4. Temporary status

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

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

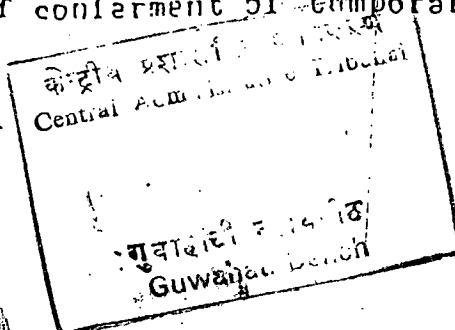
iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

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

5. 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 for a corresponding regular Group 'D' official including DA, HRA and CCA.

ii) Benefits of increments at the same rate as applicable to a Group D employees would be taken into account for calculating pro-rata wages for every one year of service, subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.



Leave entitlement will be on a pro-rate basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity 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 benefits of encashment leave on termination of service for any reason or on their quitting service.

- iv) Maternity leave to lady casual labourers as admissible to regular group 'D' employees will be allowed.
- v) 50% of the service rendered under Temporary status would be counted for the purpose of retirement benefits after their regularisation.
- vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two surities from permanent Govt. servants of their Department.
- vii) Until they are regularised, they would be entitled to productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourer with temporary status. However, if any additional benefits are admissible to Casual Workers working in Industrial establishments in view of provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourers may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Group D posts

- 1) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Deptt. of Personnel & Training from amongst casual workers with

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

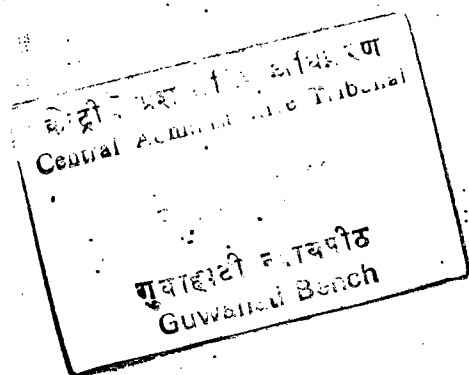
... 4/-

temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancy. In case of illiterate casual labourers, or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's O.M. dated 7.6.1988 should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of Personnel & Training will have the power to make amendments or relax any of the provisions in the Scheme that may be considered necessary from time to time.



CWC Complex
Behind Adabari Bus Stand
P.O. Guwahati University
GUWAHATI- 781014 (ASSAM)
Dated the 13th December 2004.

MEMORANDUM

WHEREAS Shri Aibuddin Ahmed working as Work charged Seasonal Khalasi under D(S)-K Sub-Division, Central Water Commission, Nagaon and Smt. Anima Talukdar, working as Casual worker/ Seasonal Khalasi under Middle Brahmaputra Division, CWC, Guwahati have filed the OA No.100/2003 and OA No.157/2003 respectively before the Hon'ble Central Administrative Tribunal, Guwahati Bench, inter-alia seeking benefits of grant of temporary status/ regularization of the services under the provisions of the Scheme of 1993 issued by the DOPT vide OM No.51016/2/90-Estt(C) dated 10.09.1993.

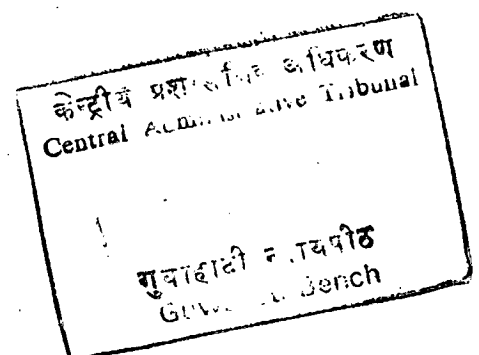
2. WHEREAS the Hon'ble Tribunal, vide their common judgement dated 26.02.2004 had disposed of the said OAs, with the direction to the Respondents " ...to treat the cases of the applicants beyond the Scheme of 1997 and be considered under the DOPT's Scheme of 10.09.1993 within a period of two months from the date of receipt of a copy of this order. However, such consideration shall be strictly in accordance with the provisions of the DOPT's Scheme of 10.09.1993 as well as suitability of the applicants to the post....."

