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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 275/2006

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SECTION OFFICER (Judl.)

D
30/11/17

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

1. Original Application No. 275/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Lohit Kr. Bordoloi, G. Secretary

Respondent(s) ICAR MAZDOCS Union
W.O.I Forces

Advocate for the Applicant(s) M.Z. Ahmed, Ms. B. Datta
Mr. Lurki. S. S. S. A. M. Datta

Advocate for the Respondent(s) C.G.S.C. K.N. Chaudhury for ICAR MAZDOCS
Mr. D. Majumder for W.O.I Forces
Mr. S. S. S. A. M. Datta for ICAR MAZDOCS
2,324.

Notes of the Registry Date 08.11.2006 Order of the Tribunal

The application is in form
is filed T. for W. 10-
d-posed vide C.M. No.
No. 28.G.93.2435
Dated 27.10.06

Shri
Dy. Registrar

N.S.
6.11.06

08.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

When the matter came up for
admission, learned Counsel for the
Applicants would like to implead one
applicant in the party array. Post on
09.11.2006.

Vice-Chairman

/mb/

9.11.2006 Present: The Hon'ble Shri K.V. Sachidanandan
Vice-Chairman.

The issue involved in this case
is that the applicants are casual
labourers working under the respondents
and they are entitled to get the benefit
of Casual Labourers (Grant of Temporary
Status and Regularisation) Scheme
According to them, they have been working

Contd. P/2

Contd

9.11.2006 under ICAR since 1976 as casual workers and as per ICAR instruction dated 12.03.1997 (Annexure-4) they have to be absorbed even by creating posts in Group 'D' category. But these applicants have not been regularized as yet. Therefore, aggrieved by the inaction of the respondents they have filed this O.A.

Notice & order
Sent to D/Section
for issuing to
R-1 to 4 day
regd-A/D post.

~~16/11/06~~ D/No - 1147 to 1150
D=21/11/06

Heard Mr. M.Z.Ahmed, learned Sr. counsel for the applicant.

Considering the issue involved I direct the Registry to issue notice to the respondent Nos. 1 to 4, returnable by six weeks.

Post on 5.1.2007.


Vice-Chairman

Notice duly served
on R-1, 2

~~5/12/06~~

1/bb/

23.2.07

Notice served on R. 1 & 2.
Other S/Reports awaited.
No W/S filed.

On

26.2.07. Considering the issue involved I am of the view that the O.A. has to be admitted.

Application is admitted. Issue notice on the respondents. Four weeks time is granted to the respondents to file written statement. Post the matter on 26.3.07.

No W/S has been filed.

23
23.3.07


Vice-Chairman

lm

26.3.2007

No W/S has been filed.

26
26.4.07

Post on 27.4.2007 granting time to the respondents to file reply statement.


Vice-Chairman

bb

7.1.2010

Contra-Reply has been
filed by the Respondents
No. 1, 3, 4, 5 & 6 in the
Court. Copy served.
8/1/2010

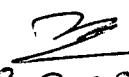
O.A. No. 275 of 2006

3

10.03.2010 List before Division Bench on 29th
March 2010.


(Mukesh Kumar Gupta)
Member (J)

The case is ready
for hearing. /pb/


8.2.2010

The case is ready
for hearing.


26.3.2010

The case is ready
for hearing.


5.5.2010

29.03.2010 Contention raised by the respondents
is that the communication dated 23.07.2009
(page 99 and 100 of paperbook) is the
decision of the competent authority. Let
specific affidavit be filed by the
respondents placing on record necessary
documents/details as to when the governing
council of the ICAR has taken the aforesaid
decision. Respondents would also be at
liberty to place on record necessary details
in respect of any other subject on the issue
raised in the present case. This shall be
done within a period of three weeks, as
prayed by the learned counsel for the
respondents, with a copy to the applicants,
who would be at liberty to offer their
comments.

List on 06.05.2010.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

nkm

O.A. No. 275/ 2006

Contd/-

07.01.2010

We require these documents to examine the case of the applicants who contend that they had rendered more than two decades of satisfactory service against regular posts though termed as casual labourer, & had been appointed in accordance with Rules, on being sponsored by concerned Employment Exchanges.

Furthermore, we may note that it is not the case of the Respondents that their services are not required. Rather Annexure-G, communication dated 23rd July 2009, which was approved by Spl. Secretary, DARE & Secretary, ICAR as well as Secretary (Expenditure), states that applicants be considered for regularization as per para - 8 of the Scheme of 1993 as and when Group 'D' post are created in NEH Research Complex, Barapani.

The aforesaid exercise shall be completed within a period of four weeks.

Copy of the order be made to both sides to comply with the directions.

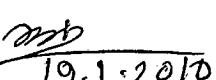
List the matter on 9th February, 2010.


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

/PB/

Copy of the order 09.02.2010 List the matter on 10th March
Dated - 7.1.2010 handed 2010.

over by learned counsel
for the parties.


19.1.2010

/PB/

The case is ready
for hearing. 
29.3.10

The case is ready
for hearing.

Not
6.1.2010

07.12.2009

List the matter on 07.01.2010.


 (Mukesh Kumar Gupta)
 Member (J)

/lm/

07.01.2010

After hearing for some time and based on consideration of rival contentions raised at Bar, we require that respondents should furnish following information:

(i) They should produce complete records relating to applicants' appointment, which they have termed as casual in nature, engaged initially between 1976-1993. We noticed that all the persons mentioned under Annexure-2 of O.A. were conferred temporary status in terms of Casual Labourer (Grant of Temporary Status and Regularization) Scheme of Government of India, dated 10th September, 1993; but have not been regularized.

(ii) Our attention was drawn to Annexure - E appended to reply filed by Respondents 3-6; which is a decision of the Ministry of Finance, Department of Expenditure dated 05.06.2007, making reference of proposal of the ICAR through their Administrative Department, i.e., the Department of Agricultural Research & Education for creation of 418 additional posts of supporting staff Grade 1 at ICAR Research Complex for NEH Region in Barapani. We require respondents to produce all related documents whereby said proposal had been initiated with complete details including status and level at which the same was initiated & referred to Ministry of Finance.

Contd/-

O.A. No. 275-06

23.11.2009

Two Applicants, namely, North Eastern

GUIGAR Mazdoor's Union and an individual casual labour with temporary status have filed present O.A. seeking regularization. Basic grievance of the Applicants have been that though a proposal to create sufficient number of posts in Group 'D' cadre for regularization of casual labours working with temporary status had been moved but it had not been finalized, which led to the situation where person with temporary status have not been regularized even under the Scheme of 1993. On directions issued by this Tribunal on earlier dates requiring them to apprise this Bench as to what is status of proposal sent to Ministry of Finance for creation of posts, Respondent Nos.3 to 6 have filed reply dated 16.11.2009, wherein it has been stated no regular appointment against vacancies in Group D cadre has been made other than compassionate appointments and appointments against Co-Terminus Plan Projects and Schemes like KVKS upto the year 2005. In total only five persons with temporary status have been regularized since 1995.

Mr.M.Z.Azad, learned Sr. counsel for the Applicants seeks some time to file affidavit rebutting the averments made by Respondent Nos. 3 to 6. This shall be done within two weeks.

List on 07.12.2009.

Rebutted

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

intact formal due form
(1) attachment

25.11.09

Add. N/S filed
by the Respondent No
3,4,5 and 6 in the
Court on 23.11.09.

HS
25/11/09

The case is ready
for hearing.

23
4.12.09

7.12.09

Reply has been sub-
mitted by the Applicants
against the Respondents
Nos. 3, 4, 5 and 6. Copy
served.
27/12/09

for filing of application
/bb/

Op

28.07.2009 There is a prayer for adjournment on behalf of the Applicant.

Call this matter on 08.09.2009 for hearing.



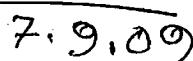
(M.K. Chaturvedi)
Member (A)



(M.R. Mohanty)
Vice-Chairman

nkm

The case is ready
for hearing.



7.9.09

Kharited

Send copies of this order to the Respondents and Respdt. No. 6 alongwith the copy of O.A.



9/9/09

14 - 9 - 2009

Copy of the order Dated 8.9.09 along with copy of the O.A and W.S prepared and Send to D. Section for issuing of the same to The respondent No. 5, vide D.No- 1278 Date:- 15/9/09



The case is ready
for hearing.



5.11.09

/PB/

(M.K. Chaturvedi)
Member(A)

(M.R. Mohanty)
Vice-Chairman

O.A. No. 275 of 2006

06.11.2009

Shri D.Mazumdar, learned counsel for Respondents states that he has taken consent of Applicants' counsel to mention the matter and request that matter may be adjourned to another 10 days to apprise this Bench as to status of proposal sent to Ministry of Finance for creation of posts.

Since the matter is of 2006, we very reluctantly adjourn the matter making it clear that in no circumstances, matter will be adjourned any further.

List on 17.11.2009.

/bb/

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

17.11.2009

Proxy counsel for Mr. D. Majumdar, learned counsel for respondent No. 3 prays for an adjournment.

List this matter on 23.11.2009

/pb/

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

O.A. No. 107-08

23.11.2009

Learned proxy counsel for Respondents prays for adjournment which has not been opposed.

Adjourned to 09.12.2009.

Cancelled

/bb/

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

M.P.103-09

23.11.2009

M.P. seeking joining together under

Contd/-

18.05.2009

Copies of order

of 18.5.2009 is prepared
and send to the D. section
for issuing to the people.
If free copies ^{by post} handed
over to learned Counsel
both parties.

Issued via memo
No. 2579 to 2584

Dated. 21.05.2009

✓
20/5/09

(N.D. Dayal)
Member (A)

/pb/


(M.R. Mohanty)
Vice-Chairman

7. Send copies of this order to all the Respondents in the address given in the O.A. and free copies of this order be also handed over to learned counsel appearing for the Applicants; to the learned counsel for ICAR and to the learned Sr. Standing Counsel for the Govt. of India.

~~It appears copies of the order dated 18.05.2009 was to be sent to all the Respondents and also to be supplied to learned counsel appearing for the parties.~~

~~18.05.2009~~

~~Respectfully yours,~~

20.07.2009

This case was to be listed on 28.07.2009, as per the order dated 18.05.2009.

It has wrongly been listed today.

It appears copies of the order dated 18.05.2009 was to be sent to all the Respondents and also to be supplied to learned counsel appearing for the parties. A copy of this order was also to be supplied to learned Sr. Standing counsel for the Govt. of India. It appears such copies have not been supplied to the Advocates appearing for the parties as yet.

Registry to hand over free copies of this order dated 18.05.2009 to the learned counsel appearing for the parties in this case and also to Mr.M.U.Ahmed, learned Addl. Standing counsel for the Govt. of India.

Call this matter on 28.07.2009.


(M.K. Chaturvedi)
Member (A)

/bb/


(M.R. Mohanty)
Vice-Chairman

order of 18.5.09
handed over to the
learned Counsel Mr.M.U.
Ahmed.



0-A NO. 275/2006

20.07.2009 There is a prayer filed for intervention
behalf of the Applicant.

The case is ready

for hearing. Call this matter on 08.09.2009 for
after the adjourned date of hearing.

Opposed on 22.7.09. Date not informed.

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)
of State Board of Land Revenue (A. M. C. M.)

(M.R. Mohanty)
Vice-Chairman

nkln

22.07.2009

There is a prayer filed for intervention
behalf of the Applicant.

Call this matter on 08.09.2009 for
hearing.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

nkln

There is a prayer filed for intervention
behalf of the Applicant.

Opposed on 22.7.09. Date not informed.

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Presently, A. M. C. M. Member (A) (M.K. Chaturvedi)

of State Board of Land Revenue (A. M. C. M.)

Contd/-

18.05.2009

to take the Applicants to regular establishment.

4. Mrs. R.S. Choudhury, learned counsel for ICAR pointed out that on a number of occasion, proposals (to get sanctioned for several new posts) having been given; the Finance Ministry/Department of Expenditure went on borrowing time to grant sanction. On one occasion (it has been pointed out by Mrs. R.S. Choudhury, learned counsel for the ICAR) the Ministry of Finance/Department of Expenditure borrowed time till Xth Five Year plan period to grant sanction; and, thereafter, the Finance Ministry is taking time to grant sanction; although the ICAR have decided to create posts to regularize the casual labourers engaged for a long time with temporary status.

5. It is the positive case of the ICAR that without the sanction from the Finance Ministry, it is not possible to create posts to absorb the casual labourers (with temporary status) working for such a long time.

6. In the aforesaid premises, the hearing of this case stands adjourned till 28th of July, 2009 and the Ministry of Finance/Department of Expenditure (Respondent No.5 of this case) is called upon to act on the proposal of the ICAR (pertaining to creation posts in ICAR) and pass necessary orders by 28th July, 2009.

Contd/-

Fresh
Notice copies duly
Served on R. No. 5
28/4/2019

18.05.2009 Mr. M. Z. Ahmed, learned counsel for the Applicant (being duly assisted by Mr. R. Chetia, Advocate) is present. Mrs. R.S. Choudhury, learned counsel for ICAR (duly assisted by Mrs. M. Khound, Advocate) is also present.

The case is ready for hearing.

After due hearing the Tribunal

2. Seeking regularization, from Temporary Status Casual Labourers (S.S.C.L) reporting at ICAR Establishment, the Applicants have been on duty since 1975 and no doubt approached this Tribunal with the request of regularization of their posts in the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

3. It is the stand of the Applicants that the Respondent Organization (who are serving the ICAR organization long or short period) is utilizing them as casual labourers with Temporary status (that although they are serving for more than last 30 years; and yet have not been taken to regular establishment. It is the positive case of Mr. M. Z. Ahmed, learned counsel for the Applicants that the fact that the Applicants are serving the Respondent Organization for such a long period, goes to show that they are disciplined persons/employees and that the effect that the Respondents Organization is continuing to utilize the services of the Applicants for such a long period goes to show that the Respondent Organization is in need of posts in regular establishment to cater their need. Therefore, it is submitted (by the learned counsel for the Applicant) that the Respondent Organization should create posts (if vacancies are not available).

Contd/-

10

B

31.2.09

Pl. issue a fresh Notice in the newly added Respon-
dents No. 5 - "The Secy
to the S.I. in No 5th and
Debtors Exp. North Block
N. Delhi - 1" regarding them
file their counter/obj by
31.3.09.

A copy of this Order be
handed over to Mr. G. Baishya
Vice-SCC for the NOI.

31.2.09

Order dt. 9.2.09
Re-issue of Fresh Notice
R-5 & 6 in the correct
Address the Secy, M/o Finance
Dept. of Expenditure N. Delhi
is prepared & sent to D/section
by Regd A.D. post.

nkm

At this order handed over
16.2.09
R. Baishya Ld. C.A.S.
M.No. 840-841
dt 2-3-09
M.No. 494
At 16-2-09

1bb/

Rejoinder not filed
against the Addl.

W/s.

30.3.09

Copies of order dt.
31.3.09 is prepared &
sent to D/section for
issuance to respondents &
respondent by post

M.No. 1940 to 1947

At 20-4-2009

31.3.09

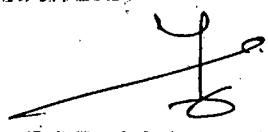
Re-issue of Fresh Notice
R. No. 6. in correct Address
the S.G. 1 C.R. Krishnam
is prepared & sent to D/Sec.
for issuance the R-6 by A.D. post

At 6.4.09 M.No. 1604
At 6.4.09

The learned Counsel for the Applicant
undertakes to file Rejoinder in this case by
31.03.2009.

Call this matter on 31.03.2009.

A copy of this order be handed over
to Mr. G. Baishya, learned Sr. Standing
Counsel for the Union of India.


(M.R. Mohanty)
Vice-Chairman

Call this matter on 18.5.2009 for hearing.

Send copies of this order to the Applicant
and to the Respondents in the address given in
the O.A.


(M.R. Mohanty)
Vice-Chairman

14/

09.02.2009 In this case, Secretary to the Government of India in the Ministry of Agriculture, Krishi Bhawan, New Delhi-01 and Secretary to the Government of India in the Ministry of Finance, North Block, New Delhi-1 and Director General, ICAR, were added as new Respondent Nos.1, 5 and 6.

Despite notices to the newly added Respondents, no written statement has yet been filed by them. It appears, notice sent to the Ministry of Finance has come back unserved; because the Department name has not been described therein.

Fresh notices be issued to the newly added Respondent No.5 [Secretary to the Government of India in the Ministry of Finance (Department of Expenditure), North Block, New Delhi-01], requiring them to file their counter/written statement by 31.03.2009.

Mr. R. Chetia, learned Counsel appearing for the Applicants, undertakes to furnish an envelope containing required postages and correct address of Respondent No.5 for issuance of notice to the Secretary, Government of India in the Ministry of Finance (Department of Expenditure) in course of the day. He also undertakes to serve a copy of the O.A. /on Mr. G. Baishya, learned Sr. Standing Counsel for the Union of India, by day after tomorrow, i.e. 11.02.2009.

Registry to issue notice accordingly. *J*

Contd/-

O.A.No. 275/2006

85

16.12.2008 By filing M.P.No.150/2008 the Applicant intends to implead a new Respondent No.1 (as against existing Respondent No.1) and to implead two more Respondents as Respondent Nos.5 and 6 in O.A.No.275/2006. A copy of this M.P. has already been served on the Respondents' side.

Heard. Prayer to implead new Respondents is allowed. The Applicant to carry out necessary entries in the Cause Title page of the O.A. in course of the day in presence of the Court Officer. Mr P. Chetia, learned Counsel appearing for the Applicant, undertakes to file 3 (three) extra copies of the O.A. and 3 (three) sets of postages for each one of the newly added Respondent Nos.1, 5 and 6 in course of the day.

Registry to issue notice to the newly added Respondent Nos.1, 5 and 6 requiring them to file their written statement by end of January 2009.

Call this matter on 02.02.2009.

① Service report awaited from newly added Respondent No-1, 5 and 6.

M.P.No.150/2008 stands disposed of.

On

(S.N. Shukla)
Member (A)

M.R. Mohanty

Vice-Chairman

3
2.2.09

nkm

2.2.09 Bank is not available
first or 9.2.09.

W.C.D.

① Service report awaited from newly added Respond. No-1, 5 and 6.

3
9.2.09.

OA. 275/2008

29.09.2008

On the prayer of Mr.R.Chetia, learned

dt. 29.9.08
Pl. supply a copy of this
order to Advocate Mr.R.Chetia

30.9.08

counsel appearing for the Applicant (made in
presence of Mrs.M.Khoud, learned counsel
representing the Respondents) this case stands
adjourned to be taken up on 01.12.2008.

31.10.08

As per order dated
29.9.08 Respondent
Nos. 5, 6 & 7 impleaded.

Mr.Chetia, undertakes to implead Union
of India represented through Ministry of
Agriculture and to implead Ministry of Finance,
Govt. of India as party Respondents in this case.
He also undertakes to take step to implead
ICAR as a party Respondent in a proper
manner.

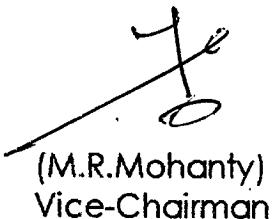
Call this matter on 01.12.2008 for hearing.

31.10.

A copy of this order be supplied to
Mr.R.Chetia, Advocate.



(S.N.Shukla)
Member (A)

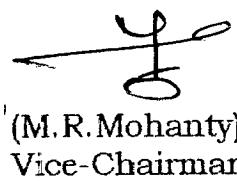


(M.R.Mohanty)
Vice-Chairman

Copies of order
dated 29/9/08 send
to D/Section for
issuing to Mr. R.Chetia,
Advocate.
Ref. D/No-4431
DT 19/11/08.

/bb/

01.12.2008 On the prayer of learned counsel
appearing for both the parties, hearing of this
case stands adjourned, call this matter on
16.12.2008



(M.R.Mohanty)
Vice-Chairman

The case is ready ^{1m}
for hearing.

28.11.08

3.12.08
Additional W/S filed
by the Respondents. Copy
served.

Q.M.

The case is ready
for hearing. 15.12.08

18.08.2008 Mr M.Z. Ahmed, learned Counsel appearing for the Applicant, seeks an adjournment of the hearing of this case. Mrs R.S. Choudhury, learned Counsel appearing for the Respondents, has got no objection to the prayer for adjournment.

DT. 18.8.08

Pl. hand over free copies of this order to the learned counsels for the parties.

Shrivastava

Free copies of order dated 18/8/08 sent to D/Section for issuing to learned Counsel for the parties.

Copy 18/8/08. D/No-
2818/08. DT-

The case is ready for hearing.

26/9/08.

This is a case of the year 2006. In the said circumstances, call this matter on 29.09.2008 for hearing; when Mrs R.S. Choudhury should obtain up-to-date instructions in the matter of regularization of the Temporary Status Mazdoors (TSMs) of the Respondent Organisation. This is necessary in view of the submission of Mr M.Z. Ahmed, learned Counsel appearing for the Applicant, that by an Order No.RC(G)46/95 dated 08.07.2008 of the Administrative Officer of ICAR Research Complex for N.E. Hill Region, a Committee was constituted to examine the matter related to regularization of the services of the TSMs.

Call on 29.09.2008.

Free copies of this order be handed over to the learned Counsel for the Parties.

Akhushiram
Member(A)

nkm

(M.R. Mohanty)
Vice-Chairman

✓ PTO

14.05.2008 None appears for the both the parties.

Dt. 14.5.08.
22. send copies of this order to the Applicant and to the Respondents

15/5

Order dt. 14/05/08
Send to D/Section
for issuing to
Applicant, and to
the respondents
by post.

16/5/08 D/No-2368 to
19/5/08 Dt. 2373
12/5/08.

The case is ready
for hearing.

23.6.08

The case is ready
for hearing.

24.8.08

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.

nkm

Khushiram
(Khushiram)
Member (A)

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

24.06.08

Mr R. Chetia, Advocate (appearing for the Applicant) seeks an adjournment of this case. Non appears for the Respondents.

Call this matter on 18.08.2008 before Division Bench.

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

pg

1

OA-279/06

20.7.2007

Learned counsel for the parties submitted that pleadings are complete in this matter and the matter is ready for hearing.

23.7.07

Reply filed by
Applicant against
W.S. Copy not
served. page 1 to 21.

Chs.

W.Bs and rejoinder
filed by the parties.

23.8.07

W.Bs and rejoinder
filed by the parties.

/bb/
24.8.07. Counsel for the applicant has filed the rejoinder. It is reported that pleadings are completed. However, two weeks further time is granted to the counsel for the parties to complete the pleadings. Thereafter, post the matter on 11.9.07.

Vice-Chairman

lm

10.9.07 Pleadings are completed. Post the matter for hearing on

27.10.07.

Vice-Chairman

The case is ready
for hearing.

lm

13.5.08

OA.275706

9

27.4.2007 Present: The Hon'ble Mr.G.Shanthappa
Member (J)

The Hon'ble Mr.G.Ray, Member (A).

WVS filed by you
Respondents 1, 3 & 4
page 1 to 6. Applicants
copy kept in 'C' file.

Ad

Case called. Neither the Applicant nor the learned counsel for the Applicant is present. Though Respondent Nos. 1 & 2 are served none appeared for them. Mrs. R.S.Choudhury, learned counsel for the Respondent Nos.3 & 4 submits that she has received para wise comments and she will file written statement after drafting and vetting of the same. Four weeks' time is granted for the same.

WVS has been
Filed

30.5.07

Call the case on 31.05.2007.

Ad
Member (A)

Guruji
Member (J)

/bb/

No rejoinder has
been filed.

30.6.07

31.5.07.

Counsel for the applicant has submitted that she has received the copy of the written statement from Respondent No.1,2 & 3. Post the matter on 26.6.07. In the meantime, the other respondent will file reply if any.

Vice-Chairman

lm

① WVS not filed by
the 2nd respondent, 26.6.2007
② Rejoinder not filed

22.6
19.7.07

Counsel for the applicant wanted to file rejoinder.

Post on 20.7.07 for order.

In the meantime 2nd respondent is also at liberty to file written statement.

Vice-Chairman

-21-

O.A. No. 275 of 2006

06.05.2010 Mr. R. Sarma, learned counsel appearing for Respondent Nos. 1,3&4 seeks further two weeks time to file an affidavit and to bring on record the latest developments on the issue concerned. Ordinarily we would not have liked to adjourn this matter as it pertains to the year 2006. However, as a matter of indulgence, one more opportunity is granted to file affidavit as required ^{under} order dated 07.01.2010, as reiterated on 29.03.2010.

The case is ready for hearing.

28/5/2010

List on 31st May 2010.

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

/pb/

31.05.2010 After arguing at length Mr. M.Z. Ahmed, learned Sr. counsel appearing for applicants states that in this round of litigation they would press for protection of their continuation in the capacity they are working as on date and not the regularization.

Heard both sides. Reserved for orders.

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

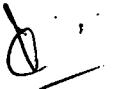
/bb/

O.A. No. 275 of 2006

03.06.2010 Judgment pronounced in open court, kept in separate sheets.

The O.A. is disposed of in terms of said order.

Received by
Deepak Singh
Advocate
28/06/2010

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

/PB/

19.8.2010

Judgment /Final Order dt 3/6/2010
Sent to in A/S for
issuing reed D / A/o 2012 to 2017

X
24
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 275 of 2006

Date of Decision: 03.06.2010

Sri L.K. Bordoloi & Ors.

..... Applicant/s

Mr. M.Z. Ahmed, Sr. Advocate along with Ms. B. Dutta

..... Advocates for
the Applicant/s

- Versus -

U.O.I. & Ors.

..... Respondents

Mr. D. Mazumdar

..... Advocate for the
Respondents

CORAM:

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

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

Judgment delivered by

Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI --BENCH:

Original Application No.275 of 2006

Date of Decision: This, the 3rd day of June 2010.

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE MR. MADAN KUMAR CHATURVEDI, MEMBER (A)

1. North East ICAR MAZDOORS' Union
Umroi Road, Umroi
Represented by Lohit Kumar Bordoloi
General Secretary of the said Union.
2. Shri Bearson Marak
Medical Attendant
ICAR Hospital.Applicants.

By Advocate: Mr. M.Z. Ahmed, Sr. Advocate along with Ms. B. Dutta

-Versus-

1. Union of India
represented by the Secretary
to the Government of India
Ministry of Agriculture
Krishi Bhavan, New Delhi - 1.
2. The Director
Ministry of Personnel and Training
Government of India
New Delhi - 1.
3. The Director
ICAR Research Complex for
NEH Region, Umroi Road
Barapani, Meghalaya.
4. The Senior Farm Manager
ICAR Research Complex for
NEH Region
Umiam - 793103, Meghalaya.
5. The Secretary to the Govt. of India
Ministry of Finance
(Department of Expenditure)
North Block, New Delhi - 1.

6. Indian Council of Agricultural Research
represented by The Director General
Krishi Bhavan
Dr. Rajendra Prasad Road
New Delhi - 1.

...Respondents

By Advocate: Mr. D. Mazumdar.

ORDER

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (I):

North East ICAR MAZDOORS' Union, and Sri Bearson Marak, Medical Attendant, being Applicants No.1-2 respectively, in this O.A., had challenged order dated 24th June 2005 requiring them to submit undertaking to the effect that on regularization of concerned officials, they will have no objection for fixing of their pay in the minimum of scale at Rs. 2550/- p.m. with usual allowances as applicable to Supporting Staff of Grade 1 employees of ICAR in regard to grant of regular status. They also seek directions to Respondents to regularize their services. The members of Applicant Union be also given all consequential benefits, namely, Provident Fund and other service benefits as applicable to a regular ICAR employee.

