

50100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

7 INDEX

O.A/T.A No. 268/2006

R.A/C.P No.....

E.P/M.A No.....

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SECTION OFFICER (Judl.)

*Kahli*  
27/10/19

FROM NO. 4  
( SEE RULE 24)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CIVIL BENCH:

1. Original Application No. 268/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Mon Bahadur

Respondent(s) U.O.C 90M

Advocate for the Applicant(s) J. I. Borbhuuya, B.M. Joshi  
F. Begum, P. S. Upadhyay, T. Bora

Advocate for the Respondent(s) C.G.S.C. M. U. Ahmed.

Notes of the Registry	Date	Order of the Tribunal
Application is in form is filed F. for Rs. 50/- d.p.o. vide IPO/BD No. 5-15-839147-55	9.11.2006	Present: The Hon'ble Shri K.V. Sachidanandan Vice-Chairman.
Dated.....13.8.06.....		Heard Mr. J. I. Borbhuuya, learned counsel for the applicants. Mr. M. U. Ahmed, learned Addl. C.G.S.C for the respondents.
<i>Mon Bahadur</i> Dy. Registrar		Issue notice to the respondent Nos. 1 to 5. Applicant will take the process for respondent No. 6.
<i>Mon Bahadur</i> Dy. Registrar		Post the matter on 9.1.2007. Respondents are directed to file reply statement by that time. Respondents are further directed to ascertain the vacancy position as to 2005-2006.
Notice & order sent to D/Section for issuing to R- 1 to 6 day regd. A/D post.		Pendency of this O.A. shall not be a bar on the respondents in considering the case of the applicants.
20/11/06. D/No- 1187 to 1192 DT 29/11/06.	16/11/06	
The applicant has deposited the postal cost for issuing the notice's for R- 6, as per order dt. 9/11/06.		
20/11/06.		

*U.*  
Vice-Chairman

9.1.2007 The claim of the Applicant is that he has been working as a casual labourer for the last 24 years under the Department. He approached this Tribunal by way of O.A. No. 373/2002 and vide order dated 18.7.2003 this Tribunal directed to consider the case of the Applicant for conferment of temporary status and consequent regularisation in tune with the scheme. The matter was taken up before the Hon'ble High Court, Shillong Bench which was also rejected. Therefore, a Contempt Petition was filed before this Tribunal which was closed on 23.1.2006. Now, the Respondents have passed an order dated 2.5.2005 rejecting the claim of the Applicant which is under challenge in this proceeding.

Heard Mrs. F. Begum, learned counsel for the Applicant. Mr. M.U. Ahmed, learned Addl. C.G.S.C. submits that since the Applicant is a part time casual labourer he is not entitled to any benefits under the scheme.

However, considering the facts and circumstances of the case I am of the view that the O.A. has to be admitted. Admit the O.A. Six weeks time is granted to the Respondents to file reply statement.

Post on 22.2.2007.

  
Vice-Chairman

/bb/

Notes of the Registry	Date	Order of the Tribunal
<p>No Wks has been filed.</p> <p><u>21.3.07.</u></p>	22.02.2007	<p>Further time of four weeks is granted to the respondents to file reply statement. Post on 22.03.2007.</p> <p><i>✓</i></p> <p>Vice-Chairman</p>
<p>No Wks has been filed.</p> <p><u>26.4.07.</u></p>	/bb/ 22.3.07. lm	<p>Counsel for the respondents wanted to file written statement. Let it be done. Post the matter on 27.4.07.</p> <p><i>D</i></p> <p>Member</p> <p><i>✓</i></p> <p>Vice-Chairman</p>
<p>No Wks has been filed.</p> <p><u>30.5.07.</u></p>	27.4.2007	<p>Present: The Hon'ble Mr.G.Shanthappa Member (J)</p> <p>The Hon'ble Mr.G.Ray, Member (A).</p> <p>Case called. Neither the Applicant nor the learned counsel for the Applicant is present. Mr.M.U.Ahmed, learned Addl. C.G.S.C. submits that he has received the para wise comments, he will draft the written statement and send it for vetting and after receipt of the same he will file the reply statement in the Registry. He is permitted to do so within four weeks.</p> <p>Call the case on 31.05.2007.</p> <p><i>✓</i></p> <p>Member (A)</p> <p>/bb/</p> <p><i>G.Shanthappa</i></p> <p>Member (J)</p>

31.5.07. Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 29.6.07.

Wks not filed.

  
Vice-Chairman

lm

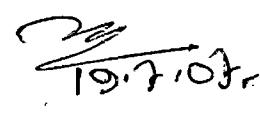
  
28.6.07.

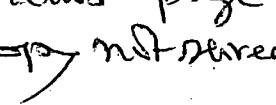
29.6.07. Counsel for the respondents will file the written statement within a week. Post the matter on 10.7.07.

Wks not filed.

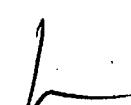
  
Vice-Chairman

lm

  
23.7.07

  
Wks filed by  
the Respondents. page  
1 to 7. copy not served.

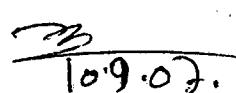
20.7.2007 Mr. M. U. Ahmed, learned Addl. C.G.S.C. submitted that reply statement is being filed before the Registry. Let it be done.

  
Post the matter on 6.8.2007. By that time Applicant is at liberty to file rejoinder.

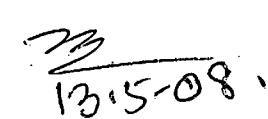
  
Rejoinder not filed.

  
Vice-Chairman

/bb/

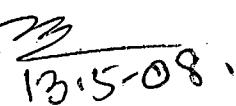
  
23.8.07.

11.9.07 Rejoinder has not been filed. Counsel for the respondents has submitted that he has filed the written statement. Post the matter on 10.10.07 for hearing. In the meantime the liberty is given to the applicant to file rejoinder.

  
Rejoinder not filed.

  
Vice-Chairman

lm

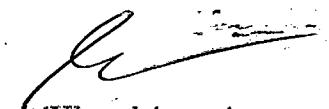
  
13.10.07.

14.05.2008 None appears for the Applicant nor the Applicant is present.

Dr. 145.08.  
Pl. send copies of this order to the Applicant and to the Respondents

Call this matter on 24.06.2008 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.

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

nkm

0.19

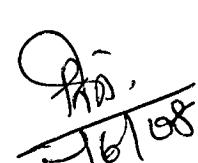
16/5/08. D/NO. 2327 to

24.06.08. None appears for the Applicant nor the Applicant is present. Mr M.U.ahmed, learned Addl. Standing

S. C. Counsel is however, present for the

An affidavit Respondents by  
to the Writ filed  
Call this matter on 30.07.2008 for  
hearing before Division Bench.

Given for Justice.

  
(M.R. Mohanty)  
Vice-Chairman

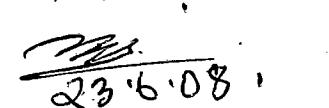
pg

24.06.08

None appears for the Applicant  
the Applicant is present  
M.U.ahmed, learned Addl. Standing  
counsel is however, present  
Respondents.

Call this matter on 30.07.2008  
hearing before Division Bench.

The case is ready  
for hearing.

  
23.6.08

(M.R. Mohanty)  
Vice-Chairman

pg

04 288/06 6

24.06.08

None appears for the Applicant  
the Applicant is present.  
M.U.ahmed, learned Addl. Stan-  
counsel is however, present for  
Respondents.

Call this matter on 30.07.2008  
hearing before Division Bench.

(M.R.Mohanty)  
Vice-Chairman

pg

24.06.08

None appears for the Applicant nor  
the Applicant is present. Mr  
M.U.ahmed, learned Addl. Standing  
counsel is, however, present for the  
Respondents.

Call this matter on 30.07.2008 for  
hearing before Division Bench.

(M.R.Mohanty)  
Vice-Chairman

pg

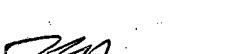
30.07.2008

On the prayer of Mr. P. Bora, learned  
counsel appearing for the Applicant, call  
this matter on 25.08.2008 for hearing

  
(Khushiram)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

lm

  
22.08.2008

  
Replies due  
bileel.

25.08.2008 Heard Mr. P. Upadhyay, learned Counsel appearing for the Applicant, and Mr. M.U. Ahmed, learned Addl. Standing Counsel for the Union of India.

The Applicant claims that he is serving under the Respondents/ Organisation as casual labourer since 1982. His claim, for getting temporary status/ regularization, received consideration of this Tribunal in the earlier round of litigation/O.A.No.373 of 2002, decided on 18.07.2003. As per the direction of this Tribunal, the Respondents passed an order dated 28.04.2005/02.05.2005. While passing the rejection order on 28.04.2005/ 02.05.2005, the Respondents have refused to grant temporary status to the Applicant for the following reasons:

"The conferment of Temporary Status to Part Time Casual Laborers has been negatived by the Hon'ble Supreme Court in Civil Appeal No.360-361 of 1994 pronounced on 2<sup>nd</sup> April 1997. Therefore the conferment of Temporary status to the said Shri Mon Bahadur is not applicable."

The Respondents who were given opportunity to file a written statement to substantiate their aforesaid stand and though they have filed a written statement have not produced a copy of the aforesaid (unreported) Judgment of the Hon'ble Supreme Court stated to have been rendered on 02.04.1997 in Civil Appeal No.360-361 of 1994.

On being confronted with this question, Mr. M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, seeks adjournment of the hearing of this

case to produce the judgment of the Hon'ble Supreme Court that was rendered on 02.04.1997 in Civil Appeal No.360-361 of 1994.

In the aforesaid premises, hearing of this case remains part heard; granting liberty to Mr. M.U. Ahmed to produce a copy of the judgment dated 02.04.1997 rendered by the Hon'ble Supreme Court in Civil Appeal No.360-361 of 1994.

*The case is ready for hearing.*

18.9.08

Call this part heard matter on 19.09.2008 for further hearing.