3. AND WHEREAS the competent authority, in compliance of above directions of the Hon'ble Tribunal has considered the case of both the applicants with reference to and in accordance with the provisions/ conditions laid down in the DOPT Scheme of 1993, which are highlighted here under:

4. That the primary conditions envisaged in the DOPT Scheme of 1993 stipulates that Casual labourers have to fulfill the following conditions/ provisions in order to be eligible for grant of temporary status under the Scheme 1993:

Temporary Status:

- (i) Temporary status would be conferred on all Casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (ii) Such conferment of temporary status would be without reference to the creation/ availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on casual labourer would not involve any change in his duties and responsibilities. The engagement will be for a period of



rates of pay on need basis. He may be deployed anywhere within the recruitment unit/ territorial circle on the basis of availability of work

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

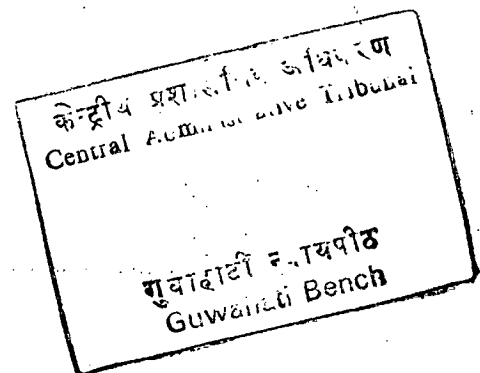
5. WHEREAS, Smt. Anima Talukdar has rendered a total of only 154 days of engagement as Casual Labourer/ Seasonal Khalasi, with break periods (01.09.92 to 15.10.92 and 15.05.93 to 31.08.93) and Shri Aibuddin Ahmed, Casual Labourer/ Seasonal Khalasi has rendered a total of only 150 days of engagement with break periods (01.09.92 to 15.10.92, 15.05.93 to 13.06.93 and 18.06.93 to 31.08.93) during the stipulated period of one year, i.e. 01.09.1992 to 31.08.1993 and hence both the applicants do not fulfill one of the primary conditions laid down in the said Scheme that they should have rendered continuous service of 240 days in the year, i.e. just preceding the date of commencement of the Scheme-1993 (i.e. 01.09.1993) for making them eligible for consideration for grant of temporary status/ regularization under provisions of the Scheme-1993.

6. AND NOW, THEREFORE, in the light of the above findings; it is established that the applicants are not eligible for the benefits they sought through above mentioned OAs under DOPT Scheme of 1993, as they do not fulfill the conditions laid down in the Scheme. Hence, the applicants are hereby informed accordingly in compliance of the directions of the Hon'ble Tribunal as quoted at para 2 above.

Hemph
O/C 12/4/94
SUPERINTENDING ENGINEER

Copy to:

1. (Through Executive Engineer, UBD, CWC, Dibrugarh)
Shri Aibuddin Ahmed, W/c Seasonal Khalasi
D(S) K Sub-Division
Central Water Commission
Nagaon.
2. (Through Executive Engineer, MBD, CWC, Guwahati)
Smt. Anima Talukdar, Casual worker/ Seasonal Khalasi
Middle Brahmaputra Division,
Central Water Commission
Adabari, Guwahati.



Copy for information and necessary action to

1. Chief Engineer, B&BD, CWC, Shillong
2. Executive Engineer, UBD, CWC, Dibrugarh
3. Executive Engineer, MBD, CWC, Guwahati
4. Dy. S. Secy, Engr. N.E. CWC, Guwahati

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ANNEXURE-15

GUWAHATI BENCH III GUWAHATI-3

0.1.201/93

Smt. Anima Talukder Petitioner
-VS-
Union of India & Ors. Respondents

P R E S E N T

THE HONBLE JUSTICE SRI S. HAJUE, VICE CHAIRMAN.

For the Petitioner ... Mr. A. Hal.

For the Respondents ... Mr. S. Ali, Sr.C.G.S.C.

16.11.93

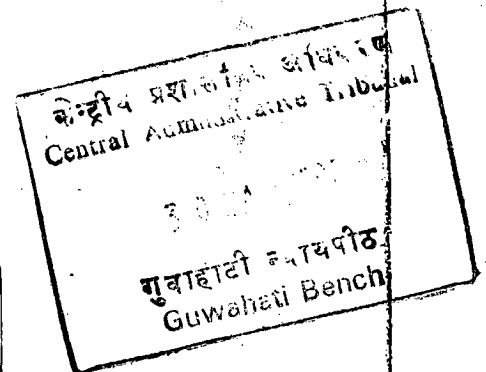
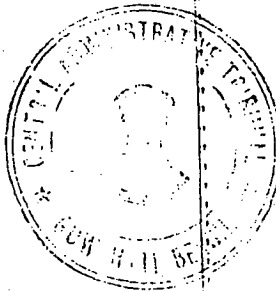
Learned counsel Mr A. Hal for the applicant is present. The respondents have filed written show cause through learned Sr. C.G.S.C. Mr S. Ali to vacate the interim order dated 4.10.1993. Perused the show cause. Upon hearing the counsel of the parties and in view of the show cause, the case is taken up for disposal.