2. As per Annexure - 2, a list of 203 persons appointed as casual labours and members of Applicant No.1 Union has been furnished. It is stated that they were engaged as casual labourers in various complexes of ICAR of North Eastern Region w.e.f. 1976 onwards and were conferred temporary status w.e.f. 01.09.1993, based on DOPT Scheme notified vide O.M. dated 10th September 1993, known as Department of Personnel & Training, Casual Labourer (Grant of Temporary Status and Regularization) Scheme 1993.

3. It was incumbent upon the Respondents to regularize their services, as they have been performing similar nature of works performed by regular employees. Members of Applicant Union, on grant of temporary status, were also conferred with the benefits of General Provident Fund and the said benefit were allowed till February 2005 and without issuing any prior notice, the said benefits had been arbitrarily and illegally withdrawn and therefore, they approached this Tribunal vide O.A. No. 113 of 2005 which was dismissed vide order dated 10th August 2006 holding that the said issue, being a policy matter cannot be adjudicated by this Tribunal. Furthermore, said decision & judgment was based on Hon'ble Supreme Court judgment rendered in 1991 SCC (L & S) 809, which has since been diluted and overturned by the Hon'ble Apex Court through various other Judgments passed thereafter.

4. The basic grievance is that though proposal had been mooted for regularizing them, and Respondent No.4 vide communication dated 24.06.2005 conveyed that regularization of 325 posts of temporary Mazdoors is under consideration in the Council, but it required to submit an undertaking for having no objection for fixing of their pay at minimum of scale.

5. Mr. M.Z. Ahmed, learned Sr. Counsel appearing for Applicants vehemently contended that most of the members of Applicant Union have rendered more than two decades of satisfactory service. On the one hand they have not been regularized and on the other hand they are facing damocles sword hanging over their head, for termination/disengaging them.

6. Strong reliance was placed on (2006) 4 SCC 1 **Secretary, State of Karnataka and Others Vs. Umadevi (3)** and Others particularly paras 23,24, 53 and 55 to emphasize that at the best, their initial engagement can be termed as "irregular" and not "illegal" requiring regularization. It was emphasized that they are continuing to work without any orders of the Court/Tribunal and therefore, Respondents were under obligation to regularize their services. Learned Sr. Counsel for Applicant drew our attention to certain correspondence placed on record by the Respondents along with their additional written statement dated 16th November 2009 to buttress the contention that the issue regarding regularization has been taken up in the Council but for unforeseen reason, said issue has not been decided favourably.

7. By filing reply, it was stated that the Applicants were working as Casual Labourer and conferment of 'temporary status' is without creation/availability of regular Group - 'D' posts. Though they were granted temporary status as per 1993 scheme, the said scheme itself envisaged that they would not be brought into permanent establishment / status unless they were selected by regular selection process for Group - D posts. They had mooted a proposal for creation of 100 posts to the Ministry of Finance in the year 2002 itself which had been returned by the Ministry of Finance with the observations that it may be looked into in the Xth plan. It is evident that the Respondents had been making endeavour to regularize the service of these temporary status employees. But as per 2.2.10 of the Report of VI Central Pay Commission stating that in future posts will be created only in PB-1 and there shall be no recruitment in - IS Pay Band except in exceptional circumstances, as well as the XIth Plan EFC for NEH

Research Complex, Barapani, contained no provision for creation of any Group 'D' post. The aforesaid proposal proposed by ICAR has not been agreed to at higher level.

8. By filing additional written statement, it was stated that no formal recruitment process was undertaken for the purpose of initially engaging the TSMs as casual labourers except the fact that their names were sponsored by local Employment Exchange. In fact, their services are not required throughout the year. Furthermore, Office Memorandum dated 24th February 2006 relates to ban on creation of posts.

9. Mr. D. Mazumdar, learned counsel appearing for ICAR pointed out that policy decision had been taken by Additional Secretary, Department of Agricultural Research & Education who is also Secretary, ICAR, in consultation with A.S. & F.A., DARE and ICAR following a series of deliberation on the issue of creation of posts. ICAR is an autonomous organization under the Department of Agriculture, Government of India. The Council is the Apex Body for coordination and guidance and managing research and education in agriculture. ICAR Research Complex for North-East, Barapani is one of its 97 Institutes spread across the country.

10. Strong reliance was placed on (2010) 4 SCC 179 **Satya Prakash and Others Vs. State of Bihar and Others** to buttress that illegal appointment cannot be regularized. Furthermore, as held by Hon'ble Supreme Court in Umadevi (3) (Supra), daily wage employees are not entitled to regularization.

11. Learned counsel further drew our attention to communication dated 23.07.2009 vide which it has been strongly observed that : "*there is no case for creation of 418 posts as proposed by the ICAR. The case for regularization of casual labourer on whom temporary status has been conferred under the Scheme of 1993 would be considered as per para 8 of the same scheme as and when Group 'D' posts are created in NEH Research Complex Barapani.*" Learned counsel emphasized that ICAR has taken all possible steps for creation of post but it has not been agreed to by the Competent authority. Furthermore, they had faced serious problem in their effort to provide succor but as there has been no provision for creation of any Group 'D' post in XIth Plan as well as VIth Central Pay Commission's recommendations did not provide for creation of any post in 1S Pay Band, they are unable to provide any relief.

12. We have heard learned counsel for parties, perused the pleadings and other materials placed on record including the judgments cited at bar. We have also bestowed our thoughtful consideration to the rival contentions.

13. During course of hearing, learned Sr. counsel for Applicant Mr. M.Z. Ahmed, made a categorical statement that Applicants are not pressing for relief relating to regularization and the Tribunal may only protect their continuation in service. We may note that one cannot possibly have any objection to this aspect as it is not the case of Respondents that they wish to terminate/disengage them. It is not denied that members of the Applicant Union were conferred temporary status in terms of DOPT O.M. dated 10th September 1993 and at present they are reaping benefits of said scheme.

Since regularization has not been insisted and as noticed hereinabove, O.A. is disposed of. As long as Respondents are in need of the casual employment, it goes without saying & expected — that those members of Applicant No.1 Union will continue to be engaged by the Respondents.

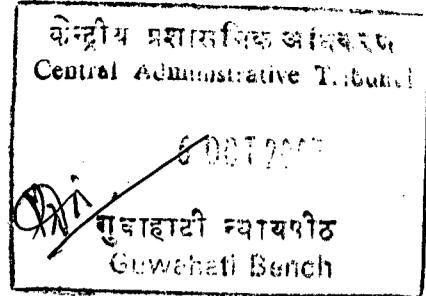
With these observations, O.A. is disposed of. No costs.

Chaturvedi
(MADAN KUMAR CHATURVEDI)
Member (A)

Mukesh
(MUKESH KUMAR GUPTA)
Member (J)

/pb/

8/11/06



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GAUHATI BENCH, AT GUWAHATI.

O.A. No. 275 /2006

As per order passed in
M.P. 116/06 D. 9.11.06. } 2. Bearer Monal, Medical Attendant, ICAR Hos. per
Umroi Road, Nagaing
Boro.APPLICANT'S

-Vs-

Union of India & Ors.

....RESPONDENTS.

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Filed by ICAR Mazdoor
Union
... Application.
Through Advocate
Advocate in loc.

8/11/06
C.A.T.
Guwahati Bench
Advocate in loc.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH.

O.A.No.275/2006

North East ICAR MAZDOORS' Union.

....APPLICANT.

-Vs-

Union of India & Ors.

.... RESPONDENTS.

LIST OF DATES

07/02/2006: The Applicant Union was duly registered under the Trade Union Act, 1926

Pr.1/ Pg 1

1976: The members of the Applicant Union had joined as casual labours under ICAR since the year 1976.

Pr.6.3/Pg 4

01/09/1993: The members of the Applicant Union were given temporary status, based upon a Judgment and Order dated 16/02/1990 passed by the Principal Bench of the Central Administrative Tribunal, New Delhi.

Pr.6.3/Pg 4

10/09/1993: An Office Memorandum No.51016/90-EST(c) being issued by the Respondent No.2 whereby the Scheme titled Casual Labourers (Grant of Temporary Status and Regularization) Scheme was notified, the Respondent authorities of NEH region undoubtedly granted the temporary status Mazdoors to all the members.

Pr.6.5/Pg5

Annexure -3

39

09/05/1994: This learned Tribunal by an Order passed in M.P.No.46 of 1994 arising out of O.A. 32/91 was pleased to direct regularization of the services of the members of the Applicant Union.

Pr.6.10/Pg 7

12/03/1997: The Respondent authorities by a letter No.F.No.16 (24)/96-P I & M directed all its Units after granting temporary status to all its casual labourers, all vacancies in supporting Staff Grade – I be filled out from eligible casual labourers granted Temporary status .

Pr.6.11/Pg 7,8
Annexure 4

09/06/2005: The office of the Respondent No.3 has been deliberately publishing advertisements for various posts wherein the requirements for eligibility have been made extremely stringent with the sole view to deny the members of the Applicant Union a right to claim such Posts.

Pr.13/Pg 8, 9

24/06/2005: The Respondent No.4 prepared a draft whereby the Applicants had to declare that they have no objection for fixing of them pay in minimum of the pay-scale at Rs. 2550/- p.m with usual allowances.

Pr.6.14/Pg 9
Annexure6

22/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH.

O.A.No. 275/2006

North East ICAR MAZDOORS' Union *vs* another

....APPLICANT.

-Vs-

Union of India & Ors.

.... RESPONDENTS.

SYNOPSIS

The Applicant Union was duly registered on 07/02/2006 under the Trade Union Act, 1926, and its members had joined as casual labours under the ICAR since the year 1976 onwards but their services has not been yet regularized. The Respondent No.2 notified a Scheme whereby the Respondent granted the temporary status Mazdoor to all the member w.e.f. 01/09/1993 but after more than 13 years have lapsed they failed to regularize their services. The members of the Union were given the benefits of General Provident Fund and the said benefit continued till February, 2005 and all of a sudden, the Respondent authorities, without giving prior notice to the members of the Applicant Union, arbitrarily and illegally stopped the said GPF benefits and instead offered the benefits of Employees Provident Fund, which was not acceptable to the members of the Applicant Union. The Respondent No.4 by a letter dated 24/06/2005, which informing that regularization of 325 posts of temporary Mazdoors is under consideration in the Council, he prepared a draft undertaking without any directives from New Delhi, whereby the members of the Applicant Union had to declare that they have no objection for fixing of their pay in the minimum of the scale at Rs. 2550/- p.m. with usual allowances as applicable to the Supporting Staff of Grade I employees of ICAR, in case regular status is granted to them and unless such undertaking is not quashed, the members of the Applicant Union will suffer grave loss, and being aggrieved with such undertaking, hence this application.

Dutt
Anup Mrinal Dutta.
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GAUHATI BENCH, AT GUWAHATI.

O.A. No. 275/2006

IN THE MATTER OF:-

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

-AND-

IN THE MATTER OF:-

* As per order dt. 9/11/06
* Poured in
As per MP No. 156/06,
Shri Be arson Narale
is impleaded as applicant
no-2 in the O.A. No.
275/06.

1. North East ICAR MAZDOORS' Union, Umroi
Road, Umroi, represented by Lohit Kumar
Bordoloi, General Secretary of the said Union.
2. Shri Be arson Narak, Medical Attendant,
ICAR Hospital.APPLICANT

-Vs-

① Union of India,
Represented by the
Secretary to the Government
of India,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi - 1

(Impleaded as Respondent No 1
as per Order dated 16/12/08)

1. Union of India,
represented by the Secretary to the
Government of India, ICAR,
Krishi Bhawan, New Delhi.

2 The Director, Ministry of Personnel and Training, Government of India, New Delhi-1

⑤ The Secretary to the Govt. of India,
Ministry of Finance,
(Dept. of Expenditure)
North Block,
New Delhi - 1

3. The Director, ICAR Research Complex for NEH Region, Umroi Road, Barapani, Meghalaya.

⑥ Indian Council of Agricultural Research, Represented by
The Director General,
Krishi Bhawan,
Dr. Rajendra Prasad Road,
New Delhi - 1

4. The Senior Farm Manager,
ICAR Research Complex for
NEH Region,
Umiam- 793103, Meghalaya.

...RESPONDENTS

1. PARTICULARS OF APPLICANT:

That the Applicant Union was duly registered on 07/02/2006 under the Trade Unions Act, 1926 and the members of the said Union, presently numbering 203, being citizens of India, joined as casual Labour under the Indian Council for Agricultural Research (ICAR) in the various campuses in the North Eastern Region since the year 1976 onwards and they have been made to do the regular nature of works all along till date, but have been denied regularization of their services inspite of various assurances and directives.

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A Copy of the Registration Certificate and the List of the members of the aforesaid Union are annexed hereto as Annexures 1 and 2 respectively.

2. PARTICULARS OF RESPONDENTS

That the Respondents are the authorities under whom the members of the Applicant's Union have been serving as casual labours in their various complexes in the North East Hill Region and even though they have the power to regularize the services of the members of the aforesaid Union, they are deliberately denying the various service benefits to which the said members would be entitled after regularization of their services.

3. JURISDICTION

The Applicant declares that this application is within the jurisdiction of this learned Central Administrative Tribunal, at Guwahati.

4. LIMITATION

This application has been filed within the period of Limitation as contemplated under Section 21 of the Central Administrative Tribunals Act, 1985.

5. ORDER AGAINST WHICH THIS APPLICATION HAS BEEN FILED:-

(i). Order No. RC BAR/FM-1/2005-06/1768 dated 24/06/2005 issued by the Senior Farm Manager, ICAR



Research Complex for NEH Region, Umiam,
Meghalaya.

- (ii) Denial of pensionary benefits.
- (iii) Non regularization of the members of the Applicant Union.

6. FACTS OF THE CASE:-

- 6.1 That the members of the Applicant Union are the citizens of India and permanent residents of the North Eastern Region of India.
- 6.2 That the members of the Applicant Union were appointed as casual labours under the Respondents on various dates as indicated against their respective names in Annexure 2 hereto and the instant Application has been filed on behalf of all the members of the Applicant Union as per the prevailing Rules.
- 6.3 That the members of the Applicant Union were engaged as casual labourers in the various complexes of ICAR of the North Eastern Region w.e.f. 1976 onwards and it was only w.e.f. 01/09/1993 that the members of the Applicant Union were given temporary status, based upon a Judgment and Order dated 16/02/1990 passed by the Principal Bench of the Central Administrative Tribunal, New Delhi.
- 6.4 That it was incumbent upon the Respondent authorities to soon after regularize the services of the members of the Applicant Union, who have been doing similar nature of works all along as that of regular employees of ICAR and more particularly since the Respondent authorities never

felt the need to abolish any of the said Posts. The members of the Applicant Union are doing similar nature of work as that of regular employees of ICAR which would be evident from the Certificate issued by the concerned authorities of ICAR.

Copies of some of the Certificates issued by the concerned authorities are annexed hereto and are marked as Annexures 2A, 2B and 2C respectively.

6.5 That upon the Office Memorandum No. 51016/2/ 90-EStt(c) dated 10/09/1993 being issued by the Respondent No.2, whereby the Scheme titled Casual Labourers (Grant of Temporary Status and Regularization) Scheme was notified, the Respondent Authorities of the North Eastern Hill Region undoubtedly granted the Temporary Status Mazdoors to all the members of the Applicant Union w.e.f. 01/09/1993, but after more than 13 years having lapsed eversince, the Respondent authorities of NEH Region have, on some pretext or the other, failed to regularize the services of the members of the Applicant Union, except for only about 5 members.

A copy of the aforesaid O.M. No. 51016/2/90-EStt(C) dated 10/09/1993 is annexed hereto as Annexure-3.

6.6 That upon the members of the Applicant Union being granted the status of Temporary Status Mazdoor, they were also given the benefits of General Provident Fund and the said benefit continued till February, 2005 and all on a sudden, the Respondent authorities, without giving any prior Notice to the members of the Applicant Union, arbitrarily and illegally stopped the said General Provident Fund benefits and instead offered the said members the benefit of Employees Provident Fund, which was not acceptable to the members of the Applicant Union. The members of the Applicant Union being aggrieved by the

aforesaid action of the Respondent authorities, approached this learned Tribunal by way of OA No.113 of 2005, but unfortunately this learned Tribunal by an Order dated 10/08/2006, passed in the said O.A. No. 113 of 2005, dismissed the Application of the then members of the Applicant Union on the ground that the Tribunal ought not to adjudicate upon the issue raised, which purportedly arises out of a policy matter of the Government involving expenditure in respect of the defined contribution under CPF Scheme, whereby it was stipulated that no deductions will be made towards GPF contribution from the Government Servants joining the service on or after 01/01/2004 as the said GPF Scheme was not applicable to them.

6.7 That the aforesaid Order was passed purportedly on the basis of the relevant portion of an O.M. which was reproduced in the Order, as follows:-

“(ii.)As there is no provision of General Provident Fund in the new pension scheme, it will not serve any useful purpose to continue deductions towards GPF from the existing casual employees, in term of para 5(vi) of the scheme for grant of temporary status. It is, therefore, requested that no further deductions towards General Provident Fund shall be effected from the casual labourers w.e.f. 1-1-2004 onwards and the amount lying in their General Provident Fund accounts, including deductions made after 1.1.2004, shall be paid to them.”

This Tribunal, while relying upon the aforesaid portion of the O.M. dated 26/04/2004, based its observations on the basis of the Citation in 1991 SCC (L & S) 809, which has since been



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diluted and overturned by the Hon'ble Apex Court through various other Judgments passed thereafter.

6.8 That even after repeated persistence by the members of the Applicant Union, the Respondent authorities, while allowing the members of the Applicant Union to continue to serve the Respondent ICAR for so many years, failed to regularize the members of the Applicant Union as per the directives of not only the instant Tribunal, but also the observations of the Hon'ble Apex Court.

6.9 That it is pertinent to point out that this learned Tribunal, in an earlier Judgment and Order dated 12/01/1988 in G.C. No. 112 of 1987 relating to some of the members of the Applicant Union, observed thus :

“ As regards the claim for regularization of the service of the petitioners we do not think that we shall be justified in making any order in the facts and circumstances of the case but we hope and trust that the respondents shall take necessary steps for regularization of their service in accordance with law.”

6.10 That subsequently, this learned Tribunal, by an Order dated 09/05/1994 passed in M.P. No. 46 of 1994 arising out of O.A. 32/91 was pleased to specifically direct regularization of the services of the Applicants/ Respondents who were otherwise similarly placed as the instant members of the Applicant Union.

6.11 That the admitted position is that the Respondent authorities at New Delhi directed all its Units by a letter No.F No. 16 (24)/96- P I&M dated 12/03/1997 after granting Temporary

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Status to all the eligible casual labourers, all vacancies in supporting Staff Grade-I be filled out of casual labourers with Temporary Status. Further, the resultant vacancies of higher post in supporting Staff may also be filled from eligible casual labourers granted Temporary Status. If it was not possible to regularize the casual labourers with Temporary Status inspite of the aforesaid measures, the respective Directives were made to propose creation of Post in the IX Plan for supporting Staff for clearing the backlog of casual labourers with Temporary Status.

A Copy of the aforesaid letter dated 12/03/1997 is annexed hereto as Annexure 4.

6.12 That it would be evident from the letter No. RC (G) 26/2005 dated 09/06/2005 issued by the Senior Administrative Officer under Respondent No. 3 that some form of process has been initiated for regularization of 325 posts of Temporary Status Mazdoors serving under the Respondent No.3 but it appears that there is no seriousness in the efforts by the Respondent authorities, in as much as, till date, only about 5 Temporary Status Mazdoors have so far been appointed on a regular basis.

6.13 That it is necessary to point out that many of the members of the Applicant Union have also since applied for various Posts which were advertised but they were not even favoured with any call letters and instead some Contract labourers have been given regular appointment since the year 1997 till date, which was in total violation of the directives of the Respondent authorities themselves. It would be apparent that the Office of the Respondent No.3 has been deliberately publishing advertisements for various Posts wherein the requirements for



eligibility have been made extremely stringent with the sole view to deny the members of the Applicant Union a right to claim such Posts.

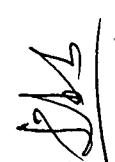
The applicant Union craves leave to produce and rely upon some of the advertisements as well as applications of the members of the Applicant Union at the time of hearing of the instant application.

A copy of the aforesaid letter dated 09/06/2005 is annexed hereto as Annexure-5

6.14 That in order to make matters worse, the Respondent No.4 by a letter No. RC/BAR/FM -I /2005-06/1768 dated 24/06/2005, while informing that regularization of 325 posts of Temporary Mazdoors is under consideration in the Council, he prepared a draft undertaking without any directives from New Delhi, whereby the members of the Applicant Union had to declare that they have no objection for fixing of their pay in the minimum of the pay-scale at Rs. 2550/- per month with usual allowances as applicable to the supporting Staff of Grade I employees of ICAR, in case regular status is granted to them. The said directions of the Respondent No.4 is highly arbitrary and illegal in as much as the members of the Applicant Union will be denied pay protection, if regularized, which is undoubtedly in violation of the law as settled by the Apex Court.

A Copy of the aforesaid impugned letter No.RC/BAR/FM-I/2005-06/1768 dated 24/06/2005 issued by the Respondent No.4 is annexed hereto as Annexure-6

6.14 That unless the aforesaid undertaking is quashed by this learned Tribunal, there will be a grave failure of justice in



as much as the members of the Applicant Union will suffer immense monetary losses.

6.16 That the Applicant Union further begs to state that most of the members of the Applicant Union who have been serving as casual labourers much before they were granted Temporary Status Mazdoors w.e.f. 01/01/1993, they are entitled to be regularized in their respective posts, and the same not being done inspite of directives and commitments by the Respondent authorities, this learned Tribunal ought to interfere and pass necessary directions to regularize the services of the members of the Applicant Union forthwith, as was directed by this learned Tribunal earlier in O.A. No.32/91 by Order dated 17/01/1994.

A Copy of the aforesaid Order of this learned Tribunal dated 17/01/1994 passed in O.A. No.32 of 1991 is annexed hereto as Annexure - 7.

7. GROUNDS WITH LEGAL PROVISIONS:

7.1 For that the Respondent authorities having committed themselves to regularize the services of the members of the Applicant Union, they were bound to do so within the IX Plan period itself, by creating posts, if necessary, and they having failed so to do for the past 13 years, necessary directions ought to be passed by this learned Tribunal in favour of the members of the Applicant Union.

7.2 For that the impugned letter dated 24/06/2005 along with the impugned draft undertaking is liable to be set aside and

quashed as being highly arbitrary, illegal and discriminatory and perverse and as such set aside and quashed.

- 7.3 For that the members of the Applicant Union having been doing regular nature of works from their respective dates of joining in ICAR as casual labourers since 1976, are legally entitled to be regularized in their respective posts, if necessary by creating the said posts specifically for the members of the Applicant Union, by relaxing the age and qualification criteria, where necessary.
- 7.4 For that the members of the Applicant Union having admittedly been granted Temporary Status Mazdoors under a Special Scheme, w.e.f. 01/01/1993, it was incumbent upon the Respondent authorities to regularize their services within the IX Plan period, but the Respondent authorities having failed so to do, this learned Tribunal must necessarily interfere and pass necessary Orders in favour of the members of the Applicant Union.
- 7.5 For that by virtue of their long years of casual and thereafter temporary Service in ICAR, the members of the Applicant Union, as on date, are granted substantial amounts every month and denial of the said pay protection by means of the impugned undertaking is totally against all norms of service jurisprudence and as such the Respondent authorities ought to be directed not only to regularize the services of the members of the Applicant Union but also to grant them pay protection as per the settled law.
- 7.6 For that in the event the members of the Applicant Union are not regularized forthwith in their respective services, they

will be denied the pensionary benefits which are normally due to a regular employee under the recent pension policy of the Government of India, and they will further suffer as because the GPF and EPF, to which the members of the Applicant Union had contributed, was recently refunded to the respective accounts of the members of the Applicant Union, whereby the members of the Applicant Union, who had joined ICAR before 01/01/2004, will be left with no monetary benefits whatsoever upon the expiry of the tenures of their respective services, a situation which cannot be approved by this learned Tribunal, and therefore, an ought to be passed by this learned Tribunal in favour of the members of Applicant Union.

7.7 For that the instant application is in any event liable to be allowed on the sole ground that the Respondent authorities, in order to deprive the benefits of regularization of services of the members of the Applicant Union, has laid down stringent qualification requirements in respect of posts advertised by them, which is a gross breach of the directives of ICAR, New Delhi, whereby members of the Applicant Union, who, even after being duly applied for some of the posts, were totally ignored and were not even issued even Call letters, which is a clear case of arbitrariness and discrimination, which are violation of the basic fundamental rights of the members of the Applicant Union, as enumerated under Articles 14, 16 and 21 of the Constitution of India.

7.8 For that the humble Applicant Union submits that in the event no relief as sought for by the instant Application is granted to the members of the Applicant Union, this learned Tribunal, most of the Senior members of the

Applicant Union will be compelled to retire from service as Temporary Status Mazdoors (TSM) without being afforded any terminal benefits, either by way of Provident Fund benefits or pensionary benefits, which, as per the extant service laws, cannot be denied to the members of the Applicant Union.

8 DETAILS OF REMEDIES EXHAUSTED

As the Respondent authorities had issued the impugned Order without prior discussion with the members of the Applicant Union, the Applicant Union had no scope to file any representation before the concerned authorities and as such, since the cause of action for the instant cases are still continuing, the instant application filed by the Applicant Union seeking the necessary reliefs, as sought for here under, will be sufficient and adequate.

9. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT OR TRIBUNAL :-

No case before this learned Tribunal or in any other Court of law has been filed or is pending in any Court of law or Tribunal.

10. RELIEFS SOUGHT FOR:-

In view of the facts and circumstances narrated herein above the instant Applicant Union prays for the following reliefs:-

1. The impugned letter dated 24/06/2005 along with the enclosed draft undertaking, be set aside and quashed.
2. The instant Respondent authorities be directed to forthwith regularize the services of the members of the Applicant Union.

3. The members of the Applicant Union, being automatically entitled to be granted Temporary Status Mazdoors (TSM), must necessarily be forthwith regularized in their respective posts and be thereafter granted all pensionary and other service benefits as due to a regular employee of ICAR.

4. Any other relief or reliefs as entitled to by the members of the Applicant Union may kindly be granted by this learned Tribunal

11. INTERIM RELIEF:-

The Respondent authorities, not having granted any interim relief in respect of regularization of the services of the members of the applicant Union, this learned Tribunal ought to direct the Respondent authorities to forthwith collect and retain the GPF and EPF of the members of the Applicant Union till they are regularized in their respective services, failing which, the Respondent authorities ought to be directed to supplement whatever GPF/EPF has been collected by the Respondent authorities at their risk and costs.

12. PARTICULARS OF THE I.P.O

1. I.P.O. No. 286 932 435
2. Date 27-10-06
3. Payable at Guwahati.

13. LIST OF ENCLOSURES:-

As stated in the Index.