(Khushiram)  
Member(A)



(M.R. Mohanty)  
Vice-Chairman

nkm

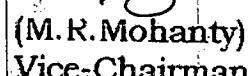
19.09.2008 None appears for the Applicant nor is the Applicant present. Mr. M.U.Ahmed, learned Addl. Standing Counsel appearing for the Union of India is on accommodation for to-day.

This case is to be treated as note part heard.

Call this matter on 19.11.2008 for fresh hearing.

  
(Khushiram)  
Member(A)

lm

  
(M.R. Mohanty)  
Vice-Chairman

*The case is ready for hearing.*

18.11.08

O.A. 268 of 08/06

19.11.2008

*The case is ready  
for hearing.*

*21/11/08*

lm

On the prayer of learned counsel appearing for both the parties, call this matter on 24.11.2008.

*(S.N. Shukla)*  
Member(A)

*(M.R. Mohanty)*  
Vice-Chairman

24.11.2008 Mr.P. Upadhyay, learned counsel appearing for the Applicant is present. Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents (who was absent on 19.9.2008) is present to-day. He is not in a position to furnish the Judgment of the Apex Court referred to in the written statement.

Copy of the order dated 25.08.2008 be supplied to Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents; so that he can collect the copy of the judgment dated 02.04.1997 rendered by the Hon'ble Supreme Court in Civil Appeal No.360-361 of 1994 referred to in their written statement.

On the prayer of Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents, call this matter on 28<sup>th</sup> January, 2009.

*The case is ready  
for hearing.*

*27.12.09*

lm

*(M.R. Mohanty)*  
Vice-Chairman

28.01.2009

Call this matter on 17.03.2009 for hearing.

/bb/

*(M.R. Mohanty)*  
Vice-Chairman

O.A.268/2006

16

17.03.2009 None for the Applicant. Mr.M.U.Ahmed  
for the Respondents.

Put up this case on 23.03.2009 for hearing.

*A.K.Gaur*  
(A.K.Gaur)  
Member (J)

William Day

/bb/

(240)  
19/3/09

23.03.2009 It is part heard matter of Bench  
comprising of Hon'ble Mr.M.R.Mohanty and  
Hon'ble Member (A) Mr.Khushiram.

Place the record before the Hon'ble  
Vice-Chairman Mr.M.R.Mohanty for constituting  
the Bench.

*Khushiram*  
(Khushiram)  
Member (A)

*A.K.Gaur*  
(A.K.Gaur)  
Member (J)

/bb/

The case is ready  
for hearing.

*W*  
11.5.09

23/03/09 (late) Place this matter for  
hearing before the DB  
of Hon'ble M (S) & M (A) on  
25/03/09 a fresh hearing  
be given.

*V.C.*

25.03.2009 List on 12.05.2009 for hearing.

*Khushiram*  
(Khushiram)  
Member (A)

*A.K.Gaur*  
(A.K. Gaur)  
Member (J)

/bb/

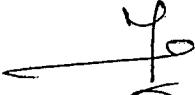
(10)

-11-

O.A.268/2006

12.05.2009

Call this matter on 10.06.2009.

  
(M.R.Mohanty)  
Vice-Chairman

/bb/

10.06.2009

Call this Division Bench matter on  
31.07.2009 for hearing.

  
(M.R.Mohanty)  
Vice-Chairman

/bb/

31.07.2009

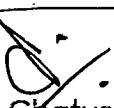
None appears for the Applicant nor the  
Applicant is present.

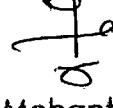
Call this matter for hearing on 09.09.2009.

Issue notice to the Applicant in the address  
given in the O.A.

Mr.M.U.Ahmed, learned Addl. Standing  
counsel should cause production of the judgment  
dated 02.04.1997 of the Apex Court passed in Civil  
Appeal No.360-161 of 1994 as referred to in the  
impugned order.

Free copy of this order be handed over to  
Mr.M.U.Ahmed.

  
(M.K.Chaturvedi)  
Member (A)

  
(M.R.Mohanty)  
Vice-Chairman

/bb/

The case is ready  
for hearing.

23  
8.9.09.

09.09.2009

Mr. P. Upadhyaya, learned

counsel for the Applicant is present. The Respondents had disclosed that vacancy for recruitment of Group D for the year 2005, was not made available by the screening committee, and that is why the question of absorption of the Applicant in the regular cadre of Group D, could not be taken up.

In the aforesaid premises, Respondents are hereby called upon to disclose the vacancy position of the year 2005, 2006, 2007, 2008 and 2009, by the next date.

Call this matter on 06.11.2009; by which time the Respondents should furnish aforesaid information.

Send copies of this order to the Respondents and free copies of this order be handed over to Mr. P. Upadhyaya, learned counsel for the Applicant and Mr. M.U.Ahmed, learned Addl. Standing Counsel representing the Respondents.

Free copies issued and delivered by learned Advocate for the parties. Vide D.N. 11375-11380 Date - 18.9.09

(M.K. Chaturvedi)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman

06.11.2009

Ms.U.Das states that Mr.M.U.Ahmed, learned Addl. C.G.S.C. is unwell.

List for hearing on 10.11.2009.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)  
Member (A) Member (J)

/bb/

The case is ready  
for hearing.

10.11.2009

It is stated by the proxy counsel that Sri M.U.Ahmed, learned Addl. C.G.S.C., is unwell.

List on 17.11.2009.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)  
Member (A) Member (J)

/bb/

Khairul

Send copies of this order to the Respondents and free copies be handed over to Mr. P. Upadhyaya and also to Mr. M.U.Ahmed, Addl. C.G.S.C.

RE. MEMORANDUM DATED 09.09.2009  
RE. NO. 10191 (C)

16 - 9 - 2009

Copy of The order  
Dated - 9-9-2009 prepared  
and send to D.Scottion  
for issuing of the same  
to the respondents.

Vide D.N. 11375-11380

Date - 18.9.09

Address: Delhi Deemed University

33. Subject to no objection from the respondents

Free copies issued and delivered by learned Advocate for the parties.

Vide D.N. 11375-8.0

Date - 18/9/09.

3  
The case is ready  
for hearing.

5.11.09

The case is ready  
for hearing.

3  
9.11.09

13  
O.A.268-06

17.11.2009

Mr.M.U.Ahmed, learned Addl.

C.G.S.C. states that by communication dated 14.10.2009 addressed to him it has been conveyed that during the year 2005-09 no vacancy existed. This should be brought on record by appropriate means.

*The case is ready  
for hearing.*

BB  
1.12.09

List on 02.12.2009. It is made clear that no further adjournment will be allowed to Respondents.

  
(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)  
Member (A) Member (J)

/bb/

02.12.2009

Vide order dated 17.11.09 respondents were directed to bring on record certain facts namely, no vacancy existed during the year 2005-09 by appropriate means. No affidavit has been filed in compliance to that direction till date. Mr M.U.Ahmed, learned Addl.C.G.S.C for the respondents seeks further 10 days time to do the needful.

Reluctantly we adjourn the case to 14.12.09. It is made clear that no further adjournment will be allowed.

  
(Madan Kr. Chaturvedi)  
Member (A)

  
(Mukesh Kr. Gupta)  
Member (J)

/pg/

14.12.2009

None appears for the Applicant. Vide order dated 9th September 2009, Respondents were called upon to disclose the vacancy position of the year 2005 to 2009 by the next date. Thereafter, the matter was adjourned on 6.11.2009, 10.11.2009, 14.11.2009 and 2.12.2009. Vide order dated 17.11.2009 Respondents were called upon to provide vacancy position by appropriate means. It was also observed that : "no further adjournments will be allowed to the Respondents."

On 2nd December, 2009 it was noticed that affidavit has not been filed in compliance of aforesaid direction. Reluctantly, this case was adjourned to 14.12.2009, with observation that no further adjournment would be allowed. To-day Mr.M.U.Ahmed, learned Addl.Standing counsel appearing for the Respondents ~~he~~ forcefully prays for an adjournment. We are not inclined to grant any further adjournment.

Accordingly, after perusing the O.A. and invoking Rule 15(1) of C.A.T (Procedure) Rules, 1987 as well as hearing learned counsel for the Respondents, order is reserved.

*Chaturvedi*  
(Madan Kumar Chaturvedi)

Member (A)

*Mukesh*  
(Mukesh Kumar Gupta)

Member (J)

1/1/2010

/lm/

*Judgment / Final order  
dated 18/12/09 Prepared  
and Send to the Dispatch  
Section for issuing the all  
the respondents by Post  
and issued to the  
Advocate for both Sides  
vide No 94 to 200*

/PB/

*05-01-2010*

18.12.2009

Judgment pronounced in open court. For the reasons recorded separately O.A. stands dismissed. No costs.

*J*  
(Madan Kumar Chaturvedi)

Member (A)

*S*  
(Mukesh Kumar Gupta)

Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

O.A.No.268 of 2006

DATE OF DECISION: 18.12.2009

Shri Mon Bahadur

.....Applicant(s)

None present for applicant

Advocate(s) for the  
Applicant(s)

- Versus -

Union of India and others

Respondent(s)

Mr M.U. Ahmed, Add. C.G.S.C.

Advocate(s) for the  
Respondent(s)

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

1. Whether reporters of local newspapers  
may be allowed to see the Judgment?

Yes/No

2. Whether to be referred to the Reporter or not?

Yes/No

3. Whether their Lordships wish to see the fair copy  
of the Judgment?

Yes/No

  
Member(J)/Member(A)

(X)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No.268 of 2006

Date of Order: This the 18<sup>th</sup> day of December 2009

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

Shri Mon Bahadur,  
S/o Late Bhim Bahadur Chettri,  
Resident of Rynjah, Umpling,  
Shillong. .... Applicant

None appears for the applicant

-versus-

1. The Union of India, through the Secretary, Ministry of Posts & Telegraph, New Delhi.
2. The Chief Post Master General N.E. Circle, Meghalaya, Shillong.
3. The Superintendent of Post Offices Shillong.
4. The Senior Post Master, G.P.O., Shillong.
5. The Post Master B.P.O., Umpling, Shillong.
6. The Assistant Post Master Umpling Post Office, Shillong. .... Respondents

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

.....