The applicant was appointed vide order under Memo No.M8D/JC/ESIT-24(A)/93/3758-71 dated 4.5.1993(Annexure-13) as U.C. Seasonal Khalsi clearly indicating that the appointment was on Adhoc basis and shall not be continued beyond 15.10.1993. Thus the service of the applicant ends on 15.10.1993. All the nine persons appointed by that order had been retrenched with effect from 16.10.1993. A list of retrenched persons had been prepared by the respondents. The applicant is at Sl.No.45 in the retrenched list. Mr Ali submits that the retrenched persons will be considered for appointment whenever vacancies will occur.

We direct the respondents to consider appointment of the applicant whenever vacancies will occur by maintaining seriality of the retrenched list.

This case is accordingly disposed of with the above direction.

Inform all concerned.



By Hand.

Sd/- S. Hajue
VICE CHAIRMAN.

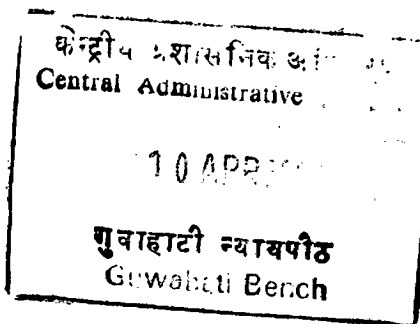
Page No. 3905

Date: 26/11/93

Copy for information & necessary action to :

- (1) Smt. Anima Talukder, O/O, Smt. Gopal Ch. Talukder, 2nd Madangl Road (Old Bazaar Path), Guwahati-34.
- (2) The Secretary, Central Water Commission, New Delhi.
- (3) Chief Engineer, Central Water Commission, Eastern Zone, Dibrugarh, Assam, House No. 177-B, Patna.
- (4) Executive Engineer, Central Water Commission, Middle & R4 Brahmaputra Division, Guwahati.
- (5) Assistant Executive Engineer, Central Water Commission, W & Flood Forecasting Division No. 1, P.O. Durgam, Rajgarh Road, Guwahati-3.
- (6) The Deputy Director, Central Water Commission, W & Flood Forecasting Division No. 1, P.O. Durgam, Rajgarh Road, Guwahati-3.
- (7) Mr. A. Hal, Advocate, Gauhati High Court, Guwahati.
- (8) Mr. S. Ali, Sr.C.G.S.C., S.A.F., Guwahati Bench, Guwahati.

SECRETARY OFFICE (2)



Filed by:-
The Applicants-
Through Mr.
Boman Debi
Advocate-
10.4.08

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. No. 235 of 2000

Anima Talukdar & Anr.

..... Applicants.

-VS-

Union of India & ors.

..... Respondents.

REJOINDER FILED BY THE APPLICANTS

1. That with regard to the statement made in para A.1 of the written statement the deponent begs to state that the respondents have not placed the correct factual position. Details of the period of employment is given below.

Applicant No.1 - Smti Anima Talukdar

1984 - 294 days.

1985-86 - 245 days.

1987 - 330 days.

1989 - 240 days.

1990 - 390 days (8 hours = 1 days).

1991 - 330 days.

That the applicant No.1 has been serving under the respondents till date since 1992 and each year she has completed the requisite numbers of days that is 240 days.

Anima Talukdar

- 2 -

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The respondents have admitted the fact that apart from the seasonal duties due to some additional works she has been allowed to work as casual worker beyond the flood season.

Similarly the applicant No.2 Md.Aibuddin Ahmed was initially engaged in the year 1983 and his year wise breakout is given below.

1983-87 - 199 days each year.

1988 - 224 days.

1989 - 319 days.

1990 - 340 days.

1991 - 330 days.

The applicant No.2 is serving till date without any break since 1992 and similarly as indicated above it is an admitted fact that they were engaged beyond flood season due to some additional works. The respondents have admitted this fact.

The applicants preferred review application before the Hon'ble Tribunal seeking certain clarification. The review applications filed by the applicants were allowed with the observation not to terminate the services of the applicants, in future and shall regularise their services in Group-D post in terms of O.M. dated 10/09/1993/casual labour scheme 1993.