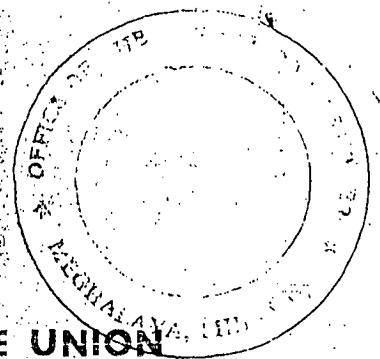
VERIFICATION

I, Lohit Kumar Bordoloi, son of Late K.N. Bordoloi, aged about 43 years at present working as a casual labour in the Office of the Director of I.C.A.R., Research Complex, N.E.H. Region, Umroi Road, Barapani, Meghalaya, do hereby solemnly affirm and verify the statements made in paragraphs 1 to 5, 6.1, 6.2, 6.3, 6.4, 6.6, 6.8, 6.10, 6.12, 6.13, 8 & 9 are true to my knowledge, those made in paragraphs 6.5, 6.7, 6.9, 6.11, 6.14 & 6.16 being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this learned Tribunal.

And I sign this Verification on this the 30th day of ^{October} 2006
at Guwahati.

L.K.B.
(Lohit Kumar Bordoloi)
General Secretary
A.E.I.C. (Assam Engineers Union)
Umiam.

L.K.B.



FORM C

CERTIFICATE OF REGISTRATION OF TRADE UNION

No. 117

It is hereby certified that the NORTH EAST I.C.A.R.
MAZDOORS' UNION, UMROI ROAD UMIAM
has been registered under the Indian Trade Union Act, 1926, this 7th
day of February, 2006

SEAL

DPS [Freson Wing (Labour) 365/92-1,000-54,92

R. J. Doe
Registrar of Trade Union
for Meghalaya, Shillong.
Registrar of Trade Union
N.S. Meghalaya

Certified to be true,
Anup Primal Duttar, Advocate

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Annexure - 2

Sl. No.	Name	Date of joining as casual labour	Date of joining as Temp. Mazdoor	Nature of job w.e.f. C/Labour	Division/Centre
1.	Shri. Devilal Sharma	- 18 th December	- 1976	- 1 st September 1993	- Dairy Unit Worker
2.	Shri. Akbor Ali	- 2nd January	- 1978	- do -	- Field Res. Worker
3.	Smt. Tili Devi	- 5 th March	- 1978	- do -	- Dairy Unit Worker
4.	Shri kento Basar	- 18 th March	- 1978	- do -	- Field Res. Worker
5.	Shri. Nipum Ango	- 28 th March	- 1978	- do -	- do -
6.	Shri. Mijum Riba	- 17 th April	- 1978	- do -	- do -
7.	Shri. P. B Thapa	- 1 st June	- 1978	- do -	- do -
8.	Shri. Biren Deka	- 14 th June	- 1978	- do -	- Lab Attendant
9.	Shri. M,K,Tarafdar	- 1 st July	- 1978	- do -	- Metrological data collector
10.	Shri. Sarjug pandit	- 1 st July	- 1978	- do -	- Field Res. Worker
11.	Shri. Gangadhar Pradhan	- 6 th July	- 1978	- do -	- Mechanic O,M Cell
12.	Shri. Jummu basar	- 4 th November	- 1978	- do -	- Res. Field Worker
13.	Shri. Gokar Basar	- 8 th February	- 1979	- do -	- do -
14.	Shri. Yie Riram	- 16 th June	- 1979	- do -	- do -
15.	Shri. Dimbo kachari	- 7 th November	- 1979	- do -	- Tractor Driver/ P.T
16.	Shri. Nithson sangma	- 11 th November	- 1979	- do -	- Field Res. Worker
17.	Shri. Kirdak Angu	- 1 st January	- 1980	- do -	- Tractor driver/ P.T
18.	Shri. Tez bahadur chetri	- 2 nd January	- 1980	- do -	- Field Res. Worker
19.	Shri. Pratap ch, Das	- 1 st March	- 1980	- do -	- Typist
20.	Shri. Sukleswar Kalita	- 1 st April	- 1981	- do -	- Lab. Attendant
21.	Smt Mellone D, Lyngdoh	- 1 st April	- 1981	- do -	- Field Res. Worker
22.	Shri Sambhu Sarkar	- 1 st April	- 1981	- do -	- Field Res. Worker
23.	Shri. Homeswar Talukdar	- 1 st June	- 1981	- do -	- Fisherman
24.	Shri. Ratneswar Deka	- 9 th June	- 1981	- do -	- Field Res. Worker
25.	Shri. Nanda Kachari	- 1 st July	- 1981	- do -	- Field Res. Worker
26.	Shri. Dharanidhar Das	- 7 th July	- 1981	- do -	- Lab. Attendant-cum-Chem. analysis
27.	Shri. Siblakhan yadav	- 1 st September	- 1981	- do -	- Driver-cum-Mechanic
28.	Shri. Monya Bam	- 21 st December	- 1981	- do -	- Field Res. Worker
29.	Shri. Goto Riram	- 1 st January	- 1982	- do -	- Field Res. Worker
30.	Shri. J.N. Doley	- 11 th January	- 1982	- do -	- do -
31.	Shri. Haladhar Deka	- 1 st February	- 1982	- do -	- Plumber
32.	Shri. Jummar Basar	- 1 st March	- 1982	- do -	- Field Res. Worker
33.	Shri. Sidheswar Marak	- 8 th April	- 1982	- do -	- Plumber

Certified to be
True
Anup Kumar Dutta, Advocate

34.	Shri. Pradip Das	- April	- 1982	- 1 st September 1993	- Field Res. Worker	- Nagaland Centre
35.	Shri. Lohiot Kr. Bardaloi	- 1 st May	- 1982	- do -	- Typist	- Farm Manager, Office, Umiam
36.	Shri. Markar Basar	- 9 th June	- 1982	- do -	- Field Res. Worker	- A/Pradesh Centre
37.	Shri. Vieew Angami	- 3 rd July	- 1982	- do -	- do -	- Nagaland Centre
38.	Mrs. Bina Sharma	- 16 th August	- 1982	- do -	- Typist	- do -
39.	Mrs. Ilenda Shylla	- 2 nd October	- 1982	- do -	- Mushroom Data Collect.	- P/Path. Div., Umiam
40.	Shri. Ghanashyam Barman	- 8 th November	- 1982	- do -	- Massanger	- Extension Div., Umiam
41.	Shri. Rafiqul Haque	- 12 th December	- 1982	- do -	- Lab. Attendant-cum-soil tester.	- Water Management Div., Umiam
42.	Shri. Bablu Sangma	- December	- 1982	- do -	- Field Res. Worker	- KVK, Tura, Meghalaya
43.	Shri. Dhan Bahadur Tamang	- December	- 1982	- do -	- do -	- Nagaland Centre
44.	Shri. Ganesh Kalita	- 17 th January	- 1983	- do -	- Welder	- Agril. Engg., Umiam
45.	Shri. Bearson Marak	- 22 nd March	- 1983	- do -	- Medical attendant	- ICAR, Hospital, Umiam
46.	Shri. Khagendra N. Medhi	- 20 th April	- 1983	- do -	- Hydrological data collector	- FSRP Div., Umiam
47.	Shri. Binod Saikia	- 4 th May	- 1983	- do -	- Field Res. Worker	- Nagaland Centre
48.	Shri. Mulung Das	- 10 th June	- 1983	- do -	- Mechanic-cum-Driver	- Vehicle cell, HQ, Umiam
49.	Shri. Lankeswar Sharma	- 1 st August	- 1983	- do -	- do -	- do -
50.	Mrs. Maju Das	- 1 st September	- 1983	- do -	- Field Res. Worker	- P/Breeding Div., HQ, Umiam
51.	Shri. Giridhar Das	- 14 th September	- 1983	- do -	- Lab. Attendant	- A/Health, HQ, Umiam
52.	Shri. Debeswar Das	- 7 th October	- 1983	- do -	- Field Res. Worker	- Ento. Div., Umiam
53.	Shri. Joychandra Kalita	- 27 th October	- 1983	- do -	- Mushroom maker	- P/Path. Div., Umiam
54.	Mrs. Lesdish Momin	- 14 th November	- 1983	- do -	- Field Res. Worker	- FSRP Div., Umiam
55.	Shri. Dharmeswar Das	- 29 th December	- 1983	- do -	- do -	- Horti. Div., Umiam
56.	Shri. Jipson Sangma	- December	- 1983	- do -	- do -	- KVK, Tura, Meghalaya
57.	Shri. Hellington Sangma	- December	- 1983	- do -	- Tractor driver	- do -
58.	Shri. Paster Momin	- December	- 1983	- do -	- Field Res. Worker	- do -
59.	Shri. Getdon Sangma	- December	- 1983	- do -	- do -	- do -
60.	Shri. Hira Rabha	- 1 st January	- 1984	- do -	- Power tiller opr.	- Soil/Science. Div., HQ, Umiam
61.	Shri. Pradip Boro	- 1 st January	- 1984	- do -	- Lab. Attendant	- A/H Div., Umiam
62.	Shri. Niranjan Medhi	- 1 st February	- 1984	- do -	- Field Res. Worker	- General Div., Umiam
63.	Shri. Lohit Mazumdar	- 6 th February	- 1984	- do -	- do -	- Nagaland Centre
64.	Mrs. Pennina Ch. Momin	- 1 st May	- 1984	- do -	- Lab. attendant	- W/M Div., Umiam
65.	Mrs. Sarala Medhi	- 5 th May	- 1984	- do -	- Lab. attendant	- Horti Div., Umiam

66.	Shri. Harmohan Sharma	- 21 st June	- 1984	- 1 st September 1993	- Field Res. Worker	- Ento. Div., Umiam
67.	Shri. Gopal Diwan	- 1 st July	- 1984	- do -	- do -	- A/Pradesh Centre
68.	Shri. Manto Basar	- 1 st July	- 1984	- do -	- do -	- do -
69.	Shri. Jedon Singh Marak	- 2 nd July	- 1984	- do -	- do -	- W/M Div., Umiam
70.	Mrs. Trik Nongrum	- 1 st September	- 1984	- do -	- Field Res. Worker	- W/M Div., Umiam
71.	Shri. Dagmo Basar	- 1 st September	- 1984	- do -	- Driver	- A/Pradesh Centre
72.	Shri. Pramod Thakuria	- 8 th September	- 1984	- do -	- Field Res. Worker	- Horti. Div. ICAR, Umiam
73.	Shri. Biren Kalita	- 14 th October	- 1984	- do -	- do -	- Ento. Div. ICAR, Umiam
74.	Shri. Gobin Kalita	- 27 th October	- 1984	- do -	- do -	- General Div. ICAR, Umiam
75.	Mrs. Vilaseno Angami	- 5 th November	- 1984	- do -	- Typist	- Nagaland Centre
76.	Shri. Gremingson Sangma	- 1 st December	- 1984	- do -	- do -	- KVK, Tura, Meghalaya
77.	Mrs. Pregish Sangma	- 1 st February	- 1985	- do -	- do -	- FSRP. Div. ICAR, Umiam
78.	Mrs. Meginish Marak	- 1 st February	- 1985	- do -	- do -	- Horti. Div. ICAR, Umiam
79.	Mrs. Joshna Sarkar	- 2 nd March	- 1985	- do -	- Lab. attendant	- P/Breeding Div. ICAR, Umiam
80.	Shri. Biren Talukdar	- 14 th March	- 1985	- do -	- Field Res. Worker	- General Div. ICAR, Umiam
81.	Shri. Marget T. Sangma	- 1 st April	- 1985	- do -	- Driver	- Vehicle cell, ICAR, Umiam
82.	Shri. Anil Deka	- 1 st April	- 1985	- do -	- Messenger	- do -
83.	Shri. Babulal Motak	- 22 nd April	- 1985	- do -	- Mushroom Spown Maker	- P/Path. Lab. Div. ICAR, Umiam
84.	Shri. Pradip Kalita	- 1 st May	- 1985	- do -	- Power tiller opr.	- Agronomy Div. ICAR, Umiam
85.	Shri. Ramesh Haloi	- 3 rd May	- 1985	- do -	- Field Res. Worker	- FSRP Div. ICAR, Umiam
86.	Shri. Tirtha Knt. Hazarika	- 5 th May	- 1985	- do -	- do -	- Agroforestry Div. ICAR, Umiam
87.	Mrs. Bharati Majaw	- 6 th May	- 1985	- do -	- do -	- do -
88.	Shri. Enithson Momin	- 12 th May	- 1985	- do -	- Mushroom maker/Power tiller opr.	- P/Path. Div. ICAR, Umiam
89.	Mrs. Mithilla G. Momin	- 13 th May	- 1985	- do -	- Field Res. Worker	- Horti. Div. ICAR, Umiam
90.	Shri. Bhadreswar Hajong	- 23 rd May	- 1985	- do -	- do -	- P/Breeding Div. ICAR, Umiam
91.	Mrs. Hussina Begum	- 13 th June	- 1985	- do -	- Field Res. Worker	- S/Science Div. ICAR, Umiam

92.	Shri. Thaneshwar Kalita	- 22 nd June	- 1985	- 1 st September 1993	- do -	- do -
93.	Shri. Gojen Das	- 8 th June	- 1985	- do -	- Cook staff canteen	- General Div. ICAR, Umiam
94.	Shri. Nelson Sangma	- 15 th November	- 1985	- do -	- Field Res. Worker	- W/M Div. ICAR, Umiam
95.	Shri. Jogeswar Rabha	- 1 st December	- 1985	- do -	- Dairy unit worker	- KVK, Tura, Meghalaya
96.	Shri. C.S. Sharma	- 1 st January	- 1986	- do -	- Field Res. Worker	- A/Pradesh Centre
97.	Shri. Lithum Nyorak	- 1 st March	- 1986	- do -	- Field Res. Worker	- A/Pradesh Centre
98.	Shri. Selison Marak	- 1 st December	- 1986	- do -	- P/Tiller oprtr.	- KVK, Tura, Meghalaya
99.	Shri. Moniram Gogoi	- 1 st February	- 1987	- do -	- Field Res. Worker	- Nagaland Centre
10.	Shri. Ganesh Yadav	- 10 th February	- 1987	- do -	- do -	- Nagaland Centre
101.	Shri. Padam Bahadur	- 10 th February	- 1987	- do -	- Chowkidar	- Nagaland Centre
102.	Shri. Jitu Saikia	- 1 st February	- 1988	- do -	- P/Tiller oprtr.	- Nagaland Centre
103.	Mrs. Keviriekhono	- 26 th April	- 1988	- do -	- Typist	- Nagaland Centre
104.	Shri. Biren Borah	- 1 st May	- 1988	- do -	- Plumber	- Nagaland Centre
105.	Shri. Purna Thapa	- 5 th May	- 1988	- do -	- Field Res. Worker	- Nagaland Centre
106.	Shri. Bhupen Saikia	- 19 th May	- 1988	- do -	- Field Res. Worker	- Nagaland Centre
107.	Shri. Devilal Sharma	- 12 th June	- 1988	- do -	- Field Res. Worker	- Nagaland Centre
108.	Shri. Kapil Deo Choudhuri	- 6 th June	- 1988	- do -	- Accountant	- Nagaland Centre
109.	Shri. Akle Darjee	- 6 th June	- 1988	- do -	- Tractor Driver	- Nagaland Centre
110.	Shri. Kumud Kumar	- 6 th June	- 1988	- do -	- Field Res. Worker	- Nagaland Centre
111.	Shri. Dinesh Borah	- 5 th July	- 1988	- do -	- do -	- Nagaland Centre
112.	Shri. Ratna Bh. Chetri	- December	- 1988	- do -	- do -	- KVK, Tura, Meghalaya
113.	Shri. Dhanti Deka	- 1 st April	- 1989	- do -	- do -	- Nagaland Centre
114.	Mrs. Meena Kumari	- 1 st July	- 1990	- do -	- do -	- Nagaland Centre
115.	Mrs. Azano Angami	- 1 st August	- 1990	- do -	- do -	- Nagaland Centre
116.	Shri. Binadra Rabha	- 1 st December	- 1990	- do -	- Dairy unit worker	- KVK, Tura, Meghalaya
117.	Mrs. Monika Nongpluh	- 9 th March	- 1992	- do -	- Field Res. Worker	- Agronomy Div. ICAR, Umiam
118.	Mrs. Mardish Markhap	- do -	- 1992	- do -	- do -	- do -
119.	Mrs. Srimoti Momin	- do -	- 1992	- do -	- do -	- Horti. Div. ICAR, Umiam
120.	Mrs. Leena Rangslang	- do -	- 1992	- do -	- do -	- P/Breeding Div. ICAR, Umiam
121.	Shri. Kuintina Tariang	- do -	- 1992	- do -	- do -	- Agronomy Div. ICAR, Umiam
122.	Shri. Hepjoner Sangma	- do -	- 1992	- do -	- Plumber	- Estate cell, ICAR, Umiam
123.	Shri. Ramkhe Monin	- do -	- 1992	- do -	- Handiman	- Vehi. Cell, ICAR, Umiam
124.	Shri. Gamesh Sangma	- do -	- 1992	- do -	- Field Res. Worker	- Horti. Div. ICAR, Umiam

125.	Mrs. Helen War	- 9 th March	- 1992	- 1 st September 1993	- Field Res. Worker	- Horti. Div. ICAR, Umiam
126.	Mrs. Rosemery Kharbangar	- do -	- 1992	- do -	- do -	- A/Production Div., ICAR, Umiam
127.	Shri. Kindness Marak	- do -	- 1992	- do -	- do -	- General Div., ICAR, Umiam
128.	Shri. Krewington K. Marak	- do -	- 1992	- do -	- Enclosed certificate	- Horti. Div., ICAR, Umiam
129.	Mrs. Lisha Makri	- do -	- 1992	- do -	- Field Res. Worker	- S/Science Div., ICAR, Umiam
130.	Mrs. Martina Thangkhiew	- do -	- 1992	- do -	- do -	- P/Path. Div., ICAR, Umiam
131.	Shri. Ojitson Marak	- do -	- 1992	- do -	- Power tiller opr.	- Ento. Div., ICAR, Umiam
132.	Mrs. Indra Swer	- do -	- 1992	- do -	- Field Res. Worker	- Horti Div., ICAR, Umiam
133.	Mrs. Isabel Makri	- do -	- 1992	- do -	- do -	- P/Breeding Div., ICAR, Umiam
134.	Mrs. Mon Kharkongor	- do -	- 1992	- do -	- Lab attendant	- S/Science Div., ICAR, Umiam
135.	Mrs. Biktoria Marwein	- do -	- 1992	- do -	- Field Res. Worker	- Horti. Div., ICAR, Umiam
136.	Shri. Grittingbarth Sangam	- do -	- 1992	- do -	- do -	- Agroforestry Div., ICAR, Umiam
137.	Mrs. Mariana Sunn	- do -	- 1992	- do -	- do -	- W/M Div., ICAR, Umiam
138.	Shri. Kherush Sangma	- do -	- 1992	- do -	- Plumber	- Estate Cell, ICAR, Umiam
139.	Mrs. Amabilish Marbaniang	- do -	- 1992	- do -	- Field Res. Worker	- S/Science Div., ICAR, Umiam
140.	Mrs. Wantihun Markhap	- do -	- 1992	- do -	- do -	- FSRP Div., ICAR, Umiam
141.	Mrs. Trelin Thangkhiew	- do -	- 1992	- do -	- do -	- W/M Div., ICAR, Umiam
142.	Shri. Malekson Momin	- do -	- 1992	- do -	- do -	- Ento. Div., ICAR, Umiam
143.	Shri. Marphin T. Marak	- do -	- 1992	- do -	- Fisherman	- Fishery Div., ICAR, Umiam
144.	Shri. Edwinston Shira	- do -	- 1992	- do -	- do -	- do -
145.	Shri. Prinbarth Sangma	- do -	- 1992	- do -	- Power tiller opr.	- Ento. Div., ICAR, Umiam
146.	Mrs. Jesenta Tariang	- do -	- 1992	- do -	- Field Res. Worker	- Horti. Div., ICAR, Umiam

147.	Shri. Cristinath Marak	- 9 th March	- 1992	- 1 st September 1993	- Fisherman	- Fishery Div., ICAR, Umiam
148.	Mrs. Theresia Diengdoh	- do -	- 1992	- do -	- Field Res. Worker	- Horti. Div., ICAR, Umiam
149.	Shri. Metherson Marak	- do -	- 1992	- do -	- Lab. Attendant	- Animal Production , ICAR,Umiam
150.	Mrs. Plery Lyngdoh	- do -	- 1992	- do -	- Field Res. Worker	- W/M ,ICAR,Uiam
151.	Mrs. Jesenta Kharbangar	- do -	- 1992	- do -	-do-	- Hort. ICAR, Umiam
152.	Mrs. Mida Thabah	- do -	- 1992	- do -	- Helper Canteen	- Staff Canteen, ICAR, Umiam
153.	Shri. B.B. Tamang	- do -	- 1992	-24 th September 2005	- Field Res. Worker	- Nagaland Centre, ICAR
154.	Shri. Kali Babu Singh	- do -	- 1992	- do -	- do -	-do-
155.	Shri. Manoj Kumar	- do -	- 1992	- do -	- do -	-do-
156.	Mrs. Yie Rengma	- do -	- 1992	- do -	- do -	-do-
157.	Mrs. V. Rengma	- do -	- 1992	- do -	- do -	-do-
158.	Mrs. N. Lotha	- do -	- 1992	- do -	- do -	-do-
159.	Mrs. Trolin Pyrtuh	- 1 st May	- 1992	- 1 st September 1993	- do -	- Agronomy , ICAR, Umiam
160.	Shri Kalu Swain	- do -	- 1992	- do -	- do -	- General Farm, ICAR, Umiam
161.	Shri Bishnu Chetri	- do -	- 1992	- do -	- Field Res. Worker	- Entomology, ICAR, Umiam
162.	Mrs. Sbolin Lyngdoh	- do -	- 1992	- do -	- do -	- Agronomy Div, ICAR, Umiam
163.	Mrs. Rita Kurbah	- 11 th May	- 1992	- do -	- do -	- Horticulture, ICAR, Umiam
164.	Mrs. Drossdalin sangma	- 18 th May	- 1992	- do -	- do -	- FSRP, ICAR, Umiam
165.	Shri. Maneswar Saikia	- 1 st July	- 1992	- do -	- do -	- Nagaland Centre, ICAR
166.	Shri. Kameswar Sharma	- do -	- 1992	-16 th March 1998	- do -	- do -
167.	Shri. Khuvotso	- do -	- 1992	- do -	- do -	- do -
168.	Shri. Vellei	- do -	- 1992	- do -	- do -	- do -
169.	Shri. Kul Bahadur	- do -	- 1992	- 1 st June 1998	- do -	- do -
170.	Shri. Ganesh Darjee	- do -	- 1992	- do -	- do -	- do -
171.	Shri. Atul Saikia	- 10 th July	- 1992	- 1 st September 1993	- Field Res. Worker	- do -
172.	Shri. C.T. Angami	- 15 th July	- 1992	- 1 st July 1998	- do -	- do -
173.	Mrs. Limala Ao	- 1 st August	- 1992	- 1 st September 1993	- do -	- do -

174.	Shri Khemlal Sharma	-	December - 1992	-	1st Sept. 1993	-	Field Res. Worker	-	Nagaland Centre, ICAR
175.	" Kumud Barman	-	8th Augst- 1992	-	1st July. 1998	-	- do -	-	- do -
176.	" Ghana Kanta Laskar-	-	10th Augt.-1992	-	1st Sept. 1993	-	Lab. attendant	-	Agr-onomy, ICAR, Umiam
177.	" Ram Sahadur	-	23rd Augt.-1992	-	1st July, 1998	-	Field Res. Worker	-	Nagaland Centee, ICAR
178.	" Narayan Thapa	-	3rd Sept. -1992	-	1st Sept. 1993	-	Plumber	-	Estate Cell, ICAR, Umiam
179.	Mrs. Rentish Skhemlang	-	9th Sept. -1992	-	- do -	-	Field Res. Worker	-	Agronomy, ICAR, Umiam
180.	Shri Lakhbindar Singh	-	- do -	-	- do -	-	Sfaiwala	-	Estate Cell, ICAR, Umiam
181.	Mrs. Yearlin Warjri	-	16th Nov. -1992	-	- do -	-	Field Res. Worker	-	FSRP Div. ICAR, Umiam
182.	Mrs. Athon Rongmei	-	Nil	-	- do -	-	- do -	-	Manipur Centre, ICAR
183.	" Erai Rongmei	-	- do -	-	- do -	-	- do -	-	- do -
184.	" Adon Rongmei	-	- do -	-	- do -	-	- do -	-	- do -
185.	Shri Adaipao Rongmei	-	- do -	-	- do -	-	- do -	-	- do -
186.	Mrs. Angamlu Rongmei	-	- do -	-	- do -	-	- do --	-	- do -
187.	" Achung Rongmei	-	- do -	-	- do -	-	- do -	-	- do -
188.	Shri Luningaipau Rongmei	-	- do -	-	- do -	-	- do -	-	- do -
189.	" B. Chunikeshwor Sharma	-	- do -	-	- do -	-	Field Supervisor	-	- do -
190.	" M. Thangpao Paite	-	- do -	-	- do -	-	Tractor Driver	-	- do -
191.	" Tualakhanthang	-	- do -	-	- do -	-	Field Res. Worker	-	- do -
192.	Mrs. Namphuna Rongmei	-	- do -	-	- do -	-	- do -	-	- do -
193.	" Joti Devi	-	- do -	-	- do -	-	- do -	-	- do -
194.	" T. Mema Devi	-	- do -	-	- do -	-	- do -	-	- do -
195.	Shri L. Ingocha Singh	-	- do -	-	- do -	-	- do -	-	- do -
196.	Mrs. C. Mema Devi	-	- do -	-	- do -	-	- do -	-	- do -
197.	Shri Hemrang Kairang	-	- do -	-	- do -	-	- do -	-	- do -
198.	Mrs. M. Yumseng Devi	-	- do -	-	- do -	-	- do -	-	- do -
199.	" R.K. Moni Sang	-	- do -	-	- do -	-	- do -	-	- do -
200.	" N. Tama Devi	-	- do -	-	- do -	-	- do -	-	- do -
201.	Shri S. Mohindra Singh	-	- do -	-	- do -	-	- do -	-	- do -

- 24 -

202. Shri B. Nimai Sharma	-	Nil	-	1st Sept. - 1993	-	Field Res. Worker	-	Manipur Centre, ICAR
203. " Mon Bahadur	-	Nil	-	- do -	-	- do -	-	- do -

List of the Expired Temporary Mazdoors

Sl. No.	Name of Temp. Mazdoor	Date of Joining as C/Labour	Date of Joining as Temp. Mazdoor	Nature of Job w.e.f. C/Labour	Division	Date of Expired
1.	Smt. Elti Kharkylla	- 1st May - 1993	- 1st Sept. 1993	- Field Res. worker	- P/Breeding	- 5th April, 2000
2.	" Pranita Ch. Momin	- 1st Sept. - 1992	- do -	-	- dp -	- A/Production - 29th May, 2000
3.	Shri Bhimlal Sharma	- 8th May, - 1980	- do -	-	- do -	- A/Nutrition - January, 2002
4.	" Jit Bahadur Lama	- 2nd April, - 1983	- do -	-	- dp -	- Agronomy Div. - 30th Oct. 2002
5.	" Millon Marak	- 9th March, - 1992	- do -	-	Cook Staff Cntn.	- General Div. - 31st May, 2004
6.	" Lemabish Marak	- 1st March, - 1984	- do -	-	Massanger	- Vety. Para. - 1st April, 2005
7.	" Dilip Sharma	- 1st July, - 1982	- do -	-	Electrician	- Estate Cell - 9th April, 2005
8.	" Kamal Sahi Chetri	- 20th Jan. - 1983	- do -	-	F/Res. Worker	- S/Science Div. - 7th Sept. 2005
9.	" Amar Bahadur	- 4th June, - 1981	- do -	-	- do -	- P/Path. Div. - 13th Feb. 2006
10.	" Bijoy Markhap	- 9th March - 1992	- do -	-	Handiman,	- O.M. Cell - 11th March, 2006
11.	" Gilbarth Marak	- December - 1988	- do -	-	F/Res. Worker	- KVK, Tura. - 17th Feb. 2006

Dr. B.P. CHAKRABORTY
Medical Officer
I.C.R. Research Complex
for N.H.R. Region, Shillong.