ORDERMUKESH KUMAR GUPTA, JUDICIAL MEMBER

None appeared for applicant on 14.12.2009 and the matter relates to the year 2006. Invoking provisions of Rule 15(1) of Central Administrative Tribunals (Procedure) Rules, 1987, matter was reserved for orders.

2. In this second round of litigation by present O.A. Shri Mon Bahadur challenges validity of order dated 02.05.2008 passed by Senior Superintendent of Post Offices, Meghalaya Division, Shillong (Annexure-IV) whereby, his request for regularisation has been rejected. Earlier he had approached this Tribunal vide O.A.No.373/2002.

3. Facts as stated are that, he joined the Office of Assistant Postmaster, Umpling, Shillong as Mali (IVth Grade) in the year 1982 at monthly salary of Rs.950/- He worked in said capacity and from time to time he prayed the concerned authorities for regularisation of his services. By an oral order dated 01.07.2002 he was advised not to attend duties, which had been challenged by instituting Writ Petition (C) No.233 (SH)/2002. By an order dated 19.07.2002, Hon'ble High Court, as an interim measure, directed the respondents to allow him to continue in service. Thereafter M.P. was filed by respondents questioning maintainability of said Writ Petition and therefore, said Writ Petition was disposed of, and he approached this Tribunal vide aforesaid O.A.No.373/2002. On examination of matter, a detailed order dated 18.07.2003 was passed with the following observations:

"For all the reasons set out above the respondents are directed to consider the case of the applicant for conferment of temporary status and consequent regularisation in the light of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 as per law. The respondents are directed to complete the exercise as expeditiously as possible, preferably within three months from the date of receipt of the order. Till completion of the exercise the interim measure which was continuing as per the order passed by the High Court shall continue.

The application is allowed to the extent indicated. In the facts and circumstances of the case there shall, however, be no order as to costs."

4. Aforesaid order has been carried before Hon'ble High Court vide W.P.(C) No.23(SH)/2004 and vide order dated 10.02.2005 said Writ Petition was rejected holding that there was no direction by the Tribunal to regularize, but only to "consider" his case for regularisation.

5. In compliance thereto, impugned order dated 28.04.2005/02.05.2005 had been passed rejecting his claim for following reasons:

".....The competent therefore considered the case and decided as follows:

- i) Shri Mon Bahadur, the applicant is reported to have been engaged as Contingent worker for 2 (Two) hours daily as Mali at Umpling now Rynjah Sub-Post Office from 1982. Such engagement is treated as Part Time Casual Labour and paid from Contingent fund, that is, office expense. The conferment of Temporary Status to Part Time Casual Labourers has been negatived by the Hon'ble Supreme Court in Civil Appeal No.36-361 of 1994 pronounced on 2<sup>nd</sup> April 1997. Therefore the conferment of Temporary status to the said Shri Mon Bahadur is not applicable.
- ii) As regards regularization of service, the said Shri Mon Bahadur is eligible for absorption in Group D along with other Casual Labourers (part time and full time), subject to the fulfillment of all other conditions. As per the Group D Recruitment Rule of 2003 issued by the Department of Posts, casual labourers may be considered for the filling up of 25% of the unfilled vacancy. The vacancy cleared by

the Screening Committee of this Department for recruitment to the Group D Cadre by the Meghalaya Division recruiting unit is 'NIL' for the year 2003 and 2004. The vacancy for recruitment of Group D for the year 2005 has not yet been cleared by the screening committee. Therefore the question of absorption of Shri Mon Bahadur to the cadre of Group D does not arise at this juncture."

(emphasis supplied)

6. Grounds urged by the applicant in his pleadings are that since he had already rendered twentyfour years of service, he ought to have been regularized instead of rejecting his claim for regularisation. It is stated that aforesaid impugned order had been passed without appreciating the fact that he has rendered satisfactory and unblemished service. It appears that the respondents were predetermined not to consider his case for regularisation and that is why he was made to run from pillar to post. Respondents' action has caused immense hardship and is liable to interfere. It was further stated that he was liable to be retired very soon and therefore, judicial interference is called for.

7. By filing reply, respondents have stated that the impugned order was passed by the competent authority applying its mind in the light of facts and circumstances noticed therein. Post of Mali is a part-time contingent post and not a permanent post in the Department of Posts. Therefore, he was engaged on part-time basis and had not been formally appointed against said post. Conferment of temporary status to part-time labourers had been negatived by Hon'ble Supreme Court in Civil Appeal No.360-361 of 1994 decided on 02.04.1997, As such the casual labourers scheme of 1989 or 1993 is not applicable. As per Group 'D' Recruitment Rules of 2003, issued by Department of Posts, casual labourers can be considered for filling up of 25%

vacancy. The vacancy cleared by the Screening Committee for said Group 'D' posts in Meghalaya Division recruiting unit was 'nil' for the year 2003 and 2004. Reply para 2 further stated that recruitment of Group 'D' for the year 2005 has not yet been cleared and therefore, question of his absorption did not arise. It was further contended that direction issued by this Tribunal vide order vide order dated 18.07.2003 as upheld by Hon'ble High Court vide order dated 10.02.2005 has been duly complied with, and reasoned and speaking order had been passed. He was initially engaged by the Sub Post Master, Rynjah Sub Post Office (the then Umpling Sub Post Office, subsequently renamed as Rynjah Sub-Post Office) as Contingent Worker for (2) two hours daily as Mali and was paid from Contingent Fund as Office expenses. Therefore, he has no claim for any, so called, consequential benefit sought for and O.A. is liable to be dismissed.

8. We have perused O.A., reply as well as rejoinder besides hearing learned counsel for respondents. The question which arises for consideration is whether applicant has any legal right of regularisation. Before we advert to this aspect, we may note that vide order dated 09.09.2009 respondents were directed to disclose the vacancy for recruitment of Group 'D' cadre for the year 2005 onwards namely, 2005, 2006, 2007, 2008 and 2009. Despite further opportunities granted on subsequent dates no affidavit had been filed. The matter was adjourned on 02.12.2009 very reluctantly and further opportunity was allowed to respondents to file an affidavit. But of no avail. Vide order dated 17.11.2009 the Bench noticed the contents of communication dated 14.10.2009 addressed to the learned counsel for respondents conveying that during 2005-09 no vacancy existed. Though no affidavit has been filed but this aspect that no vacancy

existed during 2005-09 of the concerned quota cannot be ignored. Only question surviving for consideration is whether applicant is entitled to relief as prayed for.

9. Vide order dated 18.07.2003 in O.A.No.373/2002, as upheld by Hon'ble High Court dismissing Union of India Writ Petition, direction had been to consider his case for conferment of temporary status and consequent regularisation in terms of Scheme of 1989 as per law. Respondents in their impugned order dated 28.04.2005/02.05.2005 have categorically observed that the applicant had been engaged as Contingent Worker for two hours daily as Mali. Thus, his engagement was treated as part-time casual labourer. Conferment of temporary status to part-time casual labourer had been negatived by Hon'ble Supreme Court in C.A.No.360-361 decided on 02.04.1997. No material has been placed on record or brought to our notice to refute aforesaid categorical stand taken by respondents. Conferment of temporary status is subject to fulfilling the condition prescribed in the scheme. If prescribed conditions are not satisfied, one cannot have a legal right to claim conferment of such a status.

10. In ultimate analysis, holding that there is no merit, O.A. is dismissed. No costs.

*Madan Kumar Chaturvedi*  
( MADAN KUMAR CHATURVEDI )  
ADMINISTRATIVE MEMBER

*Mukesh Kumar Gupta*  
( MUKESH KUMAR GUPTA )  
JUDICIAL MEMBER

9/11/08

केन्द्रीय प्रशासनीय न्यायालय
Central Administrative Tribunal
31 SEP 2008
गুৱাহাটী ন্যায়ালয়
Guwahati Bench

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GAUHATI BENCH, GUWAHATI  
[AN APPLICATION UNDER SEC. 19 OF ADMINISTRATIVE TRIBUNAL  
ORIGINAL APPLICATION NO 268 OF 2006 ACT 1985]

Shri Mon Bahadur  
Son of Late Bhim Bahadur Chetri  
Resident of Rynjah, Umpling  
Shillong

- Applicant

- VERSUS -

1. The Union of India  
Through the Secretary  
Ministry of Posts & Telegraph  
New Delhi
2. The Chief Post Master General,  
N.E.Circle, Meghalaya,  
Shillong
3. The Superintendent of Post Offices,  
Shillong
4. The Senior Post Master, G.P.O.  
Shillong
5. The Post Master  
B.P.O., Umpling  
Shillong
6. The Assistant Post Master  
Umpling Post Office  
Shillong

- Respondents

INDEX / SYNOPSIS.

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Filed by : *Farida Begum  
Adm.*

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Malin

Filed by the  
Applicant through  
Sarabha Begum  
Advocate  
24/9/06

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GAUHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO 268 OF 2006

Sri Mon Bahadur  
Son of Late Bhim Bahadur Chetri  
Resident of Rynjah, Umpling  
Shillong

- Applicant

- VERSUS -

1. The Union of India  
Through the Secretary  
Ministry of Posts & Telegraph  
New Delhi
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Shillong
5. The Post Master  
B.P.O., Umpling  
Shillong
6. The Assistant Post Master  
Umpling Post Office  
Shillong

- Respondents

15/10/07  
H.P.