It is admitted that the CWC, New Delhi directed HOC, Guwahati for implementation of the Judgment passed by the Hon'ble Tribunal vide communication dated 11/10/94 but as on date nothing has been done so far in the matter.

The respondents have violated the judgment and order passed by the Hon'ble Tribunal and instead they wanted to appoint the applicants afresh as group -D employee. To that effect the respondents had initiated process for filling up of the vacancies without there being any mode of granting temporary status under scheme of 1993. It was therefore the applicants had to approach the Hon'ble Tribunal again by filing OA Nos 100/03 and 157/03. The applicants pointed out the above fact before the Hon'ble Tribunal and the Hon'ble Tribunal applying the doctrine of finality allowed the OAs directing consideration of the cases in terms 1993 schemes.

The respondents from the statement made it clear that they were not happy with the finding of the Hon'ble Tribunal but at the same time they have admitted the fact that no writ petition on the review application were filed by them.

The understanding of the respondents towards the scheme of 1993, clearly indicates the fact that the said respondents have not applied their mind or they have failed to understand the simple language. The scheme in question clearly indicates the facts/eligibility criteria that one must be in employment on the date of coming into force of the scheme i.e. 1/09/93, and he must complete at least one year continuous service (240 days) at least one year. The word "at least" indicates that during his service term he is required to compile at least 240 days in a year. Admittedly both the applicants have completed 240 days of service in number of years and admittedly they were in employment when the scheme in question came into force.

It is crystal clear that the applicants have got the eligibility criteria as mentioned in the scheme and the action on the part of the respondents in ignoring the same clearly depicts their total non-application of mind towards consideration of the cases of the applicants.

2. That with regard to the statement made in para 1 of the written statement the answering deponent does not offer any comment on it.

3. That with regard to the statement made in para 2 of the written statement the deponent while denying the contentions made therein begs to state that as per the provision of Administrative Tribunal Act, the present OA has been filed within the time stipulated.

4. That with regard to the statement made in para 2A and 3 of the written statement the deponent does not offer any comment on it.

5. That with regard to the statement made in para 4 of the written statement the deponent begs to state that all along the respondents have treated the applicants as casual worker and having regard to that only the Hon'ble Tribunal in its earlier judgment directed granting of temporary status. It is noteworthy to mention here that conferment of temporary status has got no relation to vacancy. The respondents themselves have admitted the fact that the applicants were in employment since 1984 and 1983 respectively and by now they have completed about 25 years of service, in such a situation the respondents being a

model employer should not have raised any such plea which is not tenable in the eye of law. The service breakout given by the respondents are not at all correct.

The applicants crave leave of the Hon'ble Tribunal for production of records at the time of hearing of the case.

6. That with regard to the statement made in para 5 of the written statement the deponent while denying the contentions made therein begs to state that both the applicants are eligible to get the benefit of the scheme of 1993 with retrospective effect and as such providing a chance to them in the name of regulation is nothing but a framework to frustrate their claim more particularly the retrospective regularisation and other consequential service benefits. In fact such a statement is an after thought, which is clear from the fact that it was subsequent to Feb 2003 only the impugned orders have been issued.

It is stated that the respondents made an attempt to confuse the issue in the earlier proceeding but failed to do so and now they have again reiterated the same facts of holding interview etc. This issue has already been settled by the Hon'ble Tribunal in the judgment and order dated 26.2.04 and the respondents have not assailed the same before the appropriate forum. The said judgment having attained its finality now such plea is not at all tenable in the eye of law and liable to be set aside and quashed.

7. That with regard to the statement made in para 6 of the written statement the deponent while denying the contentions made therein begs to state that the respondents have tried to mislead the Hon'ble Tribunal by making self contradictory statements. In one word they say that the applicants were allowed to work beyond season time as casual worker and at the same para they say that applicants worked only during season time. Such statement made it crystal clear that the respondents with ulterior motive have acted in the manner and harassed the applicants for nothing. The respondents by making such statements have virtually nullified the order passed by the Hon'ble Tribunal dated 28.6.1994 in Review applications No.13/93 and 16/94, more particularly in para 6 in both the judgments.

It is stated that the Review Applications were allowed directing the respondents not to terminate their services and to regularise their service in terms of the scheme of 1993. In this connection it is pertinent to mention here that in terms of the scheme of 1993 the process of regularisation includes granting of temporary status irrespective of availability of vacancies which is followed by regularisation on availability of vacancy.