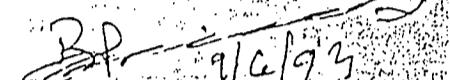
TO WHOM IT MAY CONCERN

Certified that Shri Bearson Marak has been working in the Complex Hospital as casual labours since March, 1992.

During this period he assisted in maintaining the day to day work of the Hospital and clinical laboratory.

Shri Marak is a painstaking, sincere and obedient worker.

I wish him all success in life.


(Dr. B.P. Chakraborty)

Medical Officer

I.C.R. Research Complex

Certified to be true
Srip. Hemal Dutta,
Advocate



भारतीय राष्ट्रीय अनुसंधान परिषद्
राष्ट्रीय मिथुन अनुसंधान केंद्र

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INDIAN COUNCIL OF AGRICULTURAL RESEARCH

NATIONAL RESEARCH CENTRE ON MITHUN

MISI N PUR (NIAR SANKA DEV COLLEGE)

SHILLONG - 793 013

TO WHO IT MAY CONCERN

It is to certify that Shri Kapil Deo Chaudhary s/o Late Ram Pratap Chaudhary has been working under me from 1988 to 1996. Based on his qualifications and experience, I gave him the job of an Accountant/ Sr. clerk, although he is a temporary status SS grade- I employee in ICAR. He has successfully handled the job(s) of an office Accountant. Shri Kapil is a motivated and honest, young gentleman and does his duty with seniority and devotion. Shri Kapil has a strong moral character and a pleasing positive attitude. I wish him all success in life.

On / /
(N. D. Verma)

Director

Nrc-Mithun, I.C.A.R.,
Medziphema, Nagaland-797106.

Certified to be true
Anup Kumar Datta,
Advocate

Certified to be True Copy:

-29- *SAK*
Annexure-3
(True Copy)

No.51016/2/90-Estt(C)
Government of India
Ministry of Personnel, P.G. and Pensions
Department of Personnel & Training

New Delhi, the 10th Sept', 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. UOI.

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government Offices were issued vide this Department's O.M. 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 & others Vs Union of India and it has been decided that while the existing guidelines contained in O.M. 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 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 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/- Illegible

(Y.G.Parande)
Director

All Ministries/Departments/offices of the Government of India as per the standard list.

Copy to: (1) All attached and subordinate offices of
(i) Ministry of Personnel, P.G and Pensions
(ii) Ministry of Home Affairs

(2) All officers and sections in the MHA and Ministry of Personnel, P.G and Pensions.

Sd/- Illegible
(Y.G.Parande)
Director.

*Certified to be
true
Anup Singh Dutt
Advocate*

APPENDIX

30

Department of Personnel & Training, Casual Labourers (Grant of Temporary Status and Regularisation) Schemes.

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. 1.9.93.

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 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 confarment 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 acquires 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 atleast 240days (206 days in administrative officers 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 leaves entitlement maternity leave, or carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on terminating 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 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

- 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 & 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, 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 7.6.88 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.



Annexure - 4

-32-

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TELEGRAM

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भारतीय कृषि अनुसंधान परिषद्

कृषि परिषद् ३१० राजेन्द्र प्रसाद मार्ग, नई दिल्ली-110001

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAWAN, DR RAJENDRA PRASAD ROAD, NEW DELHI-110 001

F.No.16(24)/96-PI&M

Dated the 12 March, 1997

To

The Directors,
Project Directors,
Project Coordinators,
Zonal Coordinators of ICAR Institutes,
National Research Centres,
Zonal Coordinating Units.

Subject: Creation of posts in IX Five Year Plan for
regularisation of Casual Labourers - reg.

Sir,

I am to invite a reference to this Council's letter No. 24-25/96-Cdn. dated 12.12.1996 communicating that all the eligible casual labourers may be granted Temporary Status even in cases where Directors have sent such proposals to the respective SMDs provided the casual labourers fulfil the eligibility condition in accordance with the instructions of the DOPT/ICAR. The additional financial liability on this account, if any, will be borne within the sanctioned budget of the Institute and for next two years no vacancy in Supporting Staff will be filled other than from Casual Labourers with Temporary Status. All vacancies in Supporting Staff Grade-I should be filled out of Casual Labourers with Temporary Status. All vacancies in Supporting Staff Grade-I should be filled out of Casual Labourers granted Temporary Status as per order vide F.No.24(15)/93-Cdn. dated 24.6.1996. The resultant vacancies of higher posts viz. in SSG-II, SSG-III and SSG-IV in Supporting Staff at SSG-I may also be filled from eligible casual labourers granted Temporary Status.

It was indicated therein that if inspite of all these measures it is not possible to regularise the casual labourers with Temporary Status, the Directors may propose creation of posts in the Ninth Plan for Supporting Staff for clearing the backlog of casual labourers with Temporary Status. The posts created specifically for absorption of Casual Labourers will be co-terminus on resignation, retirement or death of the casual labourers.

Yours truly
R.P.

Certified to be
true.
Anil Kumar Dutt
Advocate

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भारतीय रूपि अनुसंधान परिषद्

प्राची भारत २२, गजेन्द्र प्रसाद मार्ग, नई दिल्ली-११०००१

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAWAN, Dr. RAJENDRA PRASAD ROAD, NEW DELHI-110 061

2

You are, accordingly advised to initiate action for regularisation of Casual Labourer in your Institutes as per the above instructions and ensure that the issue of casual labourers is properly addressed, and if considered necessary more posts of supporting staff may be creation in the IX Five Year Plan for the purpose.

proposed
for

Yours faithfully,

(MRUTHYUNJAYA)
Assistant Director General (PI&N)

Copy to:

1. All Deputy Directors General
2. Director (Fin.)
3. All ADGs/Deputy Secretaries/Under Secretaries
4. OSD(S)
5. PPS to D.G., ICAR
6. PS to Secretary, ICAR
7. Guard file

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Anexure - 5
22

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H.R. REGION
UNEROI ROAD, DHANBAD-793103, JHARKHAND

Dated 9th June, 2005.

HO,RC(A)28/2005

To,

1. The Joint Director,
ICAR Research Complex for N.E.H.R. Region,
A.P./Mizoram/Tripura/Assam/Manipur/Sikkim.

2. The Incharge NPK, Turc.

3. The St. Farm Manager, ICAR Research Complex, Lhasa

Sub 1- Creation of posts for regularization of 325 posts

Sir,
With reference to the above, I would like to inform you that regularization of 325 posts of Temporary Handloors of this Institute is under consideration in the Council and for which certain informations are being furnished to Council as called for. Grant of regular status to Temporary Handloors will entitle them to all the benefits, as applicable to regular employees.

Further, fixation of pay of casual laborers with temporary status, in regularization against Group 'D' post is to be fixed at the minimum of the pay scale of relevant Group 'D' as per 'O1' of DOPR dated 29.1.1998 (copy enclosed). Therefore, undertaking may please be obtained from the Temporary Handloors for fixing their pay on the minimum of the scale and be forwarded the same to the undersigned at the earliest to process the matter further (The proforma enclosed).

Yours faithfully,

()
(H. S. JAIN)
S/o Administrative Officer

Enclo 1- As above

Certified to be true
Anup Singh Dutt
Advocate

Annexure - 6.

OFFICE OF THE SENIOR FARM MANAGER
 ICAR Research Complex for NEH Region
 Umiam - 793 103, Meghalaya

Dated Umiam, the 24th June 2005

BAR/FM-I/2005-06/1768

the Head of Divisions/Sections,
 ICAR Research Complex for NEH Region
 Umiam - 793 103, Meghalaya

b: Undertaking from the Temporary Mazdoors - reg.
 ref: No. RC(G)/28/2005 dtd. 09.06.2005

With reference to the above, I would like to inform you that regularization of 325 posts of Temporary Mazdoors of this institute is under consideration in the Council. In this connection, an undertaking is to be obtained from the Temporary Mazdoors for fixing their pay on the minimum of the scale, subject to regularization against Group 'D' post as per OM of DOPT dated 29.01.1998.

Therefore, undertaking [copy enclosed] may please be obtained from the Temporary Mazdoors engaged in your division/section and the same may please be forwarded to the undersigned. OR the TMs may please be directed to report to the office of the undersigned to complete the formalities at the earliest.

Yours faithfully,
 [Signature]
 [R.K.Taraf]
 Sr. Farm Manager

Certified to be true,
 Anup Singh Dutt
 Secretary

5/6/05
 Anup Singh Dutt

3C

UNDERSIGNED

I, Sh. Smt. _____ son/daughter/bf^o
of Sh. _____ at present
working as Temporary Hasdoor at _____
(place of posting), hereby, undertake that I have no objection
for fixing of my pay on the minimum of the pay scale at
Rs. 2550/- per month with usual allowances as applicable to
supporting staff grade I employee of ICAR in case regular
status is granted to me.

Signature _____

(Name) _____

Date _____

Rkd/-

P.W.D.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 32 of 1991.

Date of Order : This the 17th Day of January, 1994.

Justice Shri S.Haque, Vice-Chairman,
 Shri G.L.Sanglyine, Member (Administrative)

1. Shri Ananda Chandra Kalita,
2. Shri Kameswar Das,
3. Shri Pradip Dey,
4. Shri Prafulla Terang and
5. Shri Basistha Ram Boro.

All are working in the office of the
 Principal, State Forest Service College,
 Burnihat, Assam.

. Applicants

By Advocate Shri J.S.Kutubuddin.

- Versus -

1. Union of India represented by the
 Secretary to the Govt. of India,
 Ministry of Environment and Forest,
 Parivarjan Bhawan, C.G.O.Complex, Lodhi Road,
 New Delhi.
2. Principal Shri Ivan Roy, IFS
 Ministry of Environment and Forest,
 Govt. of India, Regional Office,
 Shillong.
3. Shri Sanatan Talukdar, IFS
 Lecturer and Principal-in-Charge,
 State Forest Service College,
 Burnihat - 793101 (Assam)
4. Secretary, Labour and Employment
 Department, Govt. of Assam,
 Dispur, Guwahati.

. Respondents

By Advocate Shri A.K.Choudhury, Adl.C.S.S.C.

O R D E R

The five applicants (1) Shri Ananda Chandra Kalita,
 (2) Shri Kameswar Das, (3) Shri Pradip Dey, (4) Prafulla
 Terang and (5) Shri Basistha Ram Boro are casual workers
 serving in the office of the Principal, State Forest Service



Certified to be true
 Anup Singh Deka
 Advocate

College, Burnihat, Assam under the Ministry of Environment and Forest, Department of Environment, Forest and Wildlife, Government of India. Applicants No.1 to 4 are serving since before 7.5.1985 and the applicant No.5 Shri Basistha Ram Boro is serving since July, 1985 and all of them were paid minimum wages for five days in a week. Applicant No.5 had been appointed in July, 1986 through Employment Exchange. They have filed this application under Section 19 of the Administrative Tribunals Act 1985 for regularisation of their services with the department with all consequential benefits.

2. Learned counsel Mr J.S.Kutubuddin submits that the applicants No.1 to 4 are serving as Casual Workers since before 7.5.1985 and applicant No.5, Shri Basistha Ram Boro, recruited through Employment Exchange is also working since July, 1986 and they all became eligible/entitled for regularisation pursuant to Circulars of the Department of Personnel and A.R. O.M.No.49014/13/84-Estt.(C) dated 26th October, 1984 and Department of Personnel and Training O.M. No.49014/13/84-Estt(C) dated 7th May, 1985 circulated vide letter dated 11.1.1988(Annexure-10). These circulars/O.Ms had discourage termination of casual workers' services in order to protect them from undue hardship and therefore it was decided, as an one time measure, in consultation with the Director General, Employment and Training that casual workers recruited prior to 7th May, 1985 be regularised to Group-D posts even if their recruitment were not

17.5.84



contd... 3/-

through the Employment Exchange. Principles of the above two O.Ms have been made applicable for the purpose of regularisation of services of casual workers recruited after 7.5.1985 through Employment Exchange. Learned Addl.

C.G.S.C Mr A.K.Choudhury submits that he has nothing to comment in view of the policy contained in the above two O.Ms (Annexure-10). All the five applicants are serving continuously/without break from May, 1985 (applicants No. 1-4) and from July, 1986 (applicant No.5) as Casual Workers.

3. Upon hearing counsel of the parties and in view of the policy contained in the office Memorandums referred to above, the applicants are entitled for regularisation in their services in the department.

4. This application is allowed. The respondents are directed to regularise the services of the applicants within 45 (forty five) days from the date of receipt copy of the judgment/order. We make no order as to cost.

5. Inform all concerned immediately for implementation.



Sd/- S. Haque
VICE CHAIRMAN

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

20/6/86 cc 5/11

TRUE COPY

(102/21/2) 94
Section Officer (Judicial)
Central Administrative Tribunal
Guwahati Bench, Guwahati

20/6/86

3/11/86

40

31 OCT 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GAUHATI BENCH, GUWAHATI.

1. L.K.Bordoloi & Anr.
2. Through
Advocate
Brief Hand Dietiz
Advocate 31/10/08

IN THE MATTER OF:-

O.A. No. 275/2006

L.K.Bordoloi & Anr.

.....APPLICANTS

-Vs-

Union of India & Ors.

.... RESPONDENTS.

The humble Application on behalf of the Applicants above-named

MOST RESPECTFULLY SHEWETH:-

1. That the instant case was fixed for hearing on 29/09/2008, and this Hon'ble Tribunal was pleased to direct the Applicants to implead the Union of India represented by Ministry of Agriculture, and Ministry of Finance, Government of India as well as the Indian Council of Agricultural Research (ICAR) as party Respondents in the instant case.
2. That as per this Hon'ble Tribunal's Order dated 29/09/2008, the Applicants beg to implead –
 - (i) The Union of India represented by the Secretary to the Government of India, Ministry of Agriculture, New Delhi, as Respondent No. 5,
New Delhi-1
Ans
 - (ii) The Secretary to the Government of India, Ministry of Finance, New Delhi, as Respondent No.6, and
New Delhi-1
Ans

(iii) The Director General, Indian Council of Agricultural Research,

Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi, as
Respondent No.7 in the instant case. *New Delhi - 1* *400011*

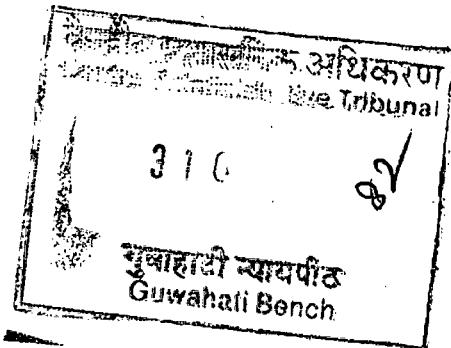
Copies of the O.A. No. 275/2006 are filed herewith for service on the above-noted Respondents.

3. That the instant Application is filed bonafide and for the ends of justice.

In the premises aforesaid, your humble Applicants pray that this Hon'ble Tribunal may be pleased to allow the Applicants to implead (1) The Union of India represented by the Secretary to the Government of India, Ministry of Agriculture, New Delhi as Respondent No. 5, (2) The Secretary to the Government of India, Ministry of Finance, New Delhi as Respondent No.6 and (3) The Director General, Indian Council of Agricultural Research, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi as Respondent No.7 in the instant case, and /or be pleased to pass such further or other Order or Orders as to this Hon'ble Tribunal may seem fit and proper.

And for this, your humble Applicants, as in duty bound, shall ever pray.

AFFIDAVIT/-



VERIFICATION

I, Lohit Kumar Bordoloi, son of Late K.N. Bordoloi, aged about 44 years, presently working as temporary status Mazdoors in the Office of the Director of ICAR, Research Complex, NEH Region, Umroi Road, Barapani, Meghalaya and I am the General Secretary of the Applicant Union, do hereby verify that the statements made in Paragraphs 1to 3 are true to my knowledge, and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this Verification on this the 30th day of October, 2008 at Guwahati.

Lohit Kumar Baradwaj

15 MAY 2006

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH: GUWAHATI
Guwahati Bench

O.A. No. 275 OF 2006

IN THE MATTER OF :

O.A. NO. 275 OF 2006

L.K. Bordoloi & Ors. ... APPLICANTS

-Vs-

Union of India & Ors. ... RESPONDENTS

- AND -

IN THE MATTER OF :

A Written Statement filed on behalf of the Respondents No. 1, 3 and 4 of the Original Application No. 275 of 2006

WRITTEN STATEMENT

I Dr.S. V. Ngachan, son of Late K. S. Shangreikhai, aged about 51 years, permanent resident of Hundung, in the district of Utkhrul, Manipur, presently serving as the Director, Indian Council of Agricultural Research (Regional Centre) for N.E.H. Region, Umiam, Meghalaya, do hereby solemnly affirm and state as follows :

1. That, I have been impleaded as the Respondent No. 3 in the instant case and a copy of the Original Application has been served upon me. I have gone through the same and have understood the contents thereof. I am well acquainted and fully conversant with the facts and circumstances of the instant case and as such, I am competent to file this Written Statement. I have been duly authorized by the other Respondents to file this affidavit on their behalf.
2. That, save and except those statements made in the Original Application, which have been specifically admitted herein below, the rest shall be deemed to have been denied by the answering Respondents. However, the answering Respondent does not admit anything, which is contrary to the records of the instant case..
3. That, with regard to the statements made in paragraph 1 of the Original Application, the answering Respondents state that it will be dealt in the subsequent paragraphs.
4. That, with regard to the statements made in paragraph 2 of the Original Application, the answering Respondents deny the same. Regularization cannot



File No. 15/05/62
Central Administrative Tribunal
Guwahati Bench
15 MAY 2006
Fees By
The Respondent No.
1, 3 and 4
Through
Mr. R.S. Choudhury
K/105/62

X8 44
2

be granted to the Casual labourers without the approval of the Ministry of Finance.

5. That, with regard to the statements made in paragraphs 3 and 4 of the Original Application, the answering Respondents have no comments to offer,
6. That, with regard to the statements made in paragraph 5 of the Original Application, the answering Respondents state that the same will be dealt with, in the subsequent paragraphs.
7. That, with regard to the statements made in paragraphs 6.1 and 6.2, of the Original Application, the answering Respondents have no comments to offer.
8. That, with regard to the statements made in paragraphs 6.3 of the Original Application, the answering Respondents does not admit anything which is inconsistent with the records of the case.
9. That, while denying the statements made in paragraphs 6.4 of the Original Application, the answering Respondents beg to state that the Applicants are working as Casual labourers and conferment of 'temporary status' is without creation/availability of regular Group-'D' posts. As such, the Applicants cannot claim that since they are rendering services similar to those of regular employees of I.C.A.R., their services should also be regularized, since the same cannot be given effect to without the prior approval of the Ministry of Finance. Further, the certificates issued by the authority of I.C.A.R. do not vest any legally enforceable right to the Applicants.
10. That, with regard to the statements made in paragraph 6.5, the answering Respondents beg to state that though the Applicants were granted temporary status as per the 1993 scheme, the scheme itself envisaged that they would not be brought into the permanent establishment / status unless they were selected by regular selection process for Group-D posts. As such, the Applicants cannot attribute the non-regularisation of their services to the authorities. A bare glance at the scheme itself clearly reveals that the conferment of temporary status would entitle a Casual labourer to certain benefits, which would not include regularization.

(A copy of 1993 scheme has been annexed
as Annexure - 3 of the Original
Application.)

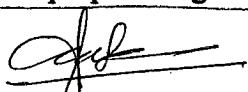
11. That, with regard to the statements made in paragraph 6.6, the Deponent begs to state that under new Pension scheme dated 26.04.2006, it was specifically provided that the new scheme shall be available to the Casual labourers on their regularization against Group-'D' posts on or after 01.01.2004 and that there will



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be no provision of General Provident Fund in the new Pension scheme and it was directed that no further deductions towards General Provident Fund shall be effected from the Casual labourers w.e.f. 01.01.2004. It is pertinent to mention herein that the Respondent No. 3 being governed by the policy decisions of the Ministry of Finance, was bound to implement the Office Memorandum dated 26.04.2004 and consequently the deductions towards the General Provident Fund of the Applicants were stopped. As Such, the answering Respondent denies any statements, which are not borne out of the records of the case.

12. That, the answering Respondents state that the statements made in paragraph 6.7 of the Original Application, are in no way related to the matter at hand and further the Applicants are estopped from raising the said issues once again, which would attract the principle of Res judicata, since the said issue has already been addressed and adjudicated upon in the Original Application No. 113 of 2005. Further, it is stated that the Apex Court in a catena of decisions has held that a policy decision of the Government ought not to be interfered with unless the same is arbitrary and/or malafide. As such, the statements made contrary thereto are categorically denied by the answering Respondents.
13. That, with regard to the statements made in paragraph 6.8 of the Original Application, the answering Respondents beg to state that the Applicants do not acquire any right for regularization. Merely because a temporary employee or a Casual wage worker is continued for a time beyond the terms of his appointment, he would not be entitled to be absorbed in regular service or made permanent unless they are selected through a regular selection process for Group-'D' posts or regularized against regular Group-'D' posts after creation of such vacancies.
14. That, with regard to the statements made in paragraph 6.9 of the Original Application, the answering Respondents have no comments to offer, since the same are in no way related to the instant case.
15. That, with regard to the statements made in paragraph 6.10 of the Original Application, the answering Respondents has no comments to offer and does not admit anything which is contrary to records.
16. That, with regard to the statements made in paragraph 6.11 and 6.12 of the Original Application, the answering Respondents beg to state that due process had been initiated by the Respondent authorities in this regards. It is categorically stated that the answering Respondent had sent a proposal for creation of 100 posts to the Ministry of Finance in the year 2002 itself vide his letter dated 04.05.2002. However in this regard the answering Respondent was informed vide letter dated 30.05.2002 that the proposal regarding the creation of



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post has been returned by the Ministry of Finance with the observation that it may be looked into in the Xth plan. As such it is evident that the Respondents have been making endeavors to regularize the service of these temporary status employees. The authorities are bound by the decisions of the Ministry of Finance and although proposals have been sent in this regard, regularization cannot be granted without the prior approval of the Ministry of Finance.

17. That, with regard to the statements made in paragraph 6.13 of the Original Application, the answering Respondents does not have any comments to offer since the same have not been substantiated by the Applicants in any manner.
18. That, while denying the statements made in paragraph 6.14 of the Original Application which are inconsistent with the records of the case, the answering Respondents state that the said 'No Objection' certificate has been obtained from all Temporary Status Mazdoors because if they are regularized against the supporting staff Grade-IV posts, as is being contemplated, they will have to be placed in the minimum of the scale of pay available at that post in terms of the Government of India instruction issued vide O.M dated 29.01.1998 under Memo No.49014/4/97-Estt.(c). The said minimum pay scale is Rs. 2550/- per month prescribed for the Grade-IV supporting staff. This, however, does not affect their pay protection, as has been claimed. The pay protection granted to regular employees would be duly given to the Applicant's as well as, once they become regular employees of I.C.A.R.

A copy of the said O.M. dated 29.01.1998
of the Govt. of India is annexed herewith
and marked as ANNEXURE – A.

19. That with regard to the statements made in paragraph 6.15 of the Original Application, answering Respondents state that the action of the authorities cannot be faulted in any manner, the same being in the best interest of the Applicants itself and hence, this Hon'ble Tribunal may not be inclined to intervene with the same.
20. That, with regard to the statements made in paragraph 6.16 of the Original Application, the answering Respondent categorically states that the Apex Court in (2006) 4 SCC 1 (State of Karnataka vs. Uma Devi) has dealt with the matter of absorption and regularization of temporary, contractual, Casual employees at length and has laid down the law in this regard in no uncertain terms. The Hon'ble Apex Court has also categorically held that "*those decisions which run counter to principles settled in this decision or in which direction running counter to what has been held herein have been given, will stand denuded of*



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their status as precedents." As such, the applicability of the Order passed in O.A. No. 32 of 1991 to the instant Applicants cannot hold ground.

21. That, the answering Respondents state that none of the grounds averred to in the Original Application are valid or legally tenable grounds in view of the statements and averments made herein above. Even after the conferment of temporary status w.e.f. 01.09.1993, the Applicants continue to be Casual Workers for want of the regular Group-D posts. Hence, the actions of the answering Respondents can in no way be termed to be illegal / improper. Further, in view of the categorical direction of the Apex Court in this regard, to the effect that "*considered in the light of the very clear Constitutional scheme, it cannot be said that the temporary, contractual, Casual or daily-wage employees have been able to establish a legal right to be made permanent even though they have never been appointed in terms of the relevant rules or in adherence of Articles 14 and 16 of the Constitution. It is therefore, not possible to accept the argument that the State action in not regularizing the employees was not fair within the framework of the rule of law.*"

Further, the grounds averred in paragraph 7.5 cannot hold sway in view of the fact that once the Temporary Status Mazdoors are regularized against available 'Group-D' posts, they would be bound to start at the minimum scale of pay prescribed for such posts and subsequently would be eligible for pay protection. The Deponent further states that the grounds averred to in paragraph 7.6 have already been dealt with by this Hon'ble Tribunal in O.A. No. 113 of 2005 and as such, the same cannot be agitated once again.

As such, the Original Application does not have any merit and is liable to be dismissed.

22. That, the statements made in this paragraph and in paragraphs 1 to 7, 9, 10 (partly), 12 (partly), 13, 14, 16 (partly), 17, 19, 20, 21, of the Written Statement are true to my knowledge and those made in paragraphs 8, 10 (partly), 11, 12 (partly), 15, 16 (partly), 18, being matters of record are true to my information derived therefrom, which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts. I have been duly authorized to swear this Written Statement on behalf of the other Respondents.

And I sign this Written Statement on this the ^{14th} day of May, 2007 at Guwahati.

Identified by :

S. V. Ngachan

DEPONENT

Advocate's Clerk

No. 49014/4/97-Estt. (C)
Government of India
Ministry of Personnel, Public
Grievances and Pensions
Department of Personnel and Training
New Delhi

Dated the 29th January, 1998

OFFICE MEMORANDUM

Subject:- Fixation of pay of casual labourers with temporary status on regularisation against a Group 'D' post

The undersigned is directed to say that references are being received in this Department seeking clarifications with regard to fixation of pay of casual labourers with temporary status on their regularisation against a group 'D' post.