### 1. Details of Application

Particulars of the order against which the application is made:

The application is made against the Office Order dated 2.5.2005 by the Senior Superintendent of Post Offices, Meghalaya Division, Shillong whereby the service of the applicant was not regularized despite of the Order dated 18.7.2003 passed in O.A. No.373/2002 by the Hon'ble CAT upheld by the Division Bench of Hon'ble Gauhati High Court, Shillong Bench in W.P. (C) No.23 (SH)/2004 dated 10.2.2005 and Order dated 23.1.2006 passed in Contempt petition No.33/2005 in O.A. No.373/2002.

### 2. Jurisdiction of the Tribunal

That the applicant declares that the subject matter of the Order against service of, the applicant which the applicant wants redressal is within the jurisdiction of this Hon'ble Tribunal

### 3. Limitation

The applicant further declares that the application is within the limitation period prescribed under the Provisions of ATA 1985.

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#### 4. Facts of the Case :

a) That the applicant joined in the office of the Respondent, Assistant Post Master, Umpling Branch, Shillong as Mali (IVth Grade) in the year 1982 ad his salary was Rs.950/- and since then he has been working to the to the utmost satisfaction of the authority concerned.

b) That the applicant states that the applicant has been approaching to the superior authorities of the department from time to time for regularization of his service and to avail all the service benefits as provided under the law since he has already been working more then 24 years till now without any break and any adverse remark in his service. At present he is aged about 56 years.

c) That the applicant moved from pillar to the post and knocked each and every door of the respondent authorities to get redressal of his grievances but none was effected. Finding no alternative the applicant was compelled to approach the Hon'ble Gauhati High Court Shillong Bench by filing W.P.(C) No.233(SH) which lead to filing of Original Application before this Hon'ble Tribunal by filing Original Application No.373/2002. After hearing the parties the Hon'ble Tribunal was pleased to dispose of vide Order dated 18.7.2003 with a direction to the respondents authority to consider the

case of the applicant for confirmation of the temporary status and consequent regularization in the light of "Casual labours" (grant of temporary status) since 1989 as per law and further directed to the respondents to complete the entire exercise as expeditiously as possible preferably within 3 months from the date of the Order. The respondents without complying the Order dated 18.7.2003 passed in O.A. No.373/2002 preferred an appeal before the Division Bench of the Hon'ble High Court, Shillong Bench by filing W.P. (C) No:23(SH)/2004 and the Hon'ble High Court, Shillong Bench was pleased to reject the appeal vide Order dated 10.2.2005 partly confirming the Original Application.

Copies of the Order dated 18.7.2003 passed in O.A. No.373/2002 and Order dated 10.2.2005 are annexed herewith and marked as ANNEXURE-1 and 2 respectively.

d) That the applicant states that since the appeal i.e. W.P. (C) No.23(SH)/04 was dismissed by the Hon'ble High Court vide Order dated 10.2.2005 had not been complied with. Finding no alternative the applicant was compelled to approach the Hon'ble Court by filing Contempt Petition bearing No.33/2005 which was closed by this Hon'ble CAT on 23.1.2006.

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A copy of the Order dated 23.1.2006 passed in Contempt petition No.33/2005 is annexed herewith and marked as ANNEXURE-3.

e) That the applicant states that the respondents with a view to deprive the fundamental rights as guaranteed under the law and pre-determined not to consider the case of the applicant despite of the fact the applicant has rendered his service more than 24 years passed an Order on 2.5.2005 tactfully thronging the responsibility to one another and such impugned Order are bad in law and liable to be set aside and quashed by this Hon'ble Court considering the length of service by the applicant uninterruptedly more than 24 years and who is at the verge of retirement and if his service is not regularized the petitioner will not only suffer irreparable loss and injury but also will be deprivation from principles of natural justice.

5. Grounds for relief with legal provisions:

I) For that the applicant has already been rendered more than 24 years of continuous service under the establishment of the respondents who ought to have regularized the service of the applicant with monetary benefits instead of passing impugned order dated 2.5.2005. The impugned order dated 2.5.2005 was

21st April 2006

communicated to the applicant vide letter dated 16.2.2006.

II) For that the applicant has been denied justice and his case has not been considered by the concerned authority despite of Orders of Hon'ble Tribunal dated 18.7.2003 passed O.A. No. 373/2002 and Order of Hon'ble High Court dated 10.2.2005 passed in W.P.(C) No. 23 (SH) /2004.

III) For that the applicant has no any efficacious alternative remedy available other then knocking at the door of this Hon'ble Tribunal by filing instant petition.

IV) For that the respondents at present sitting tight and reluctant after receiving several orders. The respondents remain unmoved deliberately sitting tight ad predetermined not to consider the case of the applicant.

V) For that the respondents themselves represented before this Hon'ble Tribunal during the contempt proceeding in Contempt Petition No.33/2005 and made a statement that the Order of the Hon'ble Tribunal has been complied with for which Hon'ble Tribunal was pleased to drop the contempt proceeding vide order dated 23.1.2006 with a liberty to approach the appropriate forum if aggrieve by the said Order.

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VI) For that the applicant has approached before the respondents on several occasions for redressal of his grievance in terms of Order of the Hon'ble Tribunal and Hon'ble High court. The respondents instead of regularizing his service passed an impugned Order dated 2.5.2005 making statement tactfully that the vacancy of the recruitment for the year 2005 has not been cleared by the screening Committee and now 2005 is over and 2006 is going to be ended but the case of the petitioner has not been settled with a view to deprive the applicant from his fundamental rights. The Hon'ble Court may be pleased to pass appropriate Order by setting aside the impugned Order dated 2.5.2005.

VII) For that the respondents made their all efforts by preferring appeal before the Division Bench of the Hon'ble High Court by filing W.P.(C) No.23(SH)/2004 and Hon'ble High Court was pleased to reject their plea meaning thereby the Order of Original Application No.373/2002 dated 18.7.2003 remain in force as such they ought to have regularized the service of the applicant but the respondents have taken it as a personal grievance as the applicant has approached before the Hon'ble Courts. As such the action of the respondents are bad in law and liable to be interfered by this Hon'ble Tribunal for the ends of justice and equity.

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VII) For that it is well settled provisions of law that if an employee continuously render uninterrupted service of more then 24 years he is entitled to receive all the monetary benefits alongwith regularization of service. But in case of the applicant the respondents have not done so as a result the applicant suffered gross injustice by the hands of the respondents. The Hon'ble Tribunal may be pleased to pass an appropriate Order directing the respondents to regularise the service of the applicant with retrospective effect and monetary benefits thereon.

IX) For that the impugned Order dated 2.5.2005 suffered gross irregularity, tangible error in law liable to be set aside and quashed by this Hon'ble Tribunal for the ends of justice and equity.

X) For that for non regularization and utilization of applicant's service without regularization caused immense hardships and liable to be interfered by this Hon'ble Tribunal and at this juncture the applicant is going to be retired from his service and on his retirement despite of rendering continuous service he will be deprived from legitimate claim and expectation. Considering the strength of his service the respondents are duty bound to consider to regularise the service of the applicant with retrospective benefits for which the Hon'ble Tribunal

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may be pleased to pass appropriate direction to that effect.

6. Matters not previously filed or pending in other Court:

A) O.A. No.373/2002 and Contempt Case No.33/2005 before the Hon'ble CAT and Writ Petition under Article 226 of the Constitution of India was filed before the Hon'ble High Court, Shillong Bench and W.P. (C) No.23(SH)/2004 was filed by the respondents before the Division Bench of Hon'ble High Court, Shillong Bench (copies annexed).

7. Relief sought for :

In the premises it is most humbly prayed that Your Lordships would be pleased to admit this Petition, call for the records and issue a Rule, calling upon the Respondents to show cause as to why-

- A) The Order dated 2.5.2005 issued by the Senior Superintendent of Post Offices, Meghalaya Division, shillong under Memo No. A1-12/Court Case shall not be set aside and quashed.
- B) A direction shall not be issued directing the respondents to

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regularise the service of the applicant with retrospective effect and consequential benefits there on shall not be provided.

C) A direction shall not be issued directing the respondents to treat the applicant as a permanent employee in the light of casual labour (Grant of temporary status and regularization scheme 1989) with effect from initial appointment i.e. 1982 and to pay all the arrear benefits of the applicant till date.

D) And/or pass such Order, Orders as Your Lordships may deem fit and proper in the interest of justice and on perusal of records and after hearing the parties make the Rule absolute

8. Interim Order :

Pending disposal of the case it may not be a bar on the part of the respondents to consider the case of the applicant.

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

VERIFICATION

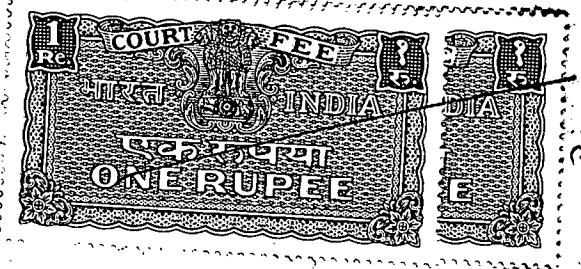
I, Sri Mon Bahadur, Son of Late Bhim Bahadur Chetri, aged about 53 years, is working as IVth Grade (Mali) in Postal Department, Umpling, Rynjah, Shillong resident of Umpling, Rynjah, Shillong-6, Meghalaya do hereby verify that the contents of Paragraph a, b are true to the best of my knowledge and belief, those made in Paragraphs c, d are my humble submissions before this Hon'ble Tribunal and that I have not suppressed any material facts.

Date 26.9.86.

Place : Guwahati

Signature of Applicant

*H. N. B. T. S. R.*



A F F I D A V I T

I Sri Mon Bahadur, Son of Late Bhim Bahadur Chetri, aged about 53 years, is working as IVth Grade (Mali) in Postal Department, Umpling, Rynjah, Shillong, resident of Umpling, Rynjah, Shillong-6, Meghalaya do hereby solemnly affirm and state as follows :

- 1) That I am the Petitioner of the accompanying Petition and as such, I am well conversant with the facts and circumstances of the case.
- 2) That the statements made in this affidavit and in paragraphs a, b are true to my knowledge, those made in paragraphs c, d being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Court.