The respondents never challenged the judgment passed by the Hon'ble Central administrative Tribunal in Review Application which attained its finality and in the said judgment there had been a clear finding regarding the eligibility of the applicants in respect of criteria laid down in the scheme and at the same time the respondents by issuing the Impugned Order dated 13.12.04 questioned the

eligibility of the applicants which is contemptuous in nature.

8. That with regard to the statement made in para 7, 8 and 9 of the written statement the deponent while reiterating and reaffirming the original application begs to state the respondents while making a statement regarding eligibility of the applicants towards granting of temporary status have made an attempt to rewrite the order passed by the Hon'ble Tribunal which attained the finality.

9. That with regard to the statement made in para 10 of the written statement the answering deponent while reiterating and reaffirming the statement made in the original application begs to state that it is crystal clear that the respondents could understand the implications and the consequence in not implementing the judgments of the Hon'ble Tribunal even then since 1994 they have not done anything in the matter forcing the poor applicants to knock the door of the Hon'ble Tribunal time and again. As regards fulfillment of the eligibility conditions both the applicants have got the requisite qualifications namely being in employment in the relevant point of time and completion of tenure of 240 days of service.

10. That with regard to the statement made in para 11 of the written statement the deponent does not admit anything contrary to the relevant records of the case.

11. That with regard to the statement made in para 12, 13, 14 of the written statement the deponent reiterating

and reaffirming the statement made in original application begs to state that the termination notice served on 15.10.93 having been withdrawn, the respondents ought not have taken the plea of ineligibility of the applicants towards grant of temporary status, as per the scheme of 1993. The respondents however have not mentioned such withdrawal in the chart (Annexure-I). Apart from that the Annexure-1 is self contradictory.

12. That with regard to the statement made in para 15 and 16 of the written statement the deponent while reiterating and reaffirming the statements made above as well as in the OA begs to state that the applicants got their employment as casual worker and intermidently they performed the duties of seasonal Khalasi and as such they are entitled to the benefit of the scheme of 1993 towards grant of temporary status and same has been affirmed by the Hon'ble Tribunal.

The statement of the respondents relating to the grant of benefit under the 1997 scheme of CWC is against the judgment passed by the Hon'ble Tribunal.

13. That with regard to the statement made in para 17 of the written statement the deponent while reiterating and reaffirming the statements made above as well as in the OA begs to state that the respondents have shown their dissatisfaction to the Judgment and order dated 26.2.04 passed in OA NO.100/03 and OA NO.157/03. The respondents ought to have taken appropriate steps to demonstrate their such dissatisfaction instead of reiterating the same in a proceeding instituted by the applicants.

14. That with regard to the statement made in para 18 of the written statement the deponent reiterating and reaffirming the statements begs to state that the respondents by making an attempt to regularise the service virtually wanted to frustrate the claim of the applicants that too without taking into confidence or without taking due permission from the Hon'ble Tribunal. In fact in the earlier proceeding (OA No.100/03 in OA No.157/03) the respondents took the same plea but same was not considered by the Hon'ble Tribunal and directed consideration of the case of the applicants for grant of temporary status as per the scheme.

15. That with regard to the statement made in para 19 of the written statement the deponent while reiterating and reaffirming the statements begs to state that the respondents have failed to apply their mind in understanding the scope and ambit of the scheme. Both the applicants were in service on the date of issuance of the scheme and they have completed required 240 days of continuous service even prior to 1993 and even after 1993.

The interpretation given by the respondents about the scheme are not at all tenable and same depicts their total non-application of mind. Both the applicants have completed and fulfills the required numbers of days in work towards grant of temporary status and as such they are entitled to get the benefit of the said scheme with retrospective effect.

16. That with regard to the statement made in para 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29 of the written statement the deponent while reiterating and reaffirming the statements begs to state that the respondents have failed to understand the basic facts and passed the impugned order which is not at all tenable and is liable to be set aside and quashed.

17. That in view of the facts and circumstances stated above the OA deserves to be allowed with cost.

VERIFICATION

I, Miss Anima Talukdar, aged about 39 years, daughter of Late Tapan Talukdar, working as Casual Worker, under the Middle Brahmaputra Division, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4, 8, 10, 16 are true to my knowledge and those made in paragraphs 1, 5, 6, 7, 9, 11-15.. are matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 9th day of April of 2008.

Signature.

Anima Talukdar.