2. As per the provisions of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, the conferment of temporary status to the casual labourers is without reference to the availability of a regular Group 'D' post and despite conferment of temporary status they continue to draw wages on actual basis. The pay of casual labourer with temporary status on their regularisation against a Group 'D' post may, therefore, be fixed at the minimum of the pay scale of the relevant Group 'D' post.

3. This issues in concurrence with the Ministry of Finance vide their I.D.No.1675/EIII-A/98 dated 9-1-98.

S. Nandkeolyar
(S. Nandkeolyar)
Director

To

All Ministries/Departments/Offices of the Government of India as per the standard list.

Copy to: (1) C&AG/UPSC/CVC
(2) all attached and Subordinate offices of-
 (ii) Ministry of Personnel, P.G and Pensions
 (iii) Ministry of Home Affairs.
(3) All Officers and Sections in the Ministry of Personnel, P.G & Pensions, and MHA
(4) Members Staff Side of the National Council (JCM).

S. Nandkeolyar
(S. Nandkeolyar)
Director

Certified to be true Copy

Rakhee Sisrauthia Chowdhury
ADVOCATE

NOTICE

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From : Mrs. R. S. Chowdhury,
Advocate.

Date: 14.05.2007

To : Mr. M. Z. Ahmed
Advocate

Mr. A.M. Dutta
Advocate

Sub: O.A. No. 275 of 2007

L.K. Bordoloi & Ors
.....Applicants

-Versus-

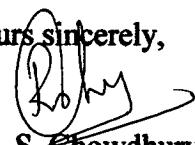
Union of India & Ors.
..... Respondent

Sir,

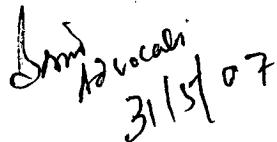
Please find herewith a copy of the Written Statement filed on behalf of the Respondent in the aforementioned case. Kindly acknowledge receipt of the same.

Thanking you,

Yours sincerely,

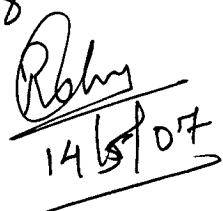

(Mrs. R. S. Chowdhury)
Advocate

Received copy:

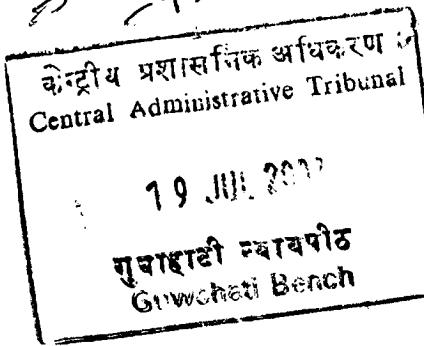

31/5/07

1.

Since the advocate for the Applicant is not present in Court today, a copy of the written statement is kept in the records.


14/5/07

Received copy of W.S.
on behalf of Applicants/
Mr. M. Z. Ahmed,
Rajkumar Pathak,
Advocate, 21/5/07



Filed by:

L.K. Bordoloi, General Secretary
ICAR Mazdoors Union & Am
Applicant
through Anup Kumar Dutta,
Advocate 19107107

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH, GUWAHATI.

IN THE MATTER OF :-

O.A. No. 275 OF 2006

L.K. Bordoloi & Ors.

...APPLICANT

-Vs-

Union of India & Ors.

RESPONDENTS

A reply to the Written Statement filed on behalf of Respondent Nos. 1, 3 and 4 above-named:-

I, Lohit Kumar Bordoloi, son of Late K.N. Bordoloi, aged about 44 years, presently working as temporary status Mazdoors in the Office of the Director of ICAR, Research Complex, NEH Region, Umroi Road, Barapani, Meghalaya, do hereby solemnly affirm and state as follows:-

1. That I am the General Secretary of North East ICAR Mazdoors' Union, Umroi Road and as such I am acquainted with the facts and circumstances of the instant case and am competent to swear the instant affidavit on behalf of the Applicants.
2. That I have received a copy of the Written Statement filed on behalf of Respondent Nos. 1, 3 and 4 and having perused the same I have understood the contents thereof.

2 50/-

3. That I deny the correctness of the averments made in various Paragraphs of the Written Statement save and except those which may be specifically admitted herein and /or are borne out from the records of the case.

4. That while denying the correctness of the averments made in Paragraph 4 of the Written Statement, I reiterate that the Respondent Authorities not only have the power to regularise the services of the members of the Applicant Union but are obliged so to do owing to the specific directives of the Headquarters of ICAR dated 12/03/1997 (Annexure 4 to the Original Application,) wherein it was indicated that even though it was not possible to regularise the casual labourers with temporary status, the Directors were given the liberty to propose creation of posts in the IXth Five year Plan for Supporting Staff for clearing the backlog of casual labourers with Temporary Status. The Respondent No.3 was accordingly advised to initiate action for regularisation of casual labourers in his Institute and, if considered necessary, more posts of Supporting Staff may be proposed for creation in the IXth Five year Plan for the purpose.

5. That Annexures 5 and 6 to the Original Application indicates that the Respondent Authorities have been admittedly considering regularisation of 325 posts of Temporary Mazdoors of the Respondent Institute, but they have been dilly-dallying with the matter and are deliberately delaying regularisation of said posts on the ground of not being furnished with purportedly certain informations. The Respondent Authorities have further withheld regularisation of services of the members of the Applicant Union for non-submission of an Undertaking that they have no objection for fixing of their pay in the minimum of pay scale at Rs. 2550/- per month with usual allowances as applicable to Supporting Staff Grade I employee of ICAR in case regular status is granted to them. The submission of such an Undertaking was never a requirement stipulated by the ICAR

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Headquarters at New Delhi and it is evident that the interim arrangement to fix the pay at the minimum of the pay scale applicable to a regular Group-D Supporting Staff cannot possibly be a policy decision since the settled law in this regard is that upon regularisation, an employee must necessarily be granted the pay protection. It is needless to state that members of the Applicant Union have been serving as casual labourers under the Respondent Authorities for a long number of years, one dating back to the year 1976 and some since 1978, and some between 1978 to 1988 and a few from 1989 to the year 1992-93 and all the Applicant members have been drawing much higher amounts as casual labourers, which are now sought to be denied to them, in the event their services are regularised. The question of approval of Ministry of Finance as a pre-requisite for regularising a casual labour in service is merely an evasive plea. In any event, the Ministry of Finance also cannot deny approval to the regularisation of the members of the Applicant Union, who have been serving under the Respondent Authorities for a long number of years in jobs which were regular in nature. The member at Sl. No. 1 of the list of casual labourers of the Applicant Union (Annexure 2 to the Original Application), has since been regularised in service but has been denied a substantial amount of his monthly pay because of the illegal fixation of pay at the minimum of the pay scale of a Group D Supporting Staff. In fact, some of the members are being made to work in regular nature of jobs in the level of Group C and B and they are entitled to be regularised in such category of posts and in the event of being denied regularisation in such higher groups of posts, the Respondent Authorities will be committing gross discrimination and such acts must necessarily be struck down as being highly arbitrary and illegal.

6. That I categorically deny the correctness of the averments made in Paragraph 9 of the Written Statement and while reiterating what we have already stated in this regard in our Original Application, and

53 52 53

further state that once the ICAR having declared as a Policy that all the existing casual labourers are to be regularised, if necessary by creating posts, the question of obtaining prior approval of the Ministry of Finance is a vague plea for denying regularisation of services of the members of the Applicant Union, who have been deliberately exploited by the ICAR Management and deprived of the regular service benefits even after making them worked for years in jobs of regular nature as that of regular employees. The Certificates are an admission on the part of the Respondent Authorities that the Applicants are entitled to regularisation even though they may have crossed the upper age limit prescribed for a post but otherwise eligible for a regular appointment. It would be evident from the records of the Respondent Authorities that they have been deliberately denying the process of regularisation by misleading the Headquarters of ICAR at New Delhi as well as the concerned Ministries. The fact that the Answering Respondents have not annexed a single Document seeking prior approval of the Ministry of Finance or any documents to show that posts have been created for the benefit of the members of the Applicant Union, establishes that the plea taken in defence in the Written Statement is not based on records. The answering Respondents have also not shown or annexed the relevant Notification requiring prior approval of the Ministry of Finance for regularising the members of the Applicant Union.

A copy of the Office Memorandum dated 08/04/1991 issued by the Ministry of Personnel etc. of the Government of India indicating relaxation of age is annexed hereto as Annexure-8.

7. That a mere perusal of the records of the answering Respondents will indicate that the answering Respondents have never been serious in regularising the services of the members of the Applicant Union and

while sending unwarranted and misleading Reports with regard to regularisation of casual labourers with Temporary Status, while making some regular appointments from amongst contract labourers at the cost of the members of the Applicant Union without obtaining prior approval of the Ministry of Finance, it is absolutely necessary that the answering Respondents be directed to produce all the relevant records in relation to this case before this Hon'ble Tribunal.

8. That while denying the correctness of the averments made in Paragraph 10 of the Written Statement, I reiterate what we have already stated in this regard in Paragraph 6.5 of the Original Application. I further state that the Scheme of 1993, whereby the Applicants were granted Temporary Status, may not have envisaged that the Applicants would be automatically brought into the permanent establishment by way of regularisation of their services but the intention of the ICAR Headquarters was made clear that the Applicants must be considered for regularisation of their services, if necessary by even creating posts. The view of the Respondent Authorities is very clear that casual labourers ought not to be retained for long periods in regular nature of works since there would be a financial burden on the Authorities. The Respondent Authorities however as model employers, have failed to regularise and take note of the fact that by allowing the members of the Applicant Union to continue to serve for long periods in regular nature of works without granting them the due service benefits, is an act which is highly arbitrary, illegal and discriminatory and violative of the basic and fundamental rights of the members of the Applicant Union. The fact that the answering Respondents have remained totally silent to our specific statements that the answering Respondents have been guilty of illegally appointing Contract labourers against regular Posts by ignoring the claims of the Applicant Union, makes the answering Respondents liable to forthwith take steps to regularise the services of the members of the Applicant Union.

9. That while denying the correctness of the averments made in Paragraph 11 of the Written Statement, I reiterate what we have stated in this regard in Paragraph 6.6 of our Original Application. There has been a misrepresentation and misinterpretation of the new Pension Scheme dated 26/04/2004, which provided that casual labourers, on their regularisation against Group-D posts on or after 01/01/2004 will be entitled to pension and the provisions of General Provident Fund was to be done away in such cases. The Scheme never contemplated that the existing casual labourers who are not regularised w.e.f. 01/01/2004 will not be covered by General Provident Fund Scheme, which was otherwise holding the field till 01/01/2004. The stoppage of deduction towards General Provident Fund of the Applicants pursuant to the Office Memorandum dated 26/04/2004 and refund of the General Provident Fund amounts of the Applicants which were collected prior to 01/01/2004 was undoubtedly illegal and arbitrary and a denial of a service benefit to the members of the Applicant Union.

A copy of the Office Memorandum dated 26/04/2004 is annexed hereto as Annexure-9.

10. That while denying the correctness of the averments made in Paragraphs 12,13 and 14 of the Written Statement, I state that the principle of Res judicata cannot be applicable in the instant case, more particularly, the statements made in Paragraph 6.7 of the Original Application, since the last Judgment of the Constitution Bench of the Apex Court cited in 2006 (4) SCC 1 relating to the instant subject matter is not final and is being reviewed by the Apex Court and the final outcome is still awaited. In the normal course, the members of the Applicant Union may not have acquired any fundamental or legal

rights for regularisation but in view of the Policy decision of the Respondent Authorities to regularise the existing casual labourers with the IXth Five Year Plan Period, if necessary by even creating posts, the members of the Applicant Union have now certainly become entitled to such regularisation, since the Respondent Authorities have deliberately violated the said Policy decision by appointing a number of contract labourers to regular Posts by denying the members of the Applicant Union their right to the said Posts. This Hon'ble Tribunal, in G.C. No. 112 of 1987, while passing its Judgment and Order dated 12/01/1988, observed that:-

“As regards the claim for regularisation of the service of the petitioners we do not think that we shall be justified in making any order in the facts and circumstances of the case but we hope and trust that the respondents shall take necessary steps for regularisation of their service in accordance with law.”

The said observations in the case related to some of the members of the Applicant Union and in that view of the matter, the submission that the answering Respondents have no comments to offer, “since the same are in no way related to the instant case” is indeed astonishing. The aforesaid observations were made by this Hon'ble Tribunal with the expectation that the answering Respondents, as a model employer, will take necessary steps for regularisation of the services of the said Applicants in accordance with law. They have not only failed so to do but deliberately ignored the said observations of this Hon'ble Tribunal, which otherwise reposed faith upon the Respondent authorities in dealing with the subject matter.

11. That the averments made in Paragraph 15 of the Written Statement clearly indicates that the answering Respondents are deliberately shirking their duties and obligation and have chosen to give an

~~57~~ 8 - 56 -
9X

evasive reply to Paragraph 6.10 of the Original Application. I further state that the Order dated 09/05/1994 passed in M.P. No. 46/94 arising out of O.A. No. 32 of 1991 is a precedent by which this Hon'ble Tribunal is bound. In a given case such as the instant case, where the answering Respondents have sought to deliberately shirk its responsibility and moral duty to regularise the members of the Applicant Union, some of whom have been diligently performing their duties as casual labourers for almost 30 years, in spite of being deprived of the regular service benefits, make it obligatory on the part of answering Respondents to regularise the service of the said members of the Applicant Union without any further delay, and in the event of failure on the part of the answering Respondents so to do, this Hon'ble Tribunal undoubtedly has the discretionary power to impose heavy penalty upon the guilty Officers amongst the answering Respondents. It may be stated that the instant case ought to be treated as an exceptional case where relief ought to be granted without going into any technicalities in respect of service jurisprudence. I crave leave to furnish some relevant documents available with the records of the answering Respondents which will clearly indicate that the case of the members of the Applicant Union have never been taken seriously by the answering Respondents, who embark upon and exercise of making absolutely vague queries and also giving false and evasive replies to the queries made by the Ministry of Personnel, etc. of the Government of India with the sole objective of denying the process of regularisation of the services of the members of the Applicant Union with the hope that the said members of the Applicant Union would attain the age of superannuation by the time any final decision is taken with regard to the regularisation of the members of the Applicant Union.

12. That while categorically denying the correctness of the Paragraph 16 of the Written Statement, I state that the answering Respondents, while stating that they had sent a proposal for creation of 100 posts to

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the Ministry of Finance in the year 2002 itself by a letter dated 04/05/2002, a copy of which has not been annexed to the Written Statement, the reply dated 30/05/2002 of the Ministry of Finance, which also has not been annexed, observing that the matter of regularisation to be looked into the Xth Plan cannot be accepted as correct in view of what I have stated hereinabove with regard to the vague queries and replies made by the answering Respondents to the concerned Ministries and Headquarters of ICAR at New Delhi, which completely stifled the function of the Ministries and ICAR Headquarters in the matter of taking a decision of regularising the services of the members of the Applicant Union.

13. That as regards the averments made in Paragraph 17 of the Written Statement, I state that it is totally unbecoming on the part of the answering Respondents that they have no comment to offer in respect of the Paragraph 6.13 of the Original Application, since all the applications filed by various members of the Applicant Union are already on record with the Respondent Authorities. Nevertheless, if this Hon'ble Tribunal feels it necessary, I, on behalf of the Applicant Union, crave leave to produce the said various applications of the members of the Applicant Union which were not even responded to by the Respondent Authorities. However, it is necessary to submit before this Hon'ble Tribunal the records pertaining to all the regular appointments made recently from amongst the Contract labourers, as against the interests of the members of the Applicant Union and the said records ought to be called for by this Hon'ble Tribunal from the answering Respondents, which undoubtedly was in complete violation of the directives of the Respondent Authorities themselves. I further reiterate what I have stated in Paragraph 6.13 of the Original Application and reiterate that I will produce and rely upon some of the Advertisements as well as the applications of some of the members of the Applicant Union at the time of hearing of the instant case.

14. That I categorically deny the averments made in Paragraph 18 of the Written Statement and state that the impugned Undertaking is undoubtedly against any Policy decision of the Respondent Authorities and the false statement made in the said paragraph that pay protection granted to regular employees would be duly given to them, once they become regular employees of ICAR is a total eyewash, not only to befool the members of the Applicant Union but even this Hon'ble Tribunal itself. It may be pointed out that Shri Devilal Sarma, the member at Sl. No. 1 at Annexure-2 of the Original Application was the only casual labourer granted Temporary Status Mazdoors in the year 1993 and thereafter regularisation in his post, but he was granted a minimum of the pay scale of Group-D post, which is much much lower than the of last monthly pay drawn by him as a casual labour, and till date, even though almost 14 years have elapsed, the said Shri Devilal Sarma has not been granted the benefit of pay protection. In the aforesaid circumstances, the impugned Order dated 29/01/1998 and the impugned Undertaking directed to be signed by each of the member of the Applicant Union prior to regularisation of their services, are liable to be set aside by this Hon'ble Tribunal as being totally violative of the settled law of the Apex Court in the matter of service jurisprudence.

15. That while denying the correctness of the averments made in the Paragraph 19 of the Written Statement, I state that the said averments are in total violation of all norms of service jurisprudence and totally against the interest of the members of the Applicant Union and it is indeed surprising that even at this stage, when the case of the members of the Applicant Union is before the Hon'ble Tribunal, the answering Respondents have sought to furnish such a shabby reply as submitted in Paragraph 19 of the Written Statement.

16. That I categorically deny the correctness of the averments made in Paragraph 20 of the Written Statement and state that the submission

that the applicability of the Order passed in O.A. No. 32/1991 to the instant Applicants cannot hold ground, is totally unwarranted and this Hon'ble Tribunal ought to completely ignore the same in as much as the decision of the Hon'ble Apex Court in Uma Devi's case (2006 (4) SCC 1), even though made by a Constitution Bench, is now subject to review before the Hon'ble Apex Court.

17. That I categorically deny the correctness of the averments made in Paragraph 21 of the Written Statement and in view of what has been stated hereinabove, the ground taken by the answering Respondents that the instant Case be dismissed in view of the observations of the Apex Court, quoted therein, is not legally tenable or sustainable, more so as the said observation now subject to review by the same Apex Court.
18. That I further deny the correctness of the submissions made against Paragraph 7.5 of our Original Application and reiterate that the members of the Applicant Union, who are Temporary Status Mazdoors (TSM), are bound to start at the minimum scale of pay prescribed for the Posts in question. I further state that a casual labour amongst the members of the Applicant Union who has been serving the Respondent Authorities for over 30 years in Posts which are much above the minimum Group-D, cannot be bound to start at the minimum scale of pay prescribed for a Group-D Post. In service jurisprudence, as well settled in a catena of decisions, an aggrieved member must necessarily be entitled to pay protection and he cannot be subjected to the minimum of the pay scale in the lowest of a Group in a particular Office in so far as the minimum pay scale is concerned. The last pay drawn by any employee, before his/her regularisation, must necessarily be protected, if not by the Respondent Authorities, by this Hon'ble Tribunal.

SP 12 *60* *101*

19. That the answering Respondents have deliberately given totally vague and false reply to our Original Application and the averments therein being not supported by any cogent documentary evidence, the Written Statement must necessarily be rejected and the instant Original Application be allowed with compensatory costs in favour of the members of the Applicant Union.
20. That it is necessary to point out that by a letter dated 12/12/1996, ICAR Headquarters issued to all the Directors of ICAR Research Institutes and others, directing them to submit quarterly Reports as per the enclosed format and had in the meantime directed that for the next two years no vacancy in Supporting Staff will be filled other than from the casual labourers with Temporary Status. The competent Authority had also ordered that the Director/AO of the Institute would be held personally responsible for violation of instructions related to casual labourers regarding engagement, regularisation etc. and that in appropriate case responsibility may be fixed and may lead to even disciplinary action.

A copy of the aforesaid letter dated 12/12/1996 is annexed hereto as Annexure-10.

21. That to the knowledge of the Applicant Union, the answering Respondents failed to submit the Reports as directed by the aforesaid letter dated 12/12/1996 and whatever information has been sent was only to mislead ICAR Headquarters. Posts, as directed were not at all created and instead, in total violation of the 1993 Scheme, the Answering Respondents have appointed a number of contract labourers to regular posts, that too, not only in Group-D but also Group-C posts by totally ignoring the members of the Applicant Union.

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22. That a mere perusal of the Written Statement would indicate that the answering Respondents have never been serious in implementing the Policy Decision of the Respondent Authorities in the matter of regularisation of the services of the members of the Applicant Union, and in that view of the matter this Hon'ble Tribunal must necessarily look into the entire records and thereby arrive at a judicious finding that the action of the answering Respondent Authorities is highly illegal, arbitrary, discriminatory and in total violation of the basic principles of Natural Justice and fair play and on this ground alone, the submissions of the answering Respondents in the Written Statement must necessarily be rejected and the instant Original Application allowed with compensatory costs in favour of the Applicants.
23. That in any view of the matter the answering Respondents have failed to justify with any reasons whatsoever the cause for non-regularising the services of the members of the Applicant Union in spite of the specific directives of the Government of India and the Respondent Authorities at New Delhi.

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VERIFICATION

I, Lohit Kumar Bordoloi, son of Late K.N. Bordoloi, aged about 44 years, presently working as temporary status Mazdoors in the Office of the Director of ICAR, Research Complex, NEH Region, Umroi Road, Barapani, Meghalaya and I am the General Secretary of the Applicant Union, do hereby verify that the statements made in Paragraphs 1 to 4, 8, 11, 12, 14 to 18, 21 and 23 are true to my knowledge, those made in Paragraphs 5, 6, 9, 10 and 20 being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this Verification on this the _____ day of July, 2007 at Shillong.

Identified by:

Lohit Kumar Bordoloi

DEPONENT

Advocate

(Copy)

Annexure - 8

15

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: 1 :

No. 49014/4/90-Estt. (C)

GOVERNMENT OF INDIA

MINISTRY OF PERSONNEL

PUBLIC GRIEVANCES & PENSION

(DEPARTMENT OF PERSONNEL AND TRAINING)

New Delhi the 8th April, 1991

OFFICE MEMORANDUM

Sub:- Regularisation of services of casual workers in Group 'D' posts - Relaxation of employment exchange procedure and upper age limit.

The undersigned is directed to refer to this Department's OM No. 49014/4/77-Estt. (C) dated 21st March, 1979 wherein the conditions for regularisation of casual workers against Group 'D' posts were prescribed. The policy with regard to engagement and remuneration of casual workers in Central Government offices has been reviewed from time to time and detailed guidelines in the matter were issued vide OM No. 49014/2/86-Estt. (C) dated 7th June, 1988.

2. Requests have now been received from various Ministries/ Departments for allowing relaxation in the conditions of upper age limit and sponsorship through employment exchange for regularisation of such casual employees against Group 'D' posts, who were recruited prior to 7.6.88, i.e., date of issue of guidelines. The matter has been considered and keeping in view the fact that the casual employees belong to the economically weaker section of the society and termination of their services will cause undue hardship to them, it has been decided, as a one time measure, in consultation with the Director General Employment & Training, Ministry of Labour, that casual workers recruited before 7.6.88 and who are in service on the date of issue of these instructions, may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through employment exchange and had crossed the upper age limit prescribed for the post, provided they are otherwise eligible for regular appointment in all other respects.

3. It is once again reiterated that recruitment of casual workers in Central Government offices may be regulated strictly

contd....

Certified to be true
Anup Singh Datta, Advocate

in accordance with the guidelines contained in this Department's OM No.49014/2/86-Estt.(C) dated 7.6.88. Cases of neglect of these instructions should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

4. Ministry of Finance, etc, are requested to bring the contents of this OM to the notice of all the appointing authorities under their respective administrative control.

S/—
(M.S. BALI)
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

No. 49014/1/2004-Estt. (C) Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training

New D.O.I.D.-110001 dated the 26th April, 2004

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OFFICE MEMORANDUM

Subject:- Introduction of New Pension Scheme -Modification of scheme
for grant of temporary status.

The undersigned is directed to say that the scheme for grant of temporary status and regularization of casual workers in Central Govt. Offices formulated in pursuance of the judgement dated 16-2-90 of the Central Administrative Tribunal Principal Bench in the case of Raj Kamal & Others vs. Union of India has been reviewed in the light of introduction of New Pension Scheme in respect of persons appointed to the Central Govt. service on or after 1-1-2004 and it has been decided to modify the scheme as under:-

(i) As the new pension scheme is based on defined contributions, the length of qualifying service for the purpose of retirement benefits has lost its relevance, no credit of casual service, as specified in para 5(v), shall be available to the casual labourers on their regularization against Group 'D' posts on or after 1-1-2004.

(ii) As there is no provision of General Provident Fund in the new pension scheme, it will not serve any useful purpose to continue deductions towards GPF from the existing casual employees, in terms of para 5(vi) of the scheme for grant of temporary status. It is, therefore, requested that no further deductions towards General Provident Fund shall be effected from the casual labourers w.e.f. 1-1-2004 onwards and the amount lying in their General Provident Fund accounts, including deductions made after 1-1-2004, shall be paid to them.

2. The existing Guidelines contained in this Department's OM No. 49014/2/86-Estt(C) dated 7-6-88 may continue to be followed in the matter of engagement of casual workers in the Central Government Offices.

P. Mohan

(Smt. Pratibha Mohan)
Director

To

All Ministries/Departments of Govt. of India and their Attached and Subordinate Offices.

Affected
Parli
Advocate
23/6/05

Certified to be true

A. M. Dutta, Advocate

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S.K. Pandey

Anusure-10

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN: NEW DELHI

F.No.24-25/96-Cdn.

Dated the 12th December, 1996

To

The Directors/Project Directors/Project Coordinators/Zonal Coordinators of ICAR Research Institutes/NRCs/Zonal Coordinating Unit.

Sub: Regularisation of Casual Labourers with Temporary Status-Quarterly Reports

Sir,

The problems related to engagement of casual labourers, declaration of Temporary Status and their regularisation has been engaging the attention of the ICAR. The matter was thoroughly discussed in the Mid-Year Review Meeting of the Directors of ICAR Institutes held on October 14-15, 1996. The decisions taken are reiterated for strict compliance.

1. All eligible casual labourers may be granted Temporary Status even in cases where Directors have sent such proposals to the respective SMDs provided the casual labourers fulfill the eligibility condition in accordance with the instructions of the DOPT/ICAR. The additional financial liability on this account, if any, will be borne within the sanctioned budget of the Institute.
2. For next two years no vacancy in Supporting Staff will be filled other than from casual labourers with Temporary Status. All vacancies in Supporting Staff grade I should be filled out of casual labourers granted Temporary Status as per order vide E.No. 24(15)/93-Cdn dated 24.6.96. The resultant vacancies of higher posts viz. in SSG-II, SSG-III and SSG-IV in Supporting Staff at SSG-I may also be filled from eligible casual labourers granted Temporary Status.
3. Details of vacancies likely to arise as a result of retirement, promotion etc. of Supporting staff in the next two years may be intimated in the enclosed format to the DDG concerned with a copy to OSD(S).
4. In order to watch the progress of clearance of backlog regarding regularisation of casual labourers, the Institutes should send the information in the enclosed format to the respective DDG/ Subject Matter Division. The reports will be sent on quarterly basis. The first report of compliance of these instructions as on 31st December, 1996 may be sent positively by 10th of January, 1997. The reports for the 1st, 2nd, 3rd and 4th quarters may be sent by 10th of April, July, October and January of the years respectively. A copy of the first report may also be sent to the Coordination Section in room No. 509.
5. The information related to Annual Budget (Plan as well as Non-plan) which is spent on labour input for Cat.A and Cat.B may be sent to a respective SMD with a copy to Director (Finance) by 10th January, 1997.