And I sign in this affidavit on this 26 th day of September, 2006, at Guwahati.

Identified by :

Ranga Lata Sarma  
Advocate

26.9.06

*Ranga Lata Sarma*  
D E P O N E N T

Solemnly affirm and declared by the deponent before me who is identified by Sri P. Sharma Advocate on this 26 th day of September 2006 at Guwahati.

*26.9.06*  
MAGISTRATE

*Judicial Magistrate  
and Class. Guwahati.*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.373 of 2002

Date of decision: This the 18th day of July 2003

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

Shri Mon Bahadur  
S/o (L) Bhim Bahadur Chettri  
Resident of Rynjah,  
Umpling, Shillong. ....Applicant  
By Advocates Mr K.S. Kynjing,  
Mr K. Sunar and Ms B.M. Joshi.

- versus -

1. The Union of India, through the Secretary, Ministry of Communication, New Delhi.
2. The Chief Post Master General, N.E. Circle, Meghalaya, Shillong.
3. The Superintendent of Post Offices, Shillong.
4. The Senior Post Master, G.P.O., Shillong.
5. The Post Master B.P.O., Umpling, Shillong.
6. The Assistant Post Master, Umpling Post Office, Shillong. ....Respondents

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

O R D E R

CHOWDHURY. J. (V.C.)

The subject matter of this application pertains to public employment. A thumb nail sketch leading to the institution of the O.A. is given hereinbelow:

According to the applicant he had joined in the Office of the respondent No.6- Assistant Post Master, Umpling Branch, Shillong as Mali in the year 1982 at a

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monthly salary of Rs.950/- per mansem. He worked as such and from time to time moved the authority for regularisation of his service. He was assured by the respondents for regularisation, but it did not come. Instead by an oral order dated 1.7.2002 the applicant was advised not to attend to his duty in a most arbitrary fashion. Being aggrieved, the applicant moved the Hon'ble Gauhati High Court by way of an application under Article 226 of the Constitution of India seeking for an appropriate writ and/or direction upon the respondents to reinstate him in service and for regularisation of his service. By order dated 19.7.2002 in WP(C) 233(SH)/2002 a notice of motion of motion was issued by the Hon'ble High Court and as an interim measure the respondents were directed to allow the applicant to continue in service till the returnable date. The respondents filed a Misc. Application No.177 (SH)/2002 assailing the maintainability of the Writ Petition in view of the express bar contained in Section 14 of the Administrative Tribunals Act, 1985. Considering the respective pleas the Hon'ble High Court dismissed the petition leaving it to the party to move the Tribunal with his grievances for appropriate relief. The applicant thereafter moved this O.A. before this Tribunal seeking for an appropriate direction as well as for regularisation of his service.

2. In reply to the averments of the applicant, the respondents contended that the applicant was engaged as a part-time contingent staff as and when his service was required. The material part of the averments are quoted

hereinbelow:.....

hereinbelow:

..... Neither any appointment letter nor engagement offer had ever been issued nor any termination order was issued to the applicant by the respondents. A contingent worker is not a member of the regular establishment and he is not guided by the conditions of service. A contingent worker does not hold a civil post and is not a civil servant. It is also not specified as to how many hours the applicant worked in a day on and when he was asked to work. In absence of any such particular, the claims of the applicant is not tenable in law. As such there is no cause of action to justify any right for filing of the instant application.

In this connection it is pertinent to mention here that as a follow up action to maintain austerity measure and to cut down extra expenditure, the competent authorities of the respondents are reviewing the contingent expenditures from time to time with a view to arrest the unnecessary expenditures or to cut down the same. Similarly, a review was done in which the contingent expenditures of part time contingent worker engaged from time to time in the Rynjah Sub-Office including other such expenditures was found as not justified on the basis of volume of works and requirement. Accordingly, the engagement of any contingent worker by the said office was withdrawn with effect from 1.7.2002. This was done vide order No. A1-12/Rig/corr/Pt-IV/98-99 dt. 23.6.2002 issued by the Sr. Supdt. of Post Offices, Shillong. However, instruction was given to engage occasional Mali once or twice a month based on actual requirement of the work.

.....

.....

That with regard to the statements made in paragraph 2 of the application, the respondents state that a contingent part time worker is not a member of regular establishment and also not a casual labourer. A contingent part time worker is also not a civil servant holding any civil post. Therefore, he can not come under the jurisdiction of the Hon'ble Tribunal. A contingent part time worker does not come within the meaning of casual labourer and a part time job can not be even converted to full time in absence of the particulars of engagement per day on hourly basis.

.....

.....

That with regard to the statements made in paragraph 4(a), the respondents state that there is no proof or any record maintained by the respondents to show that the applicant had ever been appointed as Mali (IV Grade) from the year 1982 as claimed by the applicant. The respondents also deny the claim that the applicant was paid a monthly salary of Rs.950/. It is pertinent to mention.....

mention here that the respondents had the practice to engage contingent worker on a part time basis on day to day basis as and when such requirement arose. In such cases no record of payment is maintained. The normal practice is to draw some money by the competent authority and to meet such expenditure against contingent payment. The payments are made by contingent expenditure vouchers without indicating any name of any persons. Therefore, the claim of the applicant is baseless and not borne on records of the respondents. The respondents deny the authenticity and genuineness of the so called letter as in Annexure-1 and state that the said letter does not speak anything about the nature of duty or any status of the applicant rather it speaks against the applicant as to how the applicant has falsified his own statements made in the application. The respondents crave the leave of this Hon'ble Tribunal to direct the applicant to produce the original letter dt. 23.5.1997 as in Annexure-1 in the application."

3. I have heard the learned counsel for the parties at length. Mr K.S. Kynjing, the learned Sr. counsel for the applicant assisted by Mr K. Sunar and Ms B.M. Joshi, contended that the respondents acted unlawfully by arbitrarily terminating the applicant by an oral order instead regularising his service. The learned Sr. counsel placed before me numerous Government instructions pertaining to absorption and regularisation of service, more particularly the O.M.No.49014/18/84-Estt.(C) dated 7.5.1985, Department of Posts letter No.65-24/88/SPP.I dated 17.5.1989, the policy regarding engagement of casual workers in Central Government offices following the judgment of the Supreme Court delivered on 17.1.1986 in Surinder Singh and another vs. Engineer-In-Chief, C.P.W.D. and others, reported in (1986) 1 SCC 639, leading to the formulation of 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989', which was extended from time to time. Referring to the pleadings the learned Sr. counsel for the applicant submitted that the applicant's engagement as a Mali under the respondents since 1982 at a consolidated salary of

Rs.950/-.....

Rs.950/- was not refuted by the respondents. On the other hand the respondents contended that the applicant was engaged as a part time contingent staff. The respondents themselves admitted that no engagement order or appointment order was issued. The respondents also admitted that no termination order was issued by the respondents. The respondents, the learned Sr. counsel for the applicant contended, showed highhanded officiousness and asserted that a contingent worker was not a regular member of the establishment and there is nothing wrong in following the hire and fire policy. The respondents are the custodians of the records and they failed to justify their stand by producing the records. The learned Sr. counsel in course of the hearing placed before me the original communication referred to at Annexure-I. In para 7 of the written statement the respondents even questioned the authenticity and genuineness of Annexure-I dated 23.5.1997 and insisted for its production by the applicant.

4. I have perused the original of Annexure-I and the same was also shown to Mr B.C. Pathak, learned Addl. Q.C.S.C. who appeared on behalf of the respondents. The authenticity of Annexure-I is not in dispute. Annexure-I is only a communication to the applicant indicating his absence from attending his daily duty as a result of which the office compound became dirty and filled with grass. The said communication dated 23.5.1997 was the index of the engagement of the applicant where his absence was showed as unauthorised. However, the respondents continued with the service of the applicant till he was dissuaded to render service as per the oral order which was seemingly admitted by the respondents as to withdrawal of the contingent work. The assertion of the respondents.....

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respondents in the written statement as to its engagement of contingent staff on day to day basis as and when such requirement arose runs counter to the fact recorded in the Memo dated 23.5.1997. The said Memo at least reflected that a Mali was to render his duty daily. The assertion made in para 7 to the effect that no record of payment was maintained is difficult to accept. It is a payment made from the public exchequer and as per the normal practice record of payments are to be maintained. the said averment was made by the deponent the Officer-In-Charge, Legal Cell of the Office of the Chief Post Master General, N.E. Circle, Shillong, on the basis of his knowledge. How an Officer Incharge of the Legal Cell could base such statement on the basis of his knowledge was not properly explained.

5. Mr B.C. Pathak, learned Addl. C.G.S.C., submitted that the applicant at best was a contingent worker and therefore, he was not entitled for conferment of any temporary status and for regularisation in terms of the Government of India O.M. The learned Addl. C.G.S.C. asserted that the applicant was a contingent worker utilised from time to time as against exigency of the situation and on the basis of the Government policy such engagement was withdrawn. Therefore, there was no illegality on the part of the respondents.

6. The assertion of the applicant as to his engagement as Mali in the year 1982 at a consolidated salary of Rs.950/- is not seriously contested by the respondents. The respondents, the custodians of the records failed to counter the assertion of the applicant by placing the records. The communication bearing No.B2/Gen/Com/Umpiling dated 23.5.1997 issued by the Sub

Post Master.....

Post Master referred the applicant as Mali, Umpling Post Office. The subject was the unauthorised absence. The communication itself indicated the absence of the applicant from duty which affected the administration. By the same communication the applicant was asked to give in writing as to his unwillingness to attend duty in order to enable the authority to make alternative arrangement. The full text of the aforementioned communication is reproduced below:

"To

Shri Mon Bahadur  
Mali Umpling P.O.