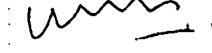
*Certified to be true
A. Datta, Advocate*

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6. If in Inspite of all these measures it is not possible to regularise the casual labourers with Temporary Status, the Directors may propose creation of posts in the Ninth Plan for Supporting Staff for clearing the backlog of casual labourer with Temporary Status. The posts created specifically for absorption of Casual Labourers will be co-terminus on resignation, retirement or death of the casual labourers. A detailed exercise may be done at the Institute level and posts that are likely to be required for clearing the backlog, as specified above in para 2 may also be intimated to the concerned DDG by 10th January, 1997.

7. The competent authority has ordered that the Director/ AO of the Institute would be held personally responsible for violation of instructions related to casual labourers regarding engagement, regularisation etc. In appropriate cases the responsibility will be fixed and may lead even to disciplinary action.

Yours faithfully,


(G.C. Sharma)
OSD(S)

Encls: As above

Copy to :

1. DDGs/ADGs/DSs/USs: DDGs are requested to strictly watch compliance of these instructions in respect of Institutes under their control. The cases of violation of these instructions may be dealt with strictly.
2. Director(P)/(Fin.)/(Works)/(DARE)
3. PPS to DG/PS to Secretary/PS to FA
4. Secretary, ASRB
5. F&AOs of ICAR Institutes
6. Personal Section of A.M.

STATUS REPORT ON CASUAL LABOURERS(CLs) - TEMPORARY STATUS/REGULARISATION

REPORT OF THE INSTITUTE _____ for the Quarter ending _____

(Abbreviated Name & Place)

Authorised strength* in Cat.A _____ in Cat B _____ actual** in Cat.A _____ in Cat.B _____

CLs eligible for Temp.Status as on 30.9.96	CLs granted Temp. Status during the quarter	CLs without Temp. Status as on 30.9.96	Vacant Posts SSG-I to IV as on 30.9.96	Temp. Status CLs given SSG posts during the quarter	Remarks
1	2	3	4	5	6

* Authorised strength fixed by ICAR vide letter no. 24(6)/88-Cdn dated 16.12.1988/subsequent approval from Council, if any.

**Actual in position at the beginning of the quarter.

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Statement of Vacancies in Supporting Staff Likely to arise till 31.12.98

Sancitioned	Vacant	Vacancies upto 31.12.97	Total	Remarks	Retirement	Promotion	SSG-I to SSG-IV	SSG-I to SSG-IV

• Vacancies likely to arise from 1.1.98 to 31.12.98

- Vacancies likely to arise as a result of promotion of Supporting Staff from SSG-IV to Jr. Clerk/T-1 in Technical Services and Promotion of Supporting Staff within the Supporting Staff as a result of implementation of new ratio for promotion i.e. 7:5:3:1 for SSG-I, II, III and IV respectively. Vacancies likely to arise on account of re-signation etc. based on the past data may also be estimated and included in the statement.

File in Court on 11/2/08

Court Officer.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

O.A. NO. 275 OF 2006

L.K. BORDOLOI & ORS

.....APPLICANTS

-VS-

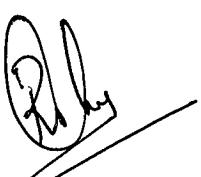
UNION OF INDIA & ORS

.....RESPONDENTS.

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2. ANNEXURE B COLLY -	4 to 13
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R.S. Choudhury
Advocate
11/2/08.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH: GUWAHATI

O.A. No. 275 OF 2006

IN THE MATTER OF

O.A. NO. 275 OF 2006

L.K. Bordoloi & Ors. ... APPLICANTS

-Vs-

Union of India & Ors. ... RESPONDENTS

- AND -

IN THE MATTER OF :

An Additional Written Statement / Affidavit filed on behalf of the Respondents No. 1, 3 and 4 of the Original Application No. 275 of 2006 to place on record the subsequent developments in the instant case.

ADDITIONAL WRITTEN STATEMENT

I, Dr. S. V. Ngachan, son of Late K. S. Shangreikhai, aged about 52 years, permanent resident of Hundung, in the district of Ukhrul, Manipur, presently serving as the Director, Indian Council of Agricultural Research (Regional Centre) for N.E.H. Region, Umiam, Meghalaya, do hereby solemnly affirm and state as follows :

1. That, I have been impleaded as the Respondent No.3 in the instant case and a copy of the Original Application has been served upon me. I have gone through the same and have understood the contents thereof. I am well acquainted and fully conversant with the facts and circumstances of the instant case and as such, I am competent to file this additional Written Statement. I have been duly authorized by the Respondents 1 and 4 to file this affidavit on their behalf.

2. That, the answering Respondents humbly beg to state that during the pendency of the Original Application, several developments have taken place, which are being placed on record by way of this additional Written Statement. The Respondent authorities have submitted numerous proposals to the Ministry of Finance as well as to the ICAR with regard to the creation of 418 posts of supporting staff, Grade-I (S.S Grade-I) to regularize T.S.M (Temporary Status Mazdoor). However, the Ministry of Finance has not deemed it fit to grant the necessary approval in this



The Respondent
No. 1, 3 & 4
The Respondent
No. 1, 3 & 4
R. S. Chaudhury
Adv.

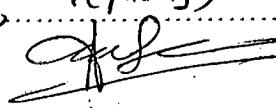
01.12.08.

2/21
2 DEC
Central Administration
Gauhati Bench
regard. In the above context, several communications have been made with the ICAR headquarters; hence, the action of the authorities cannot be faulted in any manner, the same being in the best interest of the Applicants themselves.

Copies of the proposals/communications held with regard to the regularization of services of the TSM's are annexed herewith and marked as ANNEXURE – B COLLY.

3. That, however, the Deponent humbly states that the Ministry of Finance is yet to grant approval to the proposals, which have been sent during the last two five year plans. As such, the hands of the Deponent as well as the other authorities are bound by the process of law.
4. That in so far as the statements made with regard to the letter dated 08.08.2008, made in the additional affidavit filed by the Applicant on 26.09.2008, are concerned, the deponent states that the said committee which was formed vide dated 08.07.2008 is to examine a completely different issue altogether, which has no nexus with the instant petition or the subject matter of the instant case. Be it stated herein that one Shri Lildhar Sarma, a TSM had attained the age of superannuation on 30.06.2008 and accordingly the Administrative Officer, ICAR issued his relieving Order on 28.06.2008. However, the General Secretary of the ICAR Worker's Union vide letter dated 02.07.2008, addressed to the Administrative Officer, a grievance was raised that the authorities have illegally terminated the services of the said Liladhar Sarma, TSM. It was in this context that the committee was formed vide Order dated 08.07.2008 to look into the matter of superannuation/ retirement age of TSM's. The instant issue, as such can in no way be clubbed together with the grievance raised in O.A. 275/2006.

A copy of the letters referred to herein above are annexed herewith and marked as Annexure-C COLLY.

5. That for the sake of brevity, the deponent refrains from reiterating the statements in the Written statement filed earlier. The instant Additional Written Statement has been filed for the limited purpose of bringing on record the aforesaid documents.
6. That, the statements made in this paragraph and in paragraphs 1, 2 (partly), 3, 4 (partly), 5..... of the additional Written Statement are true to my knowledge and those made in paragraphs 2 (partly), 4 (partly).


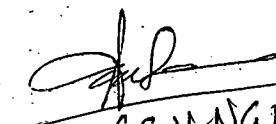
being matters of record are true to my information derived therefrom, which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts. I have been duly authorized to swear this additional Written Statement on behalf of the other Respondents.

And I sign this Written Statement on this the 1st day of Dec 2008 at Guwahati.

Identified by me

Rakhee Malli Dikshu

Advocate


CS. V. NAGAETTAW

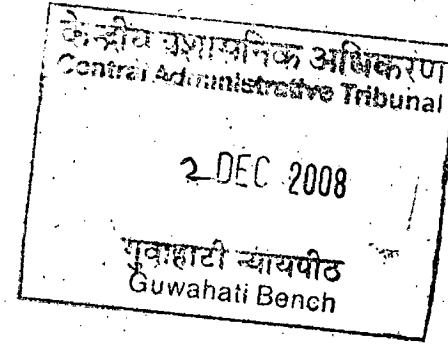
DE PONENT

Solemnly affirm and declared before me by the deponent who is identified by Rakhee S Chowdhury, Advocate, Guwahati on this 1st day of December 2008 at Guwahati.



ADVOCATE:

R. S. Chowdhury
1/12/08.





—4—

FAX/ABJ
ANNEXURE B COLLY

Umroi Road, Umiam, Meghalaya-793 103
Telephone 0364-2570257 Fax 0364- 2570363



No.RC(6) 28/2005

Dated 15th December 2006

Dr.K.M.Bujarbaruah
Director

To

The Secretary,
ICAR,
Krishi Bhavan,
New Delhi-110 001

Sub: Proposal for creation of additional 418 posts for supporting staff-reg.

Sir,

As you are kindly aware, our Institute is covering the seven states of North Eastern Region. Farmland resource under the Institute is around 441 ha. and at a minimum rate of 1.5 supporting staff/ha, we need a total supporting staff strength of 660 numbers against which we have only 125 numbers in position. Considering the technological need to support the growth of agriculture and allied sector in Northeastern Region, the supporting staff number to back up our research activities is very less which would be evident from the table below:

Total land area (ha)	Man: land ratio (per ha)	Supporting staff need as per the ratio	Present strength of supporting staff	Deficit (3-4)	Post for creation
1	2	3	4	5	6
441	1.5:1ha	660	125	545	418

Since we have a huge deficit of 545 numbers of supporting staff, I am submitting the above proposal to kindly arrange to create at least 418 number of additional posts.



INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI-1

No. 21-15/2003 - CDN

To

The Director/Project Director of Institutes /
Project Directorates/ NRCs. / Bureaux / Z.C.U.s.

Sub :- Information relating to the casual labour with temporary status of
ICAR - reg.

Sir,

The Secretary, ICAR has desired the information on the above mentioned subject. It is therefore requested that the required information in the following points may be sent to the undersigned by 17th march, 2007 positively so that the same can be apprised to the Secretary, ICAR :-

1. No. of casual labour with temporary status conferred in line with the relevant order of DOPT.
2. Whether the service rendered as casual labour temporary status has been taken in accordance with the DOPT guidelines as endorsed by ICAR for computing pensionary benefit or any deviation made.
3. Whether excess payment made has been recorded for Sl. No. 2 above.

Amount of excess payment made on account of Sl. No. 2 above not adhered to strictly.

Official (s) responsible for occurrence of Sl. No. 4 above and action taken against them.

Yours faithfully

(FIROZ KHAN)
SECTION OFFICER (CDN)
KRISHI BHAVAN

Copy to :-

1. PPS to Secretary, ICAR
2. PS to DS(GAC)/DS(A)

Jessey
Pl. examine the
case & put up
JDL
15/5/07

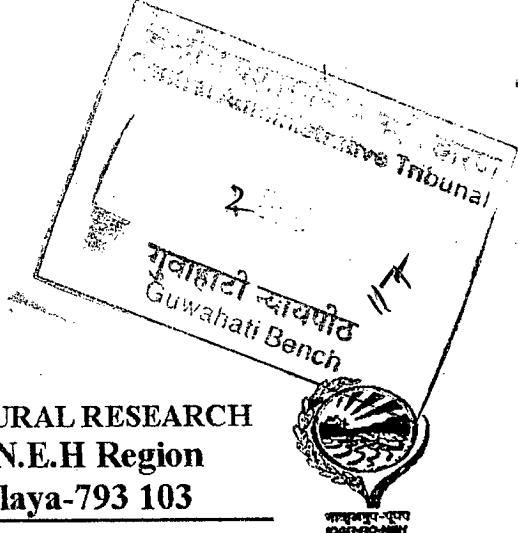
Query Record (Admn)

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15/5/07

ICAR Research Complex
New Campus, Noida, U.P. 201309



INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR Research Complex for N.E.H Region
Umroi Road, Umiam, Meghalaya-793 103



NO.RC(G)28/2005

Dated 18th May, 2007

To

The Section Officer (CDN),
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi-1.

Sub : Information relating to the casual labour with temporary status of ICAR- regarding

Ref : Council's letter No.21-15/2003 – CDN dated 27th February.

Sir,

The required information is furnished below as desired vide letter under reference.

1. No. of casual labour with temporary status conferred in line with the relevant order of DOPT.

Total No. of C/L granted with temporary status (Hqtrs. & Centres)	Regularised	Expired	Terminated/ Resigned	Retired	Total strength as on date
455	9	24	3	1	418

Sl.No. 2 to 5: As per the OM No. 51016/2/90-Estt. (C) dated 10.9.93 of DOPT, the Casual labourers granted with temporary status are not entitled for pensionary benefit. Hence, no pensionary benefit has been given to the retired Temporary Mazdoor of this Institute.

This is to inform that the letter has been received by this Institute only on 14.5.07.

Yours faithfully,

[Signature]
18/5/07
(M.J. Kharmanphlang)
Sr. Administrative Officer

[Signature]



- 7 - *FB*

**Indian Council of Agricultural Research
Krishi Anusandhan Bhawan - II,
Pusa, New Delhi - 12**

F.No.21-3/05-IA.II
To

*The Director,
ICAR Research complex for NEH Region,
Barapani.*

62
1100
2 JUL 2008
MOST IMMEDIATE
Guwahati Bench

Dated the 29 June '07

Sub: Creation of 418 posts of SSGr.I to regularize TSM - reg.

Sir,

Kindly refer to the subject mentioned above. The proposal was submitted to Ministry of Finance. As desired by them, the following information/details may please be furnished.

1. *The check list information in the proforma. A copy of the letter O.M. No.7(1)/E-Coord.1/2006 dated 24.2.06 of MOF is enclosed.*
2. *The total number of Group 'D' posts at the Institute and the vacancies in this grade.*

Yours faithfully,

K.C. Joshi
(K.C. Joshi) 19/6/07
Under Secretary (NRM)

Encls: As above.

*AAOLRC
for mpa pl
05/7/07*

*V.P.K
B.G.S
05/7/07*

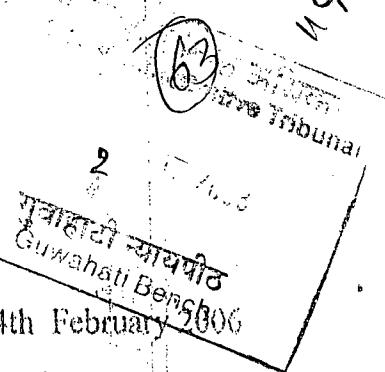
SAC

17/7/07

*9639
4/2/07*

No.F. 7(1)/E.Cood. I/2005
Government of India
Department of Expenditure
Ministry of Finance

New Delhi, the 24th February 2006



OFFICE MEMORANDUM

Sub:- Ban on creation of posts - Checklist for processing cases.

The undersigned is directed to refer to OM No.7(2)/E.Cood/2005 dated 23rd November 2005 regarding Budget/Expenditure Management: Economy measures, rationalisation of expenditure, and measures for augmentation of revenues. In para 8 of the OM Ministries/Departments/Autonomous Institutions have been instructed that there shall be a ban on creation of new posts till further orders. Any unavoidable proposals for the creation of posts, including Groups B,C and D posts, will continue to be referred to the Ministry of Finance (Department of Expenditure) for approval. The proposals would necessarily have to be based on new organisation and accompanied by matching savings from existing related establishments. Outsourcing of routine services such as cleaning, maintenance, moving papers/dak etc may be encouraged.

2. M/o Finance has been receiving various proposals for creation of posts from different Ministries/Departments. A perusal of the proposals reveal that often such proposals are incomplete and do not contain critical details such as name, designation, pay scale, category/grade, functions, workload, Recruitment Rules of the posts and so on. Moreover, details of the organization such as the existing hierarchy, sanctioned and existing posts category-wise, vacancies including date of vacancies, posts abolished in the last five years as a consequence of 10% cut or implementation of Expenditure Reforms Commission (ERC) recommendations, functional justification, matching savings, possibilities of redeployment/outsourcing/hire etc, which are absolutely imperative for appraising the proposals are missing. This leads to back references and delays.

3. Keeping the above in view, a comprehensive checklist has now been devised taking into account the latest extant orders on the subject. All Ministries/Departments are requested to refer fresh proposals for creation of posts complying with the new checklist (copy enclosed) to avoid back references and obviate delays. It may be noted that any proposal which is not sent as per prescribed proforma would be returned. The proposals may invariably contain the approval of the concerned Financial Adviser.

Anuradha Mitra
(Anuradha Mitra)
Director (Pay)
Tele: 2309 2907

To

- (i) All Financial Advisers.
- (ii) All Ministries/Departments of the Government of India.

Check-List of Information/Details to be furnished with cases for creation of posts.

64

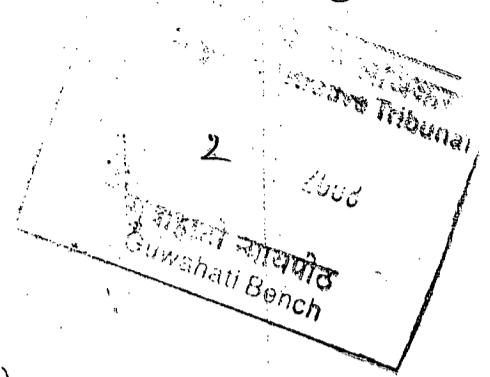
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The Post

1. Name and Designation of the post.
2. Pay scale of the post.
3. Grade/category of the post.
4. Scientific/technical or administrative nature of the post.
5. Functional justification (For each of the category separately).
6. How were the functions of the post being managed in the absence of its creation.
7. Duties and responsibilities of the post (Job description for each position).
8. Essential and minimum qualifications of the post.
9. Recruitment Rules relevant to the post.
10. Mode of filling up the post.
11. Immediate feeder post in the line of promotion.
12. Immediate promotion post in the hierarchy.
13. Workload of the post (Extract of SIU study, if any).
14. Financial implications for creation of the post.

The Organisation

1. Name of the organisation.
2. Detailed sanctioned strength (category-wise) with pay scales.
3. Detailed actual strength (category-wise).
4. Details of vacancies date-wise.
5. Whether the organisation has been studied by SIU/IWSU. If so, details.
6. Details of posts abolished in the last five years under various categories like a) deemed abolition; b) 10% cut; c) SIU/IWSU study; d) ERC recommendations; e) DOPT OM dated 16.5.2001 on optimisation of direct recruitment to civilian posts; and f) any other reasons such as periodic reviews, winding up etc.
7. Possibilities of re-deployment/outsourcing/hiring out of services.
8. Matching savings (With specific posts, which are to be surrendered).
9. Costs (Both recurring and non-recurring).
10. Additional information, specific to this proposal.



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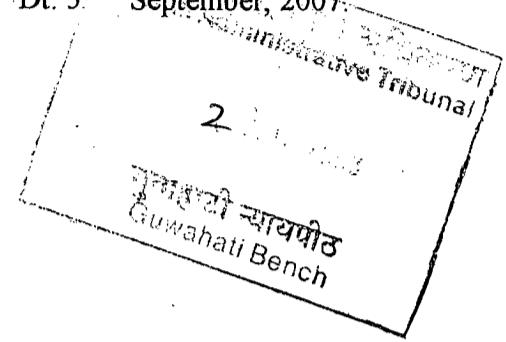
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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD; UMIAM-793 103

NO.RC(G)28/2005

Dt. 5th September, 2007



To

The Under Secretary(NRM),
I.C.A.R.
Krishi Bhavan,
New Delhi-110 001.

Sub: Creation of 418 posts of SS Gr. I to regularize TSM - reg.

Sir,

With reference to the Council's letter F.No.21-3/05-IA.II dt. 22.6.2007 on the subject cited above, I am directed to furnish the information as per the proforma and checklist of information required in terms of OM No. 7(1)E-Coord.1/2006 dated 24.2.2006 with necessary supporting documents for favour of further necessary action at your end.

Encl : As above.

Yours faithfully,

06/9/07
(M. J. Kharmawphlang)
Sr. Administrative Officer

Copy to the Asstt. Administrative Officer(RC)

ofc

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI ANUSANDHAN BHAVAN - II
PUSA, NEW DELHI - 110012

F.No. 21-3/2005-IA.II

Dated the 4th January, 2008

To

The Director,
ICAR Research Complex for NEH Region,
Barapani.

Sub: Creation of 418 posts of SS Gr-I to regularize TSM - regarding.

Sir,

Kindly refer to the subject mentioned above. Ministry of Finance has desired to know specifically the reasons for compelling the authorities to create regular posts for the laborers as the laborers have already been granted the temporary status as per DOPT's guidelines. Reply may be furnished for considering the proposal further.

Yours faithfully,

Vijay Kumar
(Vijay Kumar) OFB
Section Officer (IA-II)

~~AAO~~
~~AAO~~
~~29/11/08.~~
~~AAO(RC) / AAO(A)~~
~~for nfa pl.~~
~~attt~~
~~06/12/08.~~

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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
• UMROI ROAD; UMIAM-793 103

NO.RC(G)28/2005

Dt. 28th February, 2008.

To

The Under Secretary(NRM),
I.C.A.R.
Krishi Anusandhan Bhavan- II ,
Pusa, New Delhi-110 012.

Sub: Creation of 418 posts of SS Gr. I to regularize TSM - reg.
Sir,

With reference to the Council's letter F.No.21-3/2005-IA.II dt. 4.1.2008 on the subject cited above, I am directed to inform that unlike other Institutes of ICAR, since its inception in the year 1977, no regular post of permanent labour has so far been created in the Institute. Even 100 posts of Belder approved in the IX Plan also could not be materialized till date. Regularization of services of the TSM is considered to be an essential requirement for any growth in Research activities of an Agricultural Institution. The Second Quinquennial Review Team(QRT) of the Institute in the year 1985 itself strongly recommended for creation of these posts. Even though attempts were made in Five Yearly Plans in the past due to ban for creation of posts and other considerations, the posts could not be created till date. As a result, the Institute had to face many labour problems connected with Industrial Disputes Act in the past seriously hampering ongoing research activities. It is a long outstanding demand from the TSMs and there is serious resentment about their non-entitlement for medical facilities and contribution to the provident fund scheme etc.

The Institute being a fully agriculture based research organization, Mazdoors are one of the essential manpower component. Starting from Plowing and tilling of land, sowing of seeds and rearing of animal, birds, fish and fingerlings etc. in the research farm, Mazdoors are also engaged in hazardous jobs like applying manure in the crop, spraying insecticides/ pesticides etc. Due to non regularization of their services even after rendering almost an average of 25-26 years of service among them, has led to widespread discontentment/ insecurity and a sense of alienation which has led to a vicious atmosphere in the Institute.

Considering all these, it is proposed to regularize the services of these TSMs so that it would be easier to deploy them in different experimental plots and any other relevant research work. They would also be equipped with more mental satisfaction to attend their work apart from settlement of other administrative requirements.

Yours faithfully,

ofc

28/2/08
(M. J. Kharmaophlang)
Sr. Administrative Officer

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI ANUSANDHAN BHAVAN - II
PUSA, NEW DELHI - 110012

F .No. 21-3/2005-IA.II

Dated the 25th March, 2008

To

The Director,
ICAR Research Complex for NEH Region,
Barapani.

Sub: Creation of 418 posts of SS Gr-I to regularize TSM - regarding 418

Sir,

This has reference to the Institute's letter No. RC(G)28/2005 dated 28.2.2008 on the subject mentioned above. The justification furnished by the Institute to the query of Ministry of Finance that the specific reasons for compelling the authorities to create regular posts for the labourers, as the labourers have already been granted the temporary status as per DoPT's guidelines are found to be not satisfactory in view of the following facts:-

- The TSM are getting the benefits as given in the TS Scheme.
- Provident Fund scheme is not admissible even to the regular employees appointed w.e.f. 1.1.2004
- The stand of the Institute that they can be easily deployed in different experimental plots once regularized, is not satisfactory, as the TSM are treated at par with Group "D" employees.

You are therefore requested that detailed sound justification may please be furnished for further consideration of the request.

Diary Record (Admn)

No. 6659

Yours faithfully,

Date 8/4/08


(K.C. Joshi)
Under Secretary (NRM)

ICAR Research Complex
for NEH Region, Barapani, Assam

AO
3/4/08

Min. N. A. R.
2/4/08

Min. N. A. R.
2/4/08

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ANNEXURE-C COLLY



Animal Nutrition Division

ICAR Research Complex for NEH Region, Umiam-793103 (Meghalaya) INDIA

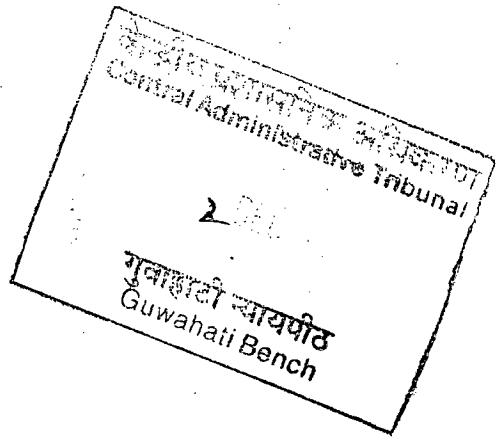
No. RC/AN-15/LS/PF/2008

The Umiam Dated 27.06.2008

From,
Dr. J.J. Gupta
PS & Head

To,
The Admn. Officer
ICAR (RC) NEH Region, Umiam

Sub:- Retirement of Shri Liladhar Sharma (Temporary Mazddor) - Reg.
Farm Manager Ref. No.: RC/FM(P)/TM-4/93/3761 Dtd. 17.03.2008



Sir,

With reference to the subject cited above and information received from farm manager office, I am to bring to your kind notice that Shri Liladhar Sharma, Temporary Mazddor, Animal Nutrition Division is due to retire on 30.06.2008. Therefore, I may kindly be informed for future course of action at division level.

This is for your information and further necessary action on priority basis.

Thanking you,

Yours sincerely,


27.06.08
(J.J. Gupta)

ICAR (P)
Immediate
action
30/6/08

manu geton
30/6/08

Action Taken

- 15 -

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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N. E. H. REGION
UMROI ROAD, UMIAM - 793 103 (MEGHALAYA)

No. RC(G) 46/95

Dated 23rd June, 2008

OFFICE ORDER

Consequent upon attaining the age of retirement Shri. Liladhar Sharma, Temporary Mazdoor, ICAR research Complex for NEH Region, Umiam stands retired from ICAR service in the afternoon of 30.06.2008.

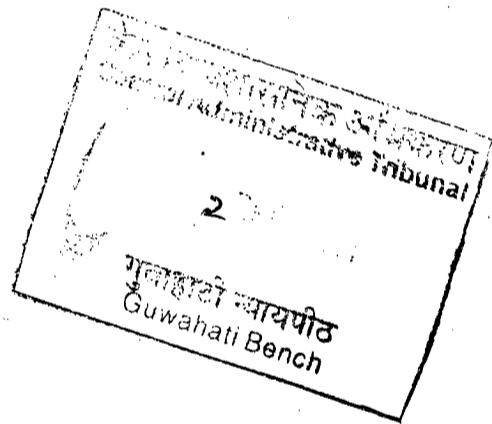
This issues with the approval of the Director.

S. K. Jindal
(S.K. Jindal)

20/6/08
Administrative Officer

Copy to :

1. Sh. Liladhar Sharma, T/M, ICAR Res. Complex, Umiam
2. The Sr. Farm Manager, ICAR Res. Complex, Umiam
3. The Scientist Incharge, Animal Nutrition, ICAR Res. Complex, Umiam



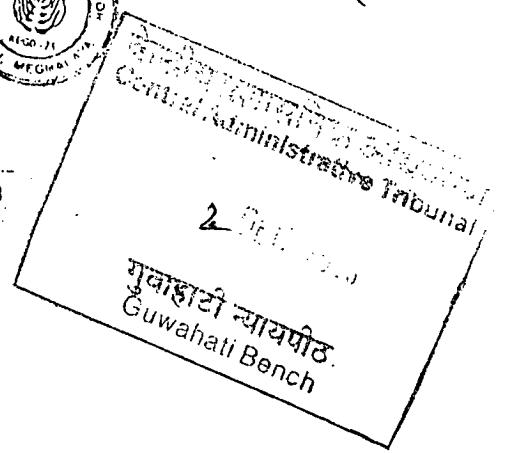
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I.C.A.R WORKERS' UNION

Affiliated to AITUC
Head Quarter Umiam
MEGHALAYA
Regd. No. 75



02.07.2008



To

The Administrative Officer,
ICAR Complex, N.E. Region,
Umroi Road, Umiam - 783103 (Meghalaya)

Sir,

You are aware that member of TSM have been demanding regularization of their services in the complex and this demand had been taken as justified by the Union Minister of Agriculture Shri Sarad Pawar who had taken up their demand with the Union Ministry of Finance, Govt. of India.

But is regretted that while the demand of your workers is still pending and waiting for the approval of the Finance Ministry you have taken your unilateral decision and terminated the service of Shri Liladhar Sarma, the worker who had dedicated his service for a very pretty long years. Your action in this matter is unjust and unethical.

In your No. RC(G)46/95 dated 28.06.2008 you have only mentioned about the retiring age and his ability to perform his assigned duties which he was still performed without any physical impediment. Therefore, it is obvious that your decision and in dispensing with his serviced due to his reaching a retiring age, he is entitled to be paid a pension and gratuity as part of social security.

Yours faithfully,

M.J. Bapu

General Secretary
ICAR Workers' Union
Umiam, Meghalaya.

Copy to :-

- 1. The Director,
ICAR Research Complex, Umiam, Umroi Road, Meghalaya.
- 2. The Director General, ICAR New Delhi, Krishi Bhavan.
- 3. The D.D.G.I.C.A.R. New Delhi, Krishi Bhavan.
- 4. The General Secretary, All India Trade Union, AITC.

MMW
3/7/08

M.J. Bapu (A)
3/7/08

86
- 17 - 85 86
128

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UMIAM- 793103. MEGHALAYA.

NO:RC(G)46/95

Dated the 8th July, 08

ORDER

The Competent Authority is pleased to constitute a Committee with the following members to examined the matter related to TSM on regularization of their services.

1.	Dr. G.C. Munda Principal Scientist	- Chairman
2.	Dr. R.K. Tarat Sr. farm Manager	- Member
3.	Sr. Administrative Officer / Administrative Officer	- Member
4.	I/C F& AO.	- Member
5.	A.A.O (R/C)/AAO(A)	- Member


(S.K. Jindal)
Administrative Officer

Copy to:-
All Members.

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86 128/7
11/7/08 11/7/08 11/7/08 11/7/08
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Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
१९६ 23 NOV 2009
Guwahati Bench २९/१०५
गुवाहाटी न्यायपीठ

88-87-
File in Court on 23/11/09
Court Officer.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, AT GUWAHATI

ORIGINAL APPLICATION NO. 275/2006

129
Filed by the
Respondent No. 3,4,5 & 6
through Sonwane Sunita
Date 23-11-09

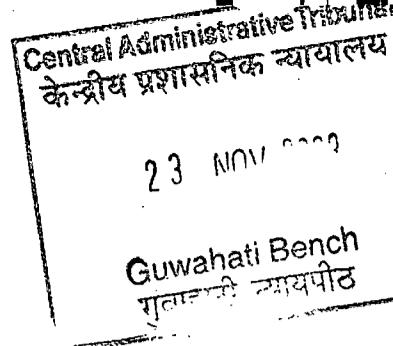
North East ICAR Mazdoor Union & ~~Ans.~~
..... Applicants.

-VS-

Union of India & Ors
..... Respondents.

FURTHER ADDITIONAL WRITTEN STATEMENT ON BEHALF
OF RESPONDENT NO. 3,4,5 and 6.

1. That the answering respondents have clarified position in detail in their written statement of May, 2007. However, in additional written statement filed in November, 2008 some factual mistakes have occurred. In paragraph 2 of the Additional Written Statement an impression has been given as if various proposals were pending in Ministry of Finance regarding creation of posts in November, 2008. This is factually not correct. These factual mistakes have occurred due to a communication gap. Even on 18-5-09 when the case was taken up for hearing by this Hon'ble Tribunal, considering the stand taken in the above mentioned additional written statement, this Hon'ble Tribunal directed the Ministry of Finance to act on proposal of the ICAR (pertaining to creation of posts) and pass necessary orders by 28th July, 2009. The impression given was not factually correct and the respondents tender unqualified apology for this and most humbly seek liberty to place following facts before this Hon'ble Tribunal.



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A copy of the order dated 18.5.2009 is annexed as annexure 'D' to this written statement.

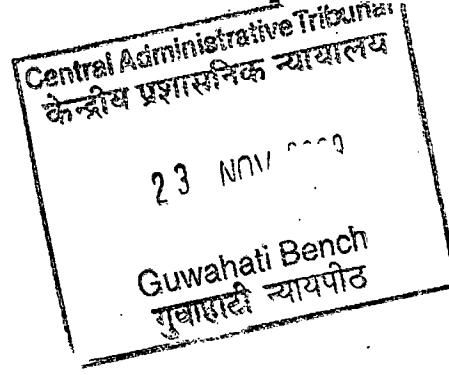
2. That in the year 2007 a proposal for creation of 418 additional posts of Supporting Staff Grade- I at ICAR Research Complex for NEH Region, Barapani was considered by the Ministry of Finance and said proposal was returned back vide letter dated 05-06-1007 with the following observation:-

“ICAR is advised to refer such proposals through their Administrative Department i.e. the Department of Agricultural Research and Education. ICAR is also advised to refer the proposal in the format prescribed vide our O.M. dated 24-02-2006 and also furnish the following additional information:

(i) The total numbers of Group 'D' posts at ICAR Research Complex for NEH Region. The vacancies in this grade.

(ii) It has been stated that the posts will be on co-terminus basis. It is not clear as to the posts will be Co-terminus with what ? This may be clarified.

(iii) It has been stated that 325 group 'D' posts were agreed in the Tenth Plan EFC subject to creation of posts with the approval of Ministry of Finance and here it may be clarified whether sanction orders were issued for creating these posts. If so, the reasons for the lapse may be given as it is irregular to create any post without prior approval of the Ministry of Finance.”



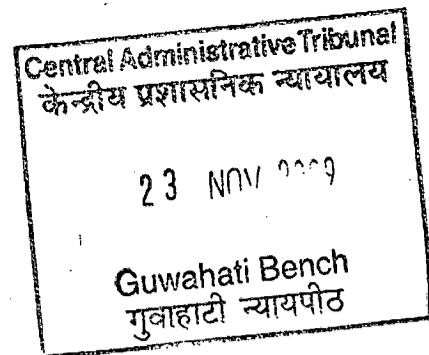
3. That in light of observation of Ministry of Finance, the ICAR in first week of October, 2007 resubmitted the proposal which was returned by the Ministry of Finance vide with following advice:

“As advised earlier, the ICAR is advised to refer each and every proposal through their Administrative Department, i.e. the Department of Agriculture Research and Education.”

2. Before referring the proposal to this Department again through DARE, consultation with Department of Personnel & Training may be done. Also, the reasons compelling the authority to create regular posts for the labourers may be indicated specifically as the labourers have already been granted the temporary status as per DOP & T guidelines.”

4. That thereafter on 23-07-2009, matter was referred by the ICAR through the Department of Agricultural Research and Education with following observations:-

- i) The CAT has ordered MOF to act upon the proposal of ICAR pertaining to creation of posts and pass necessary orders by 28th July, 2009;
- ii) As per para 8 of ‘Casual Labourers’ (Grant of Temporary Status and Regularization) Scheme of Govt. of India, 1993” two out of three vacancies in Group ‘D’ cadre would be filled up as per extant recruitment rules and in accordance with the instructions issued by DOPT from amongst casual workers with temporary status.
- iii) As per 1993 scheme casual labourers who acquire temporary status will not however be brought on the



permanent establishment unless they are selected through regular selection process for the Group 'D' posts. Hence the scheme does not confer the right for regularization on TSMs.

iv) The following benefits are already available for temporary status casual workers as per scheme of 1993:-

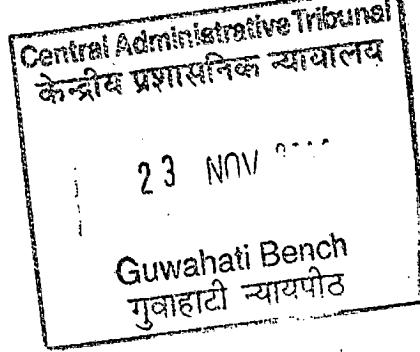
- a. Wages including DA+HRA+CCA
- b. Benefits of increment at the same rate as applicable to group 'D'.
- c. Leave entitlement
- d. Maternity leave.

v) As per notings on page 43/ ante, total number of Group 'D' posts in NEH Research Complex, Barapani are 114 and there is no vacancy as on August, 2007.

vi) In the XI Plan EFC for NEH Research Complex, Barapani, there is no case for creation of any Group 'D' post.

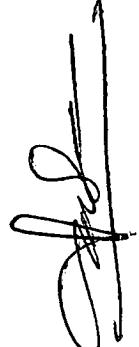
vii) As per para 2.2.10 of the Report of Central VIth Pay Commission, in future posts will be created only in PB-1 and there shall be no recruitment in -1S Pay Band except in exceptional circumstances i.e. compassionate cases etc.

In view of above it was stated by ICAR that there was no case for creation of 418 posts as proposed earlier vide letter dated 2-1-07 and the regularization of casual labourers on whom temporary status has been conferred under scheme of 1993 would be considered as per para 8 of the same scheme as and



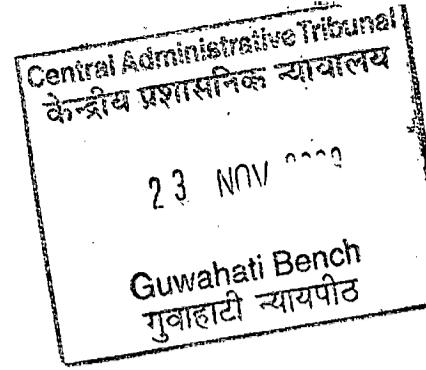
when group 'D' vacancies are available in NEH Research Complex, Barapani.

5. That the Ministry of Finance considered the position stated by the ICAR through its Administrative Department i.e. the Department of Agriculture Research and Education and vide its letter dated 28-07-2009 agreed with the views of the Department of Agriculture and Education. The Ministry of Finance also observed that case for regularisation of casual labourers on whom temporary status has been conferred under the scheme of 1993, may therefore, be considered as per para 8 of the same as and when group 'D' vacancies are available in NEH Research Complex, Barapani.


Copies of letter dated 5-6-07 of the Ministry of Finance, letter dated 14-12-07 of the Department of Finance, letter dated 23-7-09 of the ICAR, Letter dated 28-7-09 of the Finance Department are enclosed herewith as annexure 'E', 'F', 'G' and 'H' to this further written statement.

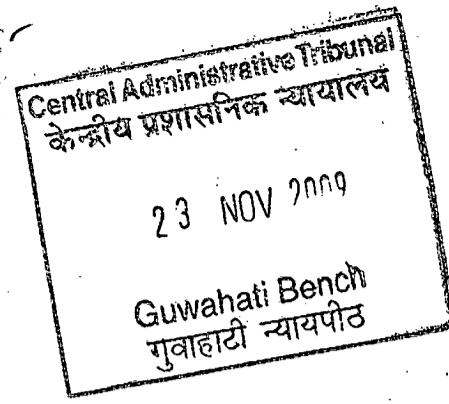
6. That in view of the above it may be appreciated by this Hon'ble Tribunal that no proposal for creation of group-'D' post is pending with the Ministry of Finance and the proposal pending stood finally considered and decided.

7. That the deponent states that keeping in view the contents of paragraph 2.2.9 and 2.2.10 of the Central VIth Pay Commission Report, in respect of ban on direct recruitment in the Group-'D' post,



the respondent shall take up the cases of the TSMs as and when any new policy or scheme is framed by the Government of India.

8. That with regard to para 6.12 and 6.13 of the Original Application the deponent denies the allegations made therein and states that after the 1993 Scheme came into force no regular appointments against institute vacancies in Group-'D' posts were made other than compassionate appointments and appointments against Co-Terminus Plan Projects and Schemes like KVKS upto the year 2005. However, in the year 2006 five vacancies were filled up of which 3 vacancies were utilized for regularizing TSMs. Moreover, during the year 1995-~~96~~ two TSMs were accommodated in Zonal Co-Ordinating Unit, Zone-III, Umiam a sister concern of ICAR.
9. That in view of the position submitted, this Hon'ble Tribunal may be pleased to dismiss the O.A.



VERIFICATION

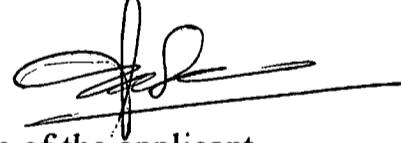
I, Dr. S. V. Ngachan, s/o. K.S, Shangrai Khai, aged about 55 years, working as Director, Indian Council of Agricultural Research for NEH Region, Uniam, Meghalaya resident of Shillong, Meghalaya.

..... being authorized by respondents No: 3, 4, 5 & 6 do hereby verify that the contents in paragraphs 1 (part), 4 (part), 5 & 6 are true to my personal knowledge and those in paragraphs 1, 2, 3, 4, 5, 7 & 8 believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 16th day of November' 2009 at Shillong.

16-11-09
Date: Shillong

Place:



Signature of the applicant.

DIRECTOR
CAR New Complex for
N.E.R. Region,
Shillong-9

1. Original Application No. 275/06
 2. Misc Petition No. _____
 3. Contempt Petition No. _____
 4. Review Application No. _____

Applicant(s) Lahit Kr. Bordoloi, G. Secretary
 Respondent(s) ICAR Mazdoor Union
to. O.I. force

Advocate for the Applicant(s) M. Z. Ahmed, Mr. B. Datta
Mr. Lekhi. Gogoi, A. M. Datta

Advocate for the Respondent(s) ... C.G.S.C. K.N. Choudhury for Respondent
Rakhee Choudhury 2, 3, 4.

Order of the Tribunal

18.05.2009 MR. M. Z. Ahmed, learned

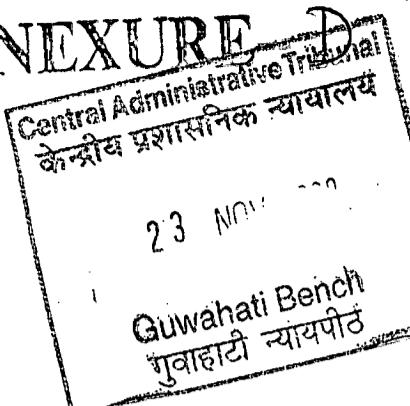
Counsel for the Applicant (being duly assisted by Mr. R. Chetia, Advocate) is present. Mrs. R.S. Choudhury, learned counsel for ICAR (duly assisted by Mrs. M. Khound, Advocate) is also present to indicate.

2. Seeking regularization from Temporary Status Casual Labourers Establishment, the Applicants have approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.



3. It is the stand of the Applicants (who are serving the ICAR organization as casual labourers with Temporary status) for more than last 30 years; though they are serving ~~they~~ ^{that although they are serving} Respondent Organization for such a long period, goes to show that they are disciplined persons/employees and that the effect that the Respondents Organization is continuing to utilize the services of the Applicants for such a long period goes to show that the Respondent Organization is in need of posts in regular establishment to cater their need. Therefore, it is submitted (by the learned counsel for the Respondent with the consent of the Applicant) that the Respondent Organization should create posts (if

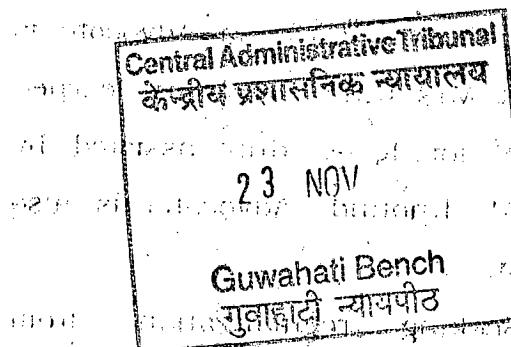
ANNEXURE



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18.05.2009



to take the Applicants to regular establishment.

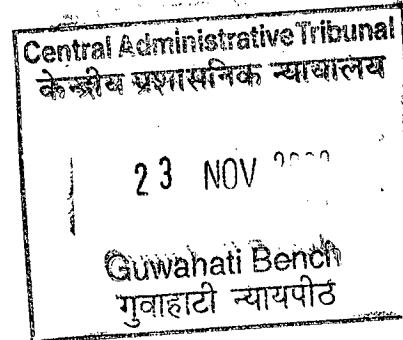
4. Mrs. R.S. Choudhury, learned counsel for ICAR pointed out that on a number of occasion, proposals (to get sanctioned for several new posts) having been given; the Finance Ministry/Department of Expenditure went on borrowing time to grant sanction. On one occasion (it has been pointed out by Mrs. R.S. Choudhury, learned counsel for the ICAR) the Ministry of Finance/Department of Expenditure borrowed time till Xth Five Year plan period to grant sanction; and, thereafter, the Finance Ministry is taking time to grant sanction; although the ICAR have decided to create posts to regularize the casual labourers engaged for a long time with temporary status.

5. It is the positive case of the ICAR that without the sanction from the Finance Ministry, it is not possible to create posts to absorb the casual labourers (with temporary status) working for such a long time.

6. In the aforesaid premises, the hearing of this case stands adjourned till 28th of July, 2009 and the Ministry of Finance/Department of Expenditure (Respondent No.5 of this case) is called upon to act on the proposal of the ICAR (pertaining to creation posts in ICAR) and pass necessary orders by

28th July, 2009.

Contd/-



Contd/-

18.05.2009

7. Send copies of this order to all the Respondents in the address given in the O.A. and free copies of this order be also handed over to learned counsel appearing for the Applicants; to the learned counsel for ICAR and to the learned Sr. Standing Counsel for the Govt. of India.

Sd/-

M. R. Mohanty
Vice-Chairman

Sd/-

N. D. Dayal
Member(A)

TRUE CO
verified
J. N. Mohanty
Section Officer (Sud)
Central Administrative Tribunal
Guwahati Bench
23 NOV 2009

Certified to
Guwahati
Plaza
Post Office
23-11-09

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Guwahati Bench
गुवाहाटी न्यायालय

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ANNEXURE E
109

Ministry of Finance
Department of Expenditure
E.Coord.I Branch

The proposal of the ICAR for creation of 418 additional posts of supporting staff Grade I at ICAR Research Complex for NEH Region, Barapani, has been considered.

2. ICAR is advised to refer such proposals through their Administrative Department, i.e., the Department of Agricultural Research & Education. ICAR is also advised to refer the proposal in the format prescribed vide our O.M. dated 24.02.2006 and also to furnish the following additional information :-

- (i) The total number of Group 'D' posts at ICAR Research Complex for NEH Region. The vacancies in this grade.
- (ii) It has been stated that the posts will be on co-terminus basis. It is not clear as to the posts will be co-terminus with what? This may be clarified.
- (iii) It has been stated that 325 Group 'D' posts were agreed in the Tenth Plan EFC subject to creation of posts with the approval of Ministry of Finance and here it may be clarified whether sanction orders were issued for creating these posts. If so, the reasons for the lapse may be given as it is irregular to create any post without prior approval of the Ministry of Finance.

3. Director (Pay) has seen.

Manmohan Kaur
(MANMOHAN KAUR)
DESK OFFICER (C)

ASPAF/ICAR (HED)

Min. of Fin. (D/o Exp.) I.D. No. F-38/JS(Per)/E.Coord.I/07 dated 05.06.2007.

Sir (P) 7/6/07

AS(D) & Secy, ICAR may also like to see at dak stage before the file is sent to the DDG (NRM) for replying the queries in by MEF as above.

He/Parimal
7.6.07

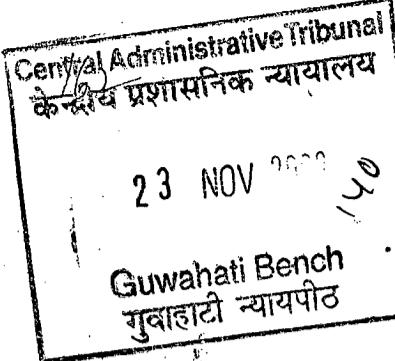
AS(D) & Secy, ICAR I.D. No. F-38/JS(Per)/E.Coord.I/07 dated 05.06.2007.

Dy.DG (NRM) 11.6.07
DDG (NRM) 11.6.07

*Certified &
to be
sent
separately*

Ministry of Finance
Department of Expenditure
E.Coop.I Branch

Reference : Preceding notes [F. No.21-3/2005-IA-II].



As advised earlier, the ICAR is advised to refer each and every proposal through their Administrative Department, i.e., the Department of Agricultural Research & Education.

2. Before referring the proposal to this Department again through DARE, consultation with Department of Personnel & Training may be done. Also, the reasons compelling the authorities to create regular posts for the labourers may be indicated specifically as the labourers have already been granted the temporary status as per DOP&T's guidelines.

3. Director (Pay) has seen.

Manmohan
(MANMOHAN KAUR)
DESK OFFICER (C)

ICAR (IHD)
Min. of Fin. (D/o Exp.) I.D.No.F-2236/JS(Per)E.Coop.I/07 dated 14.12.2007.

Finance
Dir.(F) 17/12/07
Accounts
18-12-07

DDG (NRM) After m/f 1/1/08

IS (NRM)
KPS
26/12/07

SO (T&A)

Smti. SJ
26/12/07

Ref. note above

On we may seek the information
at St. no. 2 above from the M.M. as per draft
form for applying to

Wajy Kelemor
by WPS

26/12/07

St. no. 31(2) P. 268/2

Central &
for the
Govt.
Govt.

Dated: 23rd July, 2009

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Guwahati Bench
गुवाहाटी न्यायपीठ

Ref. from pre-page

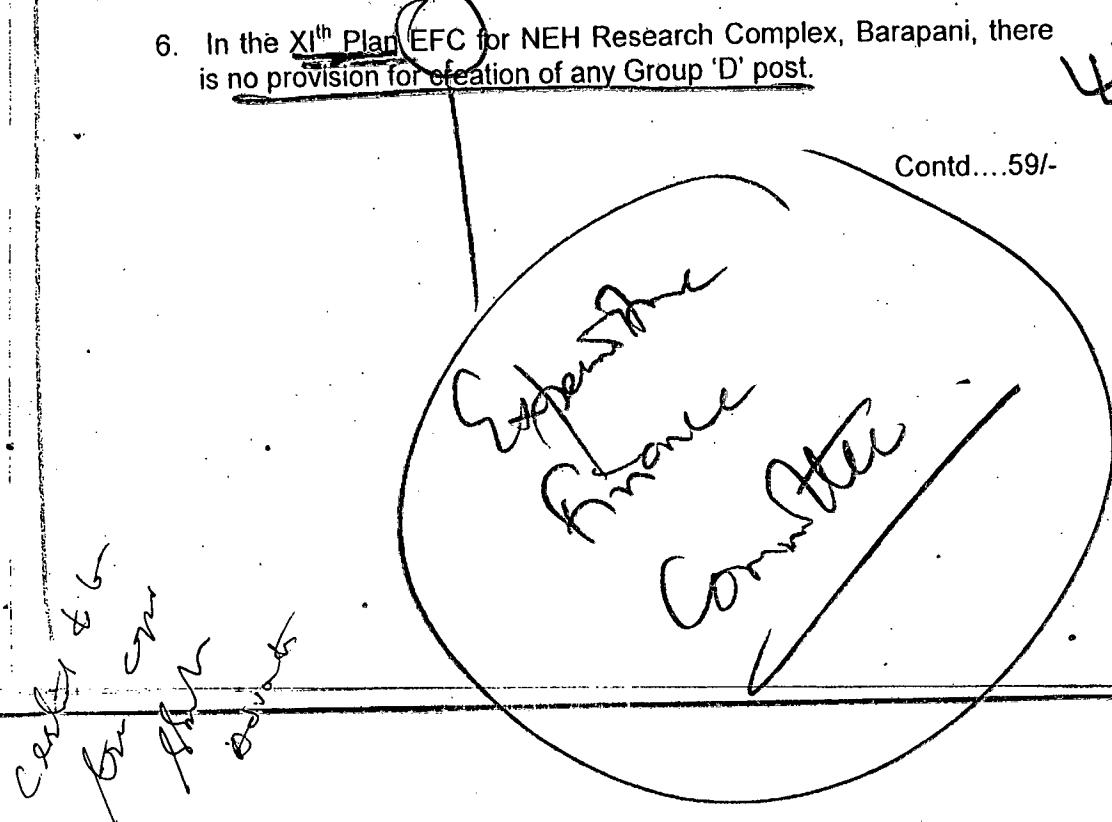
Discussed with AS&FA, DARE.

The proposal relates to regularisation of 418 Temporary Status Mazdoors (TSM) at ICAR NEH Research Complex, Barapani.

The case has been examined and following facts are submitted for kind consideration:

1. The CAT has ordered MOF to act upon the proposal of ICAR pertaining to creation of posts and pass necessary orders by 28th July, 2009.
2. As per para 8 of, "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993" "two out of three vacancies in Group 'D' Cadre would be filled up as per extant recruitment rules and in accordance with the instructions issued by DOPT from amongst casual workers with temporary status".
3. As per the 1993 Scheme casual labourers who acquire temporary status will not however be brought on the permanent establishment unless they are selected through regular selection process for the Group 'D' posts. Hence the scheme does not confer the right for regularization on TSMs.
4. The following benefits are already available for temporary status casual workers as per scheme of 1993:
 - a. Wages including DA+HRA+CCA
 - b. Benefits of increment at the same rate as applicable to Group 'D'
 - c. Leave entitlement
 - d. Maternity leave
5. As per notings on page 43/ante, total number of Group 'D' posts in NEH Research Complex, Barapani are 114 and there is no vacancy as on August, 2007.
6. In the XIth Plan EFC for NEH Research Complex, Barapani, there is no provision for creation of any Group 'D' post.