No.B2/Gen/Com/Umpling

Dated at 23.5.1997

Subject

Unauthorised absence

It is found that you are not coming to do your duty daily even once in a month as a result garden as well a office compound has became dirty and full of grasses.

So you are hereby requested to give written if you are unwilling to come office daily so that we can make another arrangement.

If you are not coming in this office within 3 days it may be treated as your unwillingness to do this duty.

.....

A copy of the above communication was sent to the SSP, Meghalaya Division for information and necessary action. If an appointment letter was not issued nor any termination order, the applicant cannot be blamed. In the written statement the authority described him as a contingent worker, but the same was not substantiated. No records were also produced. The respondents are silent as to the nature and volume of the work rendered by the applicant. The communication dated 23.5.1997, however, insisted for daily attendance. After the communication dated 23.5.1997 the applicant was allowed to work till he was.....

: 8 :

was terminated. According to the respondents the engagement was withdrawn with effect from 1.7.2002.

7. The respondents are a part of the Government of India. As per the 1985 policy indicated vide Memo dated 7.5.1985 a duty was cast upon the authority to consider such cases for regular appointment to Group 'D' posts in terms of the general instructions, even those who were recruited otherwise than through the employment exchange. In the Department of Posts there was/is a provision for part time and full time casual labourers who are working on daily wages. A person who rendered service for less than eight hours a day is described as a full time casual labourer and those who are engaged for less than eight hours a day are described as part time casual labourers. There was no provision for contingent labourer as mentioned in the written statement. As per Government of India, Department of Posts Lr.No.65-24/88-SPB.I dated 17.5.1989 all other designations were discontinued. As per the Scheme for granting temporary status there was also provision for readjustment of part time annual labourer as full time casual labourer. The whole object was to do away with unfair labour practice. Continuance of the applicant as Mali since 1982 at a consolidated salary of Rs.950/- without taking any measure of whatsoever manner for regularisation of service is devoid of fairness and justice. The purported act of the respondents in terminating his service in the name of withdrawal instead of regularising his service is not sustainable under the circumstances. It appears that the applicant is nearing the age of superannuation. The impugned act on the part of the respondents for withdrawal of the post of Mali at Rynjah is not supported by any valid reason. At

any.....

rate the doing away with the service of the applicant who rendered service from 1982 without any just cause is not sustainable on the face of Articles 14 and 16 of the Constitution. In a democratic set-up such action on the part of the respondents in not regularising the service of the applicant on the face of the policy is seemingly arbitrary.

8. Even if one accepts the plea of the respondents that the applicant was only a contingent worker even then he remained as a casual labourer as is reflected in the Government of India, Department of Posts letter No.65-24/88-SPB.I dated 17.5.1989. The full text of the said letter is reproduced below:

"1. Part-time and Full-time Casual Labourers-  
It is hereby clarified that all daily wagers working in Post Offices or in RMS Offices or in Administrative Offices or PSDs/MMS under different designations (mazdoor, casual labourer, contingent paid staff, daily wager, daily-rated mazdoor, outsider) are to be treated as casual labourers. Those casual labourers who are engaged for a period of not less than 8 hours a day should be described as full time casual labourers. Those casual labourers who are engaged for a period of less than 8 hours a day should be described as part-time casual labourers. All other designations should be discontinued.

Substitutes engaged against absentees should not be designated casual labourer. For purposes of recruitment to Group 'D' posts, substitutes should be considered only when casual labourers are not available. That is, substitutes will rank last in priority, but will be above outsiders. In other words, the following priority should be observed-

- (i) .....
- (ii) .....
- (iii) Casual labourers (full time or part-time. For purpose of computation of eligible service, half of the service rendered as a part-time casual labourer should be taken into account. That is, if a part-time casual labourer has served for 480 days in a period of 2 years he will be treated, for purposes of recruitment, to have completed one year of service as full time casual labourer).  
.....  
.....  
....."

: 10 :

9. As per the norms mentioned above at Clause (iii), the applicant even if he be treated as a part-time casual labourer who had rendered more than 480 days of service in the period of years, he was to be treated for the purpose of recruitment as if he had completed one year of service as full time casual labourer. There was no justification in the set of circumstances for denying at least the benefit of the Scheme of granting temporary status and regularisation. No reasons are discernible for not conferring the benefit of the 1989 Scheme by conferring temporary status and regularisation of service in spite of the fact that the applicant was rendering service under the respondents since 1982.

10. For all the reasons set out above the respondents are directed to consider the case of the applicant for conferral of temporary status and consequent regularisation in the light of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 as per law. The respondents are directed to complete the exercise as expeditiously as possible, preferably within three months from the date of receipt of the order. Till completion of the exercise the interim measure which was continuing as per the order passed by the High Court shall continue.

10. The application is allowed to the extent indicated. In the facts and circumstances of the case there shall, however, be no order as to costs.

Verified to be true facts

26/12/2013

26/12/2013

SID

VICE-CHAIRMAN

nkm

to Hon'ble V.C.  
Social Administration  
(Wuhati Region)

-28-

Annexure - JV 2.

DEPARTMENT OF POSTS  
Office of the Senior Superintendent of Post Offices  
MEGHALAYA DIVISION, SHILLONG - 793001

No. A1-12/Court Case

Dated: 28-4-05

215/05

This is regarding the consideration of conferment of Temporary status and consequent regularization of service of Shri Mon Bahadur, Part Time Mali, Umpling S.O. in accordance with the direction enjoined in Hon'ble CAT order dated 18<sup>th</sup> July, 2003 in OA No. 373 of 2002, upheld by the Hon'ble Guwahati High Court Shillong Bench in WP(C) no. 23(SH)/ 2004 dtd 10<sup>th</sup> February, 2005.

In the said judgment order it was directed to consider the case of the applicant for conferment of the temporary status and consequent regularization in the light of the 'Casual Laborers (Grant of Temporary Status and Regularization) Scheme, 1989'. The competent authority therefore considered the case and decided as follows:

(i) Shri Mon Bahadur, the applicant is reported to have been engaged as Contingent worker for 2(Two) hours daily as Mali at Umpling now Rynjah Sub-Post Office from 1982. Such engagement is treated as Part Time Casual Labor and paid from Contingent fund, that is, office expense. The conferment of Temporary Status to Part Time Casual Laborers has been negatived by the Hon'ble Supreme Court in Civil Appeal No. 360-361 of 1994 pronounced on 2<sup>nd</sup> April 1997. Therefore the conferment of Temporary status to the said Shri Mon Bahadur is not applicable.

(ii) As regards regularization of service, the said Shri Mon Bahadur is eligible for absorption in Group D along with other Casual Laborers (part time and full time), subject to the fulfillment of all other conditions. As per the Group D Recruitment Rule of 2003 issued by the Department of Posts, casual laborers may be considered for the filling up of 25% of the unfilled vacancy. The vacancy cleared by the Screening Committee of this Department for recruitment to the Group D Cadre by the Meghalaya Division recruiting unit is 'NIL' for the year 2003 and 2004. The vacancy for recruitment of Group D for the year 2005 has not yet been cleared by the screening committee. Therefore the question of absorption of Shri Mon Bahadur to the cadre of Group D does not arise at this juncture.

A *veden*  
Sr. Supdt of Post Offices,  
Meghalaya Division, Shillong.

To,

Shri Mon Bahadur,  
Part Time Mali,  
Rynjah Sub-Office.

*24 yrs serv*

*2003  
2004*

103-  
Date fixed for delivery of the requisite number of stamps and fees.

Date of delivery of the requisite stamp and fees.

which the copy ready for service.

Date of mailing over the copy to the applicant.

05/02/05 10/02/05 11/02/05 11/02/05

24

Annexure 3

IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM, NAGALAND,  
MEGHALAYA, MANIPUR AND TRIPURA)

SHILLONG BENCH

CIVIL APPELLATE SIDE

Appeal from No. 23 (84) of 20

Civil Rule

between Shri Man Bahadur Chettri

Appellant

Petitioner

VERSUS

Respondent

Opposite-Party

For Appellant: Sh. C. Bhupathy

Petitioner

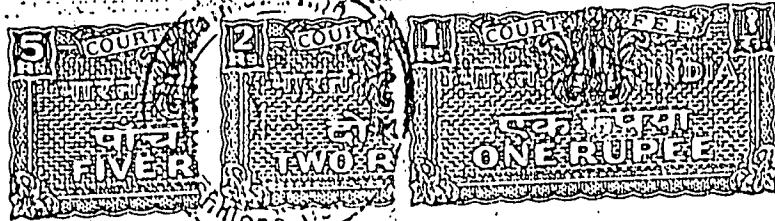
For Respondent: Mr. K. S. Akhreyi

Opposite-Party

Mr. K. Sengal

Ms. B. M. Sarker

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



29 - 25 -

28

48

AND

IN THE MATTER OF

1. Union of India represented  
by The Secretary to the  
Government of India, Ministry  
of Communication.  
New Delhi -01.

2. The Chief Post Master  
General, N.E. Circle, Meghalaya  
Shillong -793001.

3. The Superintendent of Post  
Office's, Shillong -793001.

.....Petitioners.

- Versus -

1. Shri Mon Bahadur  
S/o (L) Bhim Bahadur Chettri.  
Urnpling, Shillong/

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

.....Respondents.



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B E F O R ETHE HON'BLE MR JUSTICE B LAMARE  
THE HON'BLE MRS JUSTICE A HAZARIKA

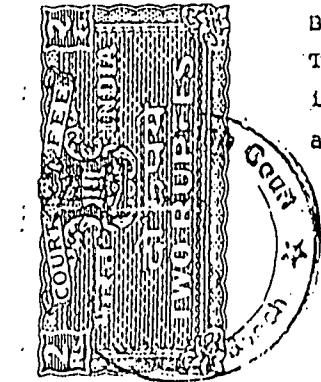
10.02.2005

Heard Mr SC Shyam, learned CGSC for the petitioners-respondents. Also heard Mr KS Kynjing, learned senior counsel assisted by Mr K Sunar, learned counsel for the respondent-applicant.

In this petition, the petitioner has assailed the order dated 18.7.2003 passed by the learned Central Administrative Tribunal, Guwahati Bench, in Original Application No. 373 of 2002. The direction as given by the learned Tribunal is at paragraph 10 of the judgment which reads as follows:

" 10. For the reasons set out above the respondents are directed to consider the case of the applicant for conferment of temporary status and consequent regularisation in the light of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 as per law. The respondents are directed to complete the exercise as expeditiously as possible preferably within three months from the date of receipt of the order. Till completion of the exercise the interim measure which was continuing as per the order passed by the High Court shall continue."

A perusal of the above direction shows that the learned Tribunal has only directed the petitioners-respondents to consider the case of the respondent-applicant for conferment of temporary status and consequent regularisation in the light of the "Casual Labourers (Grant of Temporary Status and Regula-



-26-

-27-

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Notes by Office or Advocate

Serial  
No.

Date

Older notes, reports, orders or proceedings  
with annexures

10.02.2009.....

- 2 -

risation) scheme, 1989. There is no direction whatsoever to regularised the service of the respondent-applicant passed by the Tribunal. It is for the petitioners-respondents to consider the case of the respondent-applicant under the scheme and pass appropriate orders if the respondent-applicant is found to be eligible under the scheme.

For the aforesaid reasons, we are of the opinion that since there is no direction passed by the Tribunal to regularised the respondent-applicant but only to consider the case, no interference is called for from this Court.

For the above reasons this petition is rejected. The petitioners-respondents shall consider the case of the respondent-applicant within a period of three months from today as directed by the Tribunal.

Petition disposed of.

24.2.2009  
Lokendra  
Sudar

24.2.2009  
Lokendra  
Sudar

Typed By: Lokendra Sudar  
Read By: Lokendra Sudar  
Compared By: Lokendra Sudar

Certified To Be True Copy

24.2.2009  
Superintendent  
Gangadhar Patel  
Shillong Bench.

28

केंद्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

23 JUL 2007

गुवाहाटी न्यायपीठ

IN THIS CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

IN THE MATTER OF :

O.A. No.268/2006

Shri Mon Bahadur

.....Applicant

Versus -

Union of India & Ors.

.....Respondents

- AND -

IN THE MATTER OF :

Written statement submitted by the Respondents No. 1 to 6

WRITTEN STATEMENT

The humble answering respondents  
submit their written statement as  
follows :

1.(a) That I am Sr. Supdt. of Posts, Meghalaya  
Dm. Shillong.

and Respondents No. 3 in the above case and I have gone through  
a copy of the application served on me and have understood the contents  
thereof. Save and except whatever is specifically admitted in the written  
statement, the contentions and statements made in the application may  
be deemed to have been denied. I am competent and authorized to file  
the statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both on  
facts and in law.

(20p)

(c) That the application is bad for non joinder of necessary parties and misjoinder of unnecessary parties.

(d) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

(e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicant had suffered from vice of illegality.

2. That with regard to the statements made in the paragraph 1 of the application the answering respondents beg to state that the present O.A is mere repetition of earlier O.A.No.373 of 2002 filed before the Hon'ble CAT by the applicant which was disposed of by the Tribunal with the order dated 18.7.2003. The respondents also complied with the order of Hon'ble Tribunal considering the case and issuing reasoned and speaking order dated 2.5.2005. Therefore, the present O.A has no leg to stand and is liable to be rejected summarily.

3. That with regard to the statements made in the paragraph 2, 3 and 4(d) and 4(e) of the application the answering respondents do not admit anything except those are in record and with legal and rational foundation. Further all the allegations leveled against the respondents in the instant case are only the repetition of earlier case filed by the applicant and the same was considered by the respondents applying its mind in the light of the facts and circumstances alongwith the relevant record and passed the reasoned and speaking order dated 18.7.03 according to the law and as such applicant is put to strictest proof thereof.

4. That with regard to the statements made in the paragraph 4(a) and 4(c) of the application the answering respondents beg to state

that the post of Mali Rynjah S.O is a part time contingent Post and no record is maintained in respect of the Part Time workers who are paid from contingencies. The Post is not of permanent nature and is not a departmental Post. The engagement against such Part Time posts are supposed to be made by the Postmasters concerned. Nobody is formally appointed against such post. The petitioner also has not been appointed formally against any such post. There is no record in the office that the petitioner Shri Mon Bahadur joined the department of Posts at Rynjah S.O in the year 1982 and there is no instance that he was being paid monthly salary @ Rs.950/-since then.

5. That with regard to the statements made in the paragraph 4(b) of the application the answering respondents beg to state that the claim of the petitioner that he rendered 24 years of service to the department is completely baseless because different persons were engaged on different occasions to have the same work done on the basis of requirement.

6. That with regard to the statements made in the paragraph 4(c) of the application the answering respondents beg to state that the petitioner did not approach to any authority of the department for remedy of any of his grievances so far. The petition filed by Shri Mon Bahadur before the Hon'ble CAT Guwahati Bench under O.A. No.373/2002 and the Hon'ble Court passed the decision on 18.7.03 and directed the respondent to consider the case of the applicant for conferment of temporary status and consequent regularization in the light of the 'Casual Labourers Scheme' 1989. The conferment of Temporary status to Part Time Casual Labourers has been navigaged by the Hon'ble Supreme Court in Civil Appeal No. 360-361 of 1994

pronounced on 2<sup>nd</sup> April 1997. Therefore, the conferment of Temporary Status to the said applicant is not applicable.

7. That with regard to the statements made in the paragraph 5(1) of the application the answering respondents beg to state that as per the order of the Supreme Court this office issued order dated 2.5.2005 stating that the conferment of temporary status to Part Time Casual Labourers has been navigated by the Hon'ble Supreme Court in Civil Appeal No. 360-361 if 1994 pronounced on 2<sup>nd</sup> April 1997 and therefore the conferment of temporary status to the said applicant is not applicable.

As regards regularization of service the said applicant is eligible for absorption in Gr. 'D' subject to the fulfillment of all other conditions. As per Gr.D Recruitment Rule of 2003, issued by the Department of Posts, Casual Labourers may be considered for filling up of 25% of the unfilled vacancy. The vacancy cleared by the Screening Committee of this department for recruitment to the Group 'D' cadre by the Meghalaya Division recruiting unit is 'Nil' for the year 2003 and 2004. The vacancy for recruitment of Group 'D' for the year 2005 has not yet been cleared by the Screening Committee. Therefore, the question of absorption of Shri Mon Bahadur to the cadre of Group 'D' does not arise at this juncture.

8. That with regard to the statements made in the paragraph 5(II), 5(III), 5(IV), 5(V) and 5(VI) of the application the answering respondents denied the same and it only a repetition of allegation without any basis and rational foundation.

The answering respondents beg to submit that there is no any willful or deliberate negligence on the part of the respondents in

compliance of any order passed by the Hon'ble Tribunal. The respondents had passed reasoned and speaking order in this regard.

The respondents admit that a direction to consider the case of the applicant was passed by the Hon'ble Tribunal and same was fully complied with by the respondents. It is pertinent to mention here that a direction to the authority to "consider" only requires the authority to apply its mind to the facts and circumstances of the case and then take a decision in accordance with law, which would include the power to refuse the relief sought for and as such it is established that they had complied with the order of 'Consider' simpliciter passed by the Hon'ble Tribunal.

9. That with regard to the statements made in paragraph 5. I) to 5. VII) of the application, the answering respondents beg to state that the earlier case of the applicant, vide O.A. No.373 of 2002, was disposed by the Hon'ble Tribunal vide order dated 18-07-03, with direction 'to consider the case of the applicant for conferment of temporary status and consequent regularization' and 'to complete the exercise as expeditiously as possible, preferably within three months from the date of receipt of the order.' The Department filed WP (C) No.23 (SH)04 in the Hon'ble High Court, Shillong Bench and the same was disposed by the Hon'ble High Court vide order dated 10-02-05, with further direction that 'the petitioner-respondents shall consider the case of the respondent-applicant within a period of three months from today as directed by the Tribunal'. Accordingly, the Department thoroughly and minutely considered the case of the applicant and passed speaking order vide SSP, Shillong memo No.A1-12/Court Case dated 02-05-05, the impugned order. Being aggrieved, the applicant filed CP No.33/05 in O.A. No.373/o2, before the Hon'ble CAT, Guwahati. The Hon'ble Tribunal 'dismissed', the CP vide order dated 23-01-06, in view of the impugned speaking order of the Department, dated 02-05-05. Thus, the legality and validity of the impugned order is already admitted by the Hon'ble Tribunal

vide order dated 23-01-06 in CP No.33/05 in O.A. No.373/02 and therefore the present O.A. has no leg to stand and liable to be dismissed. The statement of the applicant in para 5.VI) that 'the applicant has approached before the respondents on several occasions for redressal of his grievance in terms of order of the Hon'ble Tribunal and Hon'ble High Court' is just recitation of falsehood and therefore the answering respondents categorically deny the averment of the applicant.

10. That with regard to the statements made in the paragraph 5 (VIII) of the application the answering respondents beg to state that since the post is a contingent one and nobody is formally appointed against such posts and therefore no record is maintained in respect of the person so engaged to manage the work of part time jobs. There is no provision for regularization of such employees as per Departmental rule.

11. That with regard to the statements made in paragraphs 5.IX), 6 (a), 7 & 8 of the application the answering respondents beg to state that the applicant was neither appointed in any capacity nor he was an employee of any category of the Department. He was just engaged by the Sub Postmaster, Rynjah Sub Post Office (the then Umpling Sub Post Office, subsequently renamed as Rynjah Sub Post Office) as Contingent Worker for (2) two hours daily as Mali and was paid from Contingent Fund as Office expenses. Therefore, the applicant has no claim for any so called consequential benefit sought for and the O.A. is liable to be dismissed.

12. That with regard to the statements made in the paragraph 5 (X) of the application the answering respondents beg to state that since the post is a part time contingent post and no record is maintained in respect of the person so engaged to manage the work of part time jobs and no person is

formally appointed for such job. The head of the office has the liberty to engage or terminate the workers according to actual performance. Therefore, the question of retirement of the applicants service does not arise.

13. That with regard to the statements made in the paragraph 7 (a-d) of the application the answering respondents beg to state that since the conferment of temporary status to Part-time Casual Labourers have been negatived by the Hon'ble Supreme Court in Civil Appeal No.360-361 of 1994 pronounced on 2<sup>nd</sup> April 1997 the conferment of Temporary Status to the said Shri Mon Bahadur a casula Labourer is not applicable.

✓ As per Gr. 'D' Recruitment Rule of 2003 issued by the Department of Posts full time casual labourers may be considered for the filling up of 25% of the unfilled vacancy which is cleared by the Screening Committee of this Department. For recruitment to the Group 'D' cadre by the Meghalaya Division recruiting unit is 'Nil' for the year 2003, 2004 and 2005. Moreover, the applicant is a part time casual labourer only. Therefore, the question of absorption of Shri Mon Bahadur to the cadre of Gr. 'D' does not arise at this juncture.

14. that the applicant filed by the applicant is devoid of any merit and liable to be rejected.

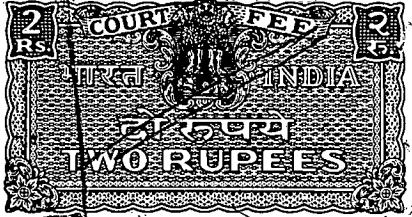
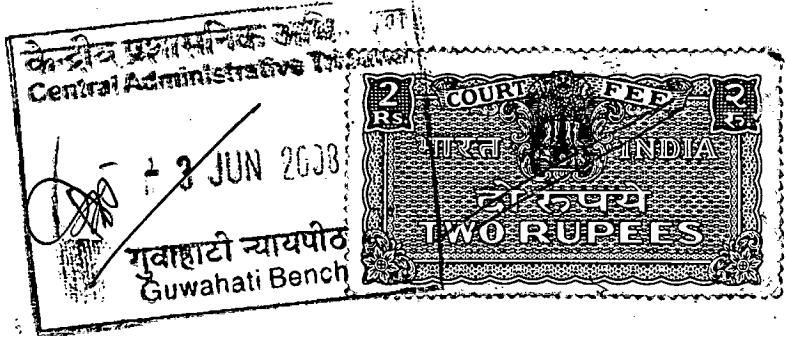
VERIFICATION.

I, ...Shri.... Ashim Kumar Deorai.....  
 S.D. Date: Manik Ch. Deorai .....being  
 duly authorized and competent to sign this verification, do hereby solemnly  
 affirm and verify that the statements made in Para 1, 3 b 12 ..... are  
 true to my knowledge, belief and information and those made in Para ....2  
 are derived from the records/facts etc., and rests are humble submissions  
 before the Hon'ble Court and I have not suppressed any material facts.

And I sign this verification on this 20th day of May, 2007  
 2007 at ..... Guwahati .....

  
 Signature

Sr. Supdt of Post Offices  
 Meghalaya Dt. Shillong-1



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

✓  
8 MAR 2008

IN THE MATTER OF :

O.A. NO. 268/2006

Shri Mon Bahadur

- Applicant

- Versus -

Union of India & Ors.

- Respondents

- AND -

IN THE MATTER OF :

An affidavit -in-Reply filed by  
the applicant against the  
Written Statement submitted by  
the respondent No.3.



AFFIDAVIT - IN - REPLY

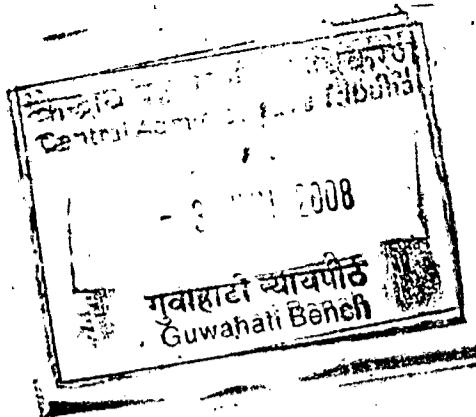
I Shri Mon Bahadur, Son of Bhim Bahadur Chetry,  
Resident of Rynjah Umpling, Shillong, Meghalaya do hereby  
solemnly affirm and state as follows :

1. That the deponent is the applicant as such the deponent is well acquainted with the facts and circumstances of the case.
2. That a copy of the Written Statement was filed by the respondent No.3 which has been served upon the

W.S.B.  
(Pranab Talukdar)  
NOTARY  
KAMRUP (Metro) GUWAHATI

3b  
HAT AT G1 G2  
through  
Lekhita Mohan  
Advocate  
A/C R008/

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R  
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Counsel of the applicant. The deponent has gone through the same and understood the contents there on.

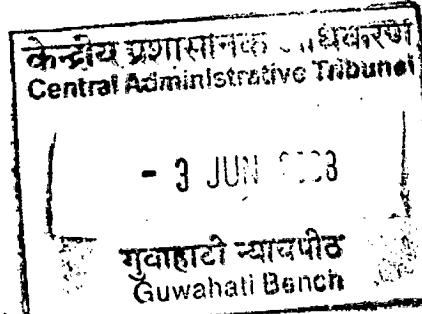
3. That the deponent denies the statements and averments made in the above Written Statement save and except which are matters of record and which are not specifically admitted herein below to be true are to be taken as denied by the deponent. The deponent further denies the statements and averments which are contrary to the law and/or inconsistent with the records.

4. That with regard to the statements made in paragraphs- 3,4 and 5 of the Written Statement the deponent says that the respondents did not comply with the orders dated 18.7.03 passed in Original Application No.373/02 and Order dated 10<sup>th</sup> February/2005 passed in Writ Petition No. 23(SH)/04 and just to avoid from the contempt proceeding bearing Contempt Petition No.33/05 in Original Application No.373/02 passed an order dated 2.5.02 wherein it has been shown that the vacancy for the year 2005 has not yet been cleared by screening Committee but it was not understood what about the rest of the year 2006-07 and 2008 and intentionally did not absorb the applicant in the post of group B category for conferment of temporary status despite of the fact that the applicant has been working since 1982 till date without any break and also without regularizing or absorbing in permanent post and his age is about 57-58 years and at the verse of the retirement if the applicant is not

W  
18/1  
(Pranab Talukdar)  
NOTARY  
KAMTUP (Metro) GUWAHATI

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absorbed in regular category he will be debarred from monetary and pensionary benefits and it will not be justified on the part of the respondents after using the service of the applicant in long .As such considering the length of service of the applicant this Hon'ble Forum may be pleased to direct the respondents to regularize the service of the or absorb in permanent post for the ends of justice and equity.

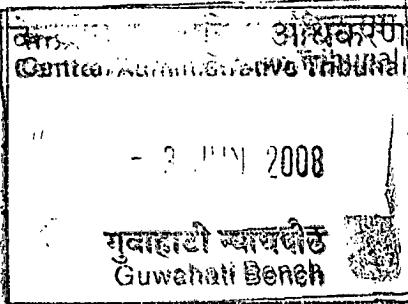
5. That with regard to the statements made in paragraphs 6,7,8 and 9 the deponent reaffirms the statements made in Original Application and further begs to state that the respondents did not act in accordance with law and utilized the service of the applicant for a long 27 years till date and it will not be justified upon the respondents to absorb him and the respondents can not be skip on the plea not clearing the Screening Committee and it was not understood since 27 years where the Screening Committee has not cleared up any vacancy and made all the contradictory statement in the Written Statement which made themselves liable to be directed by this Hon'ble Forum to regularise the service of the applicant immediately considering the length of service of 27 years till date.

6. That with regard to the statements made in paragraphs 10,11,12,13 the answering deponent reaffirms the statements made in the Original Application and further begs to state that the respondents had not only

W.S.  
(Pranab Talukdar)  
NOTARY  
KAMRUP (Metro) GUWAHATI

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curtailed the fundamental rights but also Article 14, 16, 21 apart from other provisions of law. The respondents can not be skip from the direction of this Hon'ble Forum.

7. That the respondents by issuing impugned Order dated 2.5.05 cause irreparable loss and injury to the applicant not regularizing and utilizing of applicant's service for long period of 27 years and decided to throw out the applicant like a fish out of water and at this juncture the applicant will be left out with no option . Accordingly it is humbly prayed before this Hon'ble Forum to direct the respondents to regularise/ absorb the applicant immediately and to provide all the monetary benefits for the ends of justice and equity.

That the statements made in this affidavit and in paragraphs are true to my knowledge, those made in paragraphs 5, 8 are being matter of record and rests are my humble submission before Your Lordships.

And I sign this affidavit on this the th day of August, 2005 at Guwahati.

Identified by

Deekshit Mohan  
Advocate  
12.3.08

JT A 9/81 GR

DE P O N E N T

Advocate's clerk

12/81/08  
(Pranab Talukdar)  
NOTARY  
KAMRUP (Metro) GUWAHATI

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केन्द्रीय प्रशासनिक अदायक  
Central Administrative Tribunalगुवाहाटी आदायक  
Guwahati BenchVERIFICATION

I, Sri Mon Bahadur, Son of Bhim Bahadur Chetry, resident of Rynjah Umpling, Shillong, Meghalaya, aged about years do hereby solemnly affirm and state that the statements made in this Written Statement are true to my knowledge and belief.

And I sign this Verification on this the 18th day of August, 2005 at Guwahati.

8/1/05  
संव १५१६२SIGNATURE

8/1/05  
(Pranab Talukdar)  
NOTARY  
KAMRUP (Metro) GUWAHATI