Contd....59/-



7. As per 2.2.10 of the Report of Central VIIth Pay Commission, in future posts will be created only in PB-1 and there shall be no recruitment in -1S Pay Band except in exceptional circumstances i.e. compassionate cases etc.

In view of the facts mentioned above, there is no case for creation of 418 posts as proposed by the ICAR. The case for regularization of casual labourer on whom temporary status has been conferred under the Scheme of 1993 would be considered as per para 8 of the same scheme as and when Group 'D' posts are created in NEH Research Complex, Barapani.

(RAVINDRA PATTAR)
Director (Finance)

AS&FA, DARE

Par
23/67

Spl. Secretary, DARE & Secretary, ICAR

July 10th 1917 (200)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

Secretary, (Expenditure)

Secretary
Mr. G. W. Dull
24/7/01
Dull (S)
8/11/01
S. G. (S)

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Ministry of Finance
Department of Expenditure
E.Coord.I Branch

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15
ANNEXURE-- H

Ref:- Notes of DARE/ICAR on pre-pages
[File No. 21-3/2005-I&-II]

DARE/ICAR may refer to their preceding notes regarding an dated 18th May 2009, passed by the CAT, Guwahati in O.A. No. 275/2006 - Sh. Lohit Kr. Bordoni, G. Secretary, ICAR Mazdoor Union -Vs- Union of India & Others. The matter has been examined.

2. DARE, vide their notes on p. 58-59/N ante, have stated the following facts:-

- I. The CAT has ordered MOF to act upon the proposal of ICAR pertaining to creation of posts and pass necessary orders by 28th July, 2009.
- II. As per para 8 of "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993" "two out of three vacancies in Group 'D' cadre would be filled up as per extant recruitment rules and in accordance with the instructions issued by DOPT from amongst casual workers with temporary status".
- III. The following benefits are already available for temporary status casual workers as per scheme of 1993:
 - a. Wages including DA+HRA+CCA
 - b. Benefits of increment at the same rate as applicable to Group 'D'
 - c. Leave entitlement
 - d. Maternity Leave
- IV. As per notings on page 43/ante, total number of Group 'D' posts in NEH Research Complex, Barapani are 114 and there is no vacancy as on August, 2007.
- V. In the 11th Plan EFC for NEH Research Complex, Barapani, there is no provision for creation of any Group 'D' post.
- VI. As per para 2.2.10 of the Report of Central 6th Pay commission, in future posts will be created only in PB-1 and there shall be no recruitment in -1S Pay band except in exceptional circumstances i.e. compassionate cases etc.

3. DARE have, on the above grounds, stated that there is no case for creation of 418 posts.

4. This Department agrees with the views of DARE. The case for regularization of casual labourers, on whom temporary status has been conferred under the Scheme of 1993, may, therefore, be considered as per para 8 of the same scheme as and when ^{vacancies} _{posts} are available in NEH Research Complex, Barapani.

5. ICAR/DARE are requested to place this Department's views (as detailed in para 2 and 3 above) before CAT, Guwahati at the time of next hearing.

6. This has the approval of Secretary (Expenditure).

Central Administrative Tribunal
कार्यपालिक न्यायालय

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J. Bhattacharya
(A.K. Tiwari)
Director (Pay)

Guwahati Bench
गुवाहाटी न्यायपीठ

AS & FA, DARE

Min. of Fin. (D/o Exp.) ID No. F-3481/SE/E.Coord.I(2)/2009 dated 07.07.2009

*Ch. Bhattacharya
A.K. Tiwari
Director (Pay)*

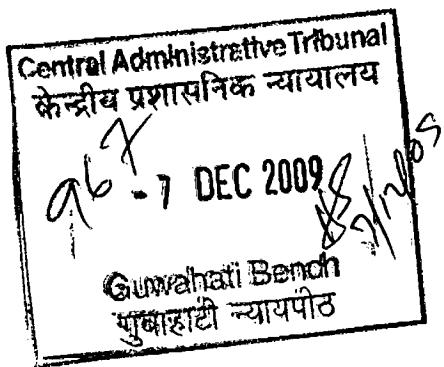
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File No. 275/2006

Court Officer.

Filed by:
L.K. Bordoloi & Ors.
Applicant
145
Kharbangar
through
Jesenta

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH, GUWAHATI.



IN THE MATTER OF :-

O.A. No. 275 OF 2006

L.K. Bordoloi & Ors.

....APPLICANTS

-Vs-

Union of India & Ors.

RESPONDENTS

A reply to the Additional Written Statement on behalf of Respondent Nos. 3, 4, 5 and 6 above-named:-

I, Jesenta Kharbangar, daughter of late Francis Dohtdong, aged about 35 years, presently working as Temporary Mazdoors in the Office of the Director of ICAR, Research Complex, NEH Region, Umroi Road, Barapani, Meghalaya and a resident of Pyllun, Umiam, Meghalaya, do hereby solemnly affirm and state as follows:-

1. That I am the General Secretary of North East ICAR Mazdoors' Union, Umroi Road, Umiam and as such I am acquainted with the facts and circumstances of the instant case and am competent to swear the instant affidavit on behalf of the Applicants.
2. That I have received a copy of the Written Statement filed on behalf of Respondent Nos. 3, 4, 5 and 6 and having perused the same I have understood the contents thereof.
3. That I deny the correctness of the averments made in the various Paragraphs of the Written Statement save and except those which may

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Guwahati Bench
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be specifically admitted herein and /or are borne out from the records of the case.

4. That at the outset I beg to once again reiterate that the Applicants, being Temporary Status Casual Labourers serving in ICAR Research Complex for NEH Region, Barapani, Meghalaya, approached this Hon'ble Tribunal seeking regularization of their service.
5. That while reiterating our stand taken earlier I beg to state that since the Applicants have been serving the ICAR Organisation as casual Labourers for such a long number of years, starting from 1976, and the fact that the Respondent Authority is continuing to utilise the services of the Applicants for such a long number of years goes to show that the Respondent Authority is indeed in need of posts which are of a regular nature to cater to their needs, and as such, the case of the Applicants ought to be considered for regularization of their services, if necessary by even creating Posts. It is pertinent to point out that the instant Applicants were initially engaged by the Respondent Authority at Umiam, Meghalaya as Casual Labourers by following due procedure prescribed by law in as much as they were duly nominated and sponsored by the local Employment Exchanges, and in that view of the matter, the Respondent Authorities ought to have expedited the regularisation of the Applicants at the earliest. Even though it is not too late.
6. That the instant Additional Written Statement is a common Written Statement filed on behalf of separate Establishments having separate identities, guidelines and policies in the matter of their various functions, and the same being abuse of the due process of law, the said Written Statement is liable to be summarily rejected at the threshold.
7. That while denying the correctness of the averments made in Paragraph 1 of the Additional Written Statement, I beg to state that the claim of the Respondent Authorities that "these factual mistakes have occurred due to a communication gap" is an evasive reply in as much as from the said statement it is not understood as between whom

 Khadangya
Present
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- 7 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

the said communication gap occurred, and the same bearing no clear meaning, this Hon'ble Tribunal ought not to rely upon the same. It is now absolutely necessary that this Hon'ble Tribunal directs the Respondent Authorities to furnish all the relevant original records.

8. That while denying the correctness of the averments made in Paragraph 2 of the Additional Written Statement, I beg to state that admittedly the proposal for creation of 418 additional Posts of Supporting Staff Grade -I at ICAR Barapani was sent for consideration by the Ministry of Finance, and ICAR was advised to refer such proposals through their Administrative Department in the light of the Format prescribed vide the O.M. dated 24/02/2006 issued by the Ministry of Finance. The said document is a vital one to enlighten this Hon'ble Tribunal in respect of the steps taken in this regard, but the Respondent Authority has deliberately failed to produce the same before this Hon'ble Tribunal, and as such the Respondent Authorities ought to be directed to produce the same before this Hon'ble Tribunal for proper adjudication of the matter and to ensure that the acts of the Respondent Authorities have all along been transparent.

9. That as regards the averments made in Paragraph 3 of the Additional Written Statement, I beg to state that the ICAR Authority at Barapani showed total disinterest and reluctance in this regard in as much as the ICAR Headquarters at New Delhi, by way of Office Memorandums, dated 24/02/2003 and 20/10/2003, on the basis of the Office Memorandum dated 20/01/2003 issued by the Ministry of Personnel, Public Grievances and Pensions through the Department of Personnel & Training, requested the ICAR Authority, Barapani to furnish information with regard to counting of past service rendered by casual labourers prior to grant of temporary status, but till date the ICAR Authority has not taken any positive steps in this regard, and the ICAR Authority at Barapani being purportedly a Model Employer, must necessarily enlighten this Hon'ble Tribunal of the steps taken on such a vital issue covering the fate of their Casual Labourers/Temporary Status Mazdoors. It is needless to state that most of the Applicants were appointed as casual Labourers on the recommendation of the local Employment Exchange as per procedure prescribed by law and are entitled to be treated as regular employees and granted all benefits including pension. Even the Respondent Authorities contemplated grant of pensionary benefits but the ICAR, NE Region remained silent with regard to the same.

Presented by
Khaibang

- 7 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পৌর

Copies of the letters dated 20/01/2003, 24/02/2003, 20/10/2003 and a Fax dated 31/10/2003 are annexed hereto as Annexures- 10,11,12 and 13 respectively.

10. That while denying the correctness of the averments made in Paragraph 4 of the Additional Written Statement, I beg to state that the said Scheme of 1993 had not been followed strictly by the Respondent Authority. Furthermore, the Respondent Authority at New Delhi indicated that the benefits of the Scheme are available for temporary status casual workers, whereas certain facilities are admittedly not provided by the Respondent Authority, which are as follows:-

- a.) Medical Allowance and reimbursement of medicines and hospitalization fixed for the casual labourers are not given.
- b.) Casual leave and earned leave are also not provided, e.g if a temporary status worker is absent for 1 day in a week, pay is deducted for two days (the date of absence and the corresponding Sunday).
- c.) Maternity benefit is granted but no medical reimbursement for hospitalization is provided.
- d.) Pensionary benefits.

Moreover, the additional benefits provided for Group D employees, such as Uniforms, LTC, etc. were not given to the Temporary Mazdoors. Furthermore, a Bonus of Rs. 1184/-only is provided to the Temporary Mazdoors whereas the Regular Group D employees of other Institutes receive a Bonus of Rs. 3500/-.

11. That it is pertinent to mention herein that some of the Temporary Mazdoors, numbering around 32 more or less, have been appointed as Security Guards in ICAR at Barapani in July 2008. The said Security Guards were appointed in the Institute without being given any formal training, which may create problems in the Institute as well as to the Security Guards in as much as the said Security Guards will not be able to handle different dangerous situations for lack of expertise,

Jesanta
Kharbangal

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which may also cause risk to their lives. Moreover, the Security Guards have not been provided with essential facilities such as uniforms, I.D etc.

11A. That while denying the correctness of the averments made in Paragraphs 5 to 8 of the Additional Written Statement, I beg to state that the Respondent Authorities have made a false statement that after the 1993 Scheme came into force, no regular appointments against vacancies in Group-D posts were made other than compassionate appointments and appointments against Co-Terminus Plan Projects and Schemes like KVKs upto the year 2005, whereas in the year 2007-2008, certain outsiders were appointed in regular jobs in Group-D Posts instead of the Temporary Mazdoors, without calling for interview. Some Temporary Mazdoors applied for the said Posts but no calling letter was sent to them. Furthermore, even after death of a Temporary Mazdoor, none of his family members were given compassionate appointment in the Institute.

12. That I further submit that it is totally unbecoming on the part of the Respondent Authority in choosing to deny the claims of the Temporary Mazdoors for regularization of their service while taking the benefits of their service for a long numbers of years in works of regular nature, when on the other hand it was the duty of the Respondent Authority to take necessary steps in this regard so that the Ministry of Finance could well have taken steps for grant of sanction of new posts. The procedures directed to be followed for creation and of Posts and regularisation of the Applicants was deliberately not followed so as to deny the Applicants the benefits of regularisation and consequential service benefits

13. That I further reiterate that in the event no relief as sought for is granted, most of the Senior members of the Applicant Union will be compelled to retire from service as Temporary Mazdoors without being afforded any terminal benefits, which, as per the extant service laws, cannot be denied to the members of the Applicant Union and the Respondent Authority being a Model Employer certainly cannot

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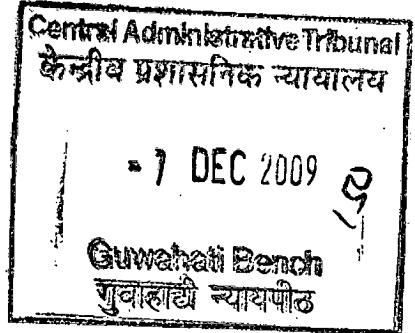
- 7 DEC 2009

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prefer to take such an unjustified step. Furthermore, majority of the Temporary Mazdoors being registered with the State Employment Exchange, their interest must necessarily be protected by the Respondent Authority/ Employer.

14. That a mere perusal of the Additional Written Statement would indicate that the Respondent Authorities have never been serious in implementing the Policy Decision of the Respondent Authorities at Barapani in the matter of regularisation of the services of the members of the Applicant Union in spite of specific directives, and in that view of the matter, this Hon'ble Tribunal must necessarily look into the entire facts of the case and thereby arrive at a judicious finding that the actions of the Respondent Authorities at Barapani are highly illegal, arbitrary, discriminatory and in total violation of the basic principles of Natural Justice and fair play, and on this ground alone, the submissions of the answering Respondents in the Additional Written Statement must necessarily be rejected and the instant Original Application allowed with compensatory costs in favour of the Applicants.
15. That in any view of the matter the answering Respondents have failed to justify with any reasons whatsoever the cause for non-regularising the services of the members of the Applicant Union in spite of the specific directives of the Government of India and the Headquarters of ICAR, New Delhi.
16. That unless the Respondent Authorities at Umium, Barapani, are directed to produce all the relevant original records relating to the instant subject matter and the same are examined by this Hon'ble Tribunal, there will be a grave failure of justice in as much as the actions of the Respondent Authorities have lacked transparency and also smacks of malafide.
17. That the averments and submissions in the Additional Written Statement being contrary to the records earlier submitted renders the instant Additional Written Statement liable to be summarily rejected at this stage as being totally vague and misleading.

 Khalsa
Present



VERIFICATION

I, Jesenta Kharbangar, daughter of late Francis Dohtdong, presently working as temporary status Mazdoors in the Office of the Director of ICAR, Research Complex, NEH Region, Umroi Road, Umiam, Meghalaya and I am the General Secretary of the Applicant Union, do hereby verify that the statements _____ made _____ in Paragraphs 1 to 8 & 10 to 14 are true to my knowledge, those made in Paragraphs _____ 9 being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this Verification on this the 6th day of December, 2009 at Guwahati.

J. Bangar
(Jesenta Kharbangar)
General Secretary
M/SICAR Mazdoor's Union
HQ - Uniton

Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

Annexure - II

New Delhi, dated the 20th January, 2003.

OFFICE MEMORANDUM

Subject: Counting of past service rendered by casual labourers prior to grant of temporary status for pensionary benefits.

The undersigned is directed to refer to this Department's OM of even number dated 9th November, 2001 and subsequent reminders dated 8th January, 2002, 27th March, 2002, 21st May, 2002 and 9th August, 2002 on the subject noted above and to say that the following information invited thereon have not yet been received from all the Ministries/Departments of the Govt. of India.

Number of casual employees who were regularised after:

- (i) two years of casual service
- (ii) three years of casual service
- (iii) four years of casual service
- (iv) five years of casual service
- (v) six years of casual service
- (vi) seven years of casual service
- (vii) eight years of casual service
- (viii) Number of casual employees yet to be regularised.

2. It is requested that the requisite information in respect of the casual employees working under the administrative control of the various Ministries/Departments from 1.1.93 onwards, may please be furnished to this Department for processing the demand of the Staff Side for counting of casual services for pensionary benefits.

(S) M. Mohan
(Smt. Pratibha Mohan)
Director

To

All Ministries/Departments of the Govt. of India.
(except Deptt. of Women & Child Dev., Ministry of Information & Technology, Ministry of Defence, Ministry of Power, Ministry of Civil Aviation, Deptt. of Expenditure, Deptt. of AIR & PG, Ministry of Tribal Affairs, Deptt. of J&K Affairs, Planning Commission, Deptt. of Economic Affairs, Deptt. of Space, Ministry of Textiles, Ministry of External Affairs, Deptt. of Industrial Policy & Promotion, Deptt. of Consumer Affairs, Deptt. of Food & Public Distribution, Office of CEA&G, Deptt. of Atomic Energy, Deptt. of Chemicals & Petro-chemicals, Deptt. of Fertilizers, Deptt. of Ocean Development, UPSC, Deptt. of Coal and Central Vigilance Commission.)

Copy also forwarded to:-

1. Controller General of Accounts/Controller of Accounts, Ministry of Finance.
2. Election Commission, Lok Sabha/Rajya Sabha Secretariat, Central Vigilance Commission.

*Certified to be true
A. H. Dutt
Advocate*

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

7 DEC 2009

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गुवाहाटी न्यायालय

Annexure 12 (3)

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN, NEW DELHI-1

F.No.24(9) 2003-CDN

Dated the 9th February, 2003

OFFICE MEMORANDUM

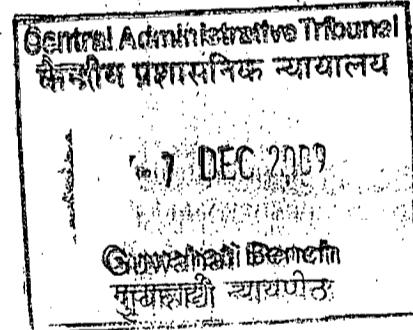
Please find enclosed herewith a OM No 49014/2/97-Estt. dated 21 January, 2003 regarding Counting of past service rendered by casual labourers prior to grant of temporary status for pensionary benefits received from Director, Ministry of Personnel, Public Grievances and Pensions, Deptt. of Personnel and Training.

It is requested that requisite information in enclosed prescribed proforma concerning your division may please be furnished in consolidated to undersigned latest by 28th February, 2003 positively. This may please be treated as Most Urgent.

(SANJAY GUPTA)
UNDER SECRETARY(GAC)

Distribution:

1. All IA Sections.
2. US(A), ICAR.
3. Director, NAPR.
4. Dy. Secy (Edu).

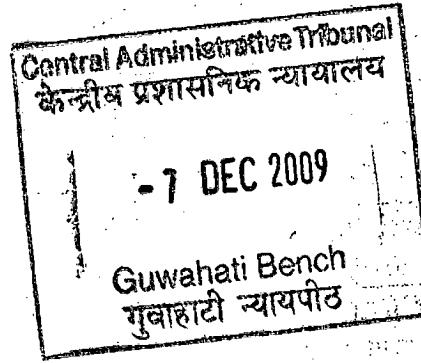


*Certified to be true
A. M. Dutta
Advocate*

(4) (5)

Counting of past service rendered by Casual Labourers prior
To grant of Temporary Status for Pensionary Benefits

S.No.	Number of years after which the casual labourers were regularized	Number of casual employees who were regularized in relation to Colmn. No.2
I	Two years of casual service	3
II	Three years of casual service	
III	Four years of casual service	
IV	Five years of casual service	
V	Six years of casual service	
VI	Seven years of casual service	
VII	Eight years of casual service	
VIII	Number of casual employees yet to be regularized	



**Indian Council of Agricultural Research
Krishi Bhavan, New Delhi-110001.**

F.No.5-57/2003-JA-I

Dated the 9th October, 2003

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

To

The Director,

7 DEC 2009

Guwahati Bench
गুৱাহাটী ন্যায়পীঠ

Subject :- Counting of past service rendered by casual labourers prior to grant of temporary status for Pensionary benefits etc.

Sir,

I am to refer to Council's letter of even number dated 22/25.8.2003 on the subject cited above. In this connection, I am to say that the required information has not been received in the Council so far while the same was called for latest by 29.8.2003.

You are, therefore, again requested to kindly look into the matter and required information be sent to the Under Secretary(GAC), ICAR, Krishi Bhavan, New Delhi (in the enclosed proforma) under intimation to the undersigned latest by 27.10.2003.

Yours faithfully,

✓
(S.P. Sanwal)
Under Secretary(AS)

Certified to be true
A. M. Dutt
Advocate

Indian Council of Agricultural Research
Krishi Bhawan : New Delhi

FAX NO.0364-2570257

Reminder - II

TIME BOUND

Rush Today

Dr. K.M. Bujarbaruah (Director)

ICAR Research Complex for NEH Region, Barapani

F.NO.1-26/03-IA.II (.) REFOFAX OF EVEN NUMBER DATED 30.9.03 AND
REMINDER DATED 15.10.03 REGARDING COUNTING OF PAST SERVICE
 RENDERED BY CASUAL LABOURERS PRIOR TO GRANT OF TEMPORARY STATUS
 FOR PENSIONARY BENEFITS, AS REPRODUCED BELOW (.) INSPITE OF ITS TIME
 BOUND NATURE THE REQUISITE INFORMATION IS ONLY STILL AWAITED FROM
 YOUR INSTITUTE AND SAME MAY BE SUBMITTED BY RETURN FAX TODAY
 POSITIVELY (.)

P.K. DUTT

1. Number of causal employees who were regularized
 after :

- I) two years of causal service
- II) three years of causal service
- III) four years of causal service
- IV) five years of causal service
- V) six years of causal service
- VI) seven years of causal service
- VII) eight years of causal service
- VIII) Number of causal employees yet to be regularized.

2. Information in respect of the causal employees
 working under the administrative control of the various
 Ministries/Departments from 1.1.83 onward.

P.K. Dutt

(P.K. DUTT)
SECTION OFFICER (NRM)

Dated : 31.10.03

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

- 7 DEC 2003

Guwahati Bench
गुवाहाटी न्यायालय

*Certified to be true
A. M. Dutt
Advocate*

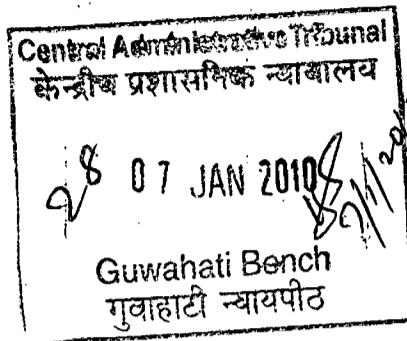
-14-

File in Court on 8/1/10.....
Court Officer.

-14-

152
Filed & recd
Recd. 08.1.10
through Sanjiv
Deka
7-1-10

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, AT GUWAHATI



O. A. NO. 275/2006

North East ICAR Mazdoor Union & ann.
.....Applicants.

-VS-

Union of India & Ors
..... Respondents.

Counter-Reply to the reply filed on behalf of respondents
no 1, 3, 4, 5 and 6.

1. That the respondents above named have been served the reply to the further written statement, on 7/12/09. The respondents have gone through the same and have understood the contents thereof. Hence this Counter- reply.
2. That with regard to the statements made in para 5 of the reply the respondents state that no formal recruitment process was undertaken for the purpose of initially engaging the TSMs as casual labourers except the fact that their names were sponsored by the local Employment Exchange. The statement that “..... the fact that the respondent authority is indeed in need of post which are of a regular nature to cater to their needs, and as such the case of the applicant ought to be considered by regularization of their services, if necessary by even creating posts” is not correct and therefore denied. It is stated that the TSMs perform the duties in connection with seasonal agricultural research works. Their services are in fact not required throughout the year. But since they would be losing the benefit under the

Received by
Deepak Deka
Advocate
07/01/10

07 JAN 2010

Guwahati Bench
সুবাহাটী ন্যায়পৌর

1993 scheme in the event of any gap in service, they are being allowed to work throughout the year. Moreover the TSMs were engaged as Casual Labourers only, and simply because their names were sponsored by the local employment exchange, they are not entitled to regularisation when there is no substantive vacancy available for their regular absorption.

3. That with regard to the statements made in paragraph 6 of the reply, it is stated that the allegations made therein are unfounded because the Ministry of Finance, Department of Expenditure requested and authorized the ICAR to file its reply jointly with the ICAR through the present counsel. Moreover the documents produced along with the further Additional Written statement filed on 23-11-2009 are the correspondences made by the Ministry of Finance. Therefore there is no question of rejecting the further Additional Written statement as alleged.
4. That with respect to the statements made in paragraph 7 of the Reply it, is stated that the communication gap referred to in paragraph 1 of the Additional Written Statement took place between the ICAR Research Complex for NEH Region, Umroi Road, Umiam, Meghalaya, respondent No. 3 and the Office of the Director General, ICAR, Krishi Bhaban, New Delhi, respondent No. 6.
5. That with regard to the statements made in paragraph 8 of the Reply it is stated that the Office Memorandum dated 24-2-2006 relates to ban on creation of posts and preparation of comprehensive check list for processing proposals for creation of posts. This document does not in any way create any right in favour of the TSMs. However a copy of the same is available

07 JAN 2009

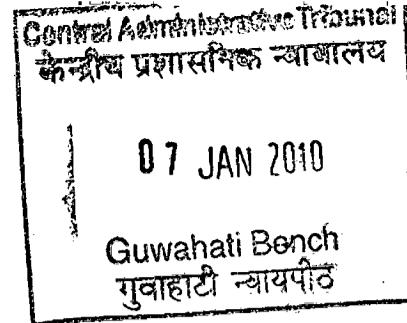
Guwahati Bench
গুৱাহাটী ন্যায়পৌঠ

with the respondents and the same can be produced before this Hon'ble Tribunal if so directed.

6. That with regard to the statements made in paragraph 9 of the Reply, the allegations made therein are denied by the respondents. It is stated that the information and data in the matter of counting of past service rendered by Casual Labourers prior to grant of temporary status for pensionery benefits, so sought for by the Department of Personnel and Training, Government of India, vide Office Memorandum dated 20-1-2003 were duly furnished by the respondent No. 3 vide letter dated 3-11-2003. However, in the context of the legal position with regard to regularization of Casual Labourers post Uma Devi's case rendered by the Apex Court, the aforesaid information sought and furnished in the year 2003 are of no consequence.

A copy of the letter dated 3-11-2003 is annexed as annexure 'I' to this written statement.

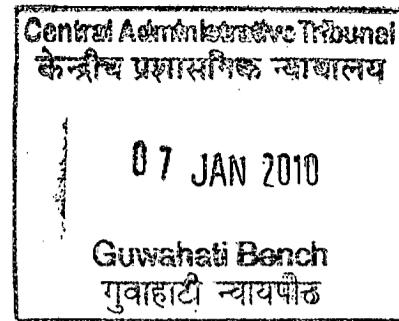
7. That with regard to the statements made in paragraph 10 of the Reply, it is stated that the ICAR Institute has been strictly following the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Govt. of India, 1993" and provided all the facilities admissible thereunder to the TSMs. The benefits like Medical Allowances, Medical Reimbursement, Pensionery Benefits, LTC etc. are not admissible under the said Scheme. Moreover, the Institute has been paying bonus to TSMs every year as per the Govt. of India Notifications. In 2009 also, it was paid as per the Govt. of India Notification dated 28-8-2009.



8. That with regard to the statements made in paragraph 11 of the Reply, the respondents beg to state that the Institute has all along been outsourcing security services by engaging firms providing security services on contractual basis only. In the year 2008 when the existing firm was disengaged due to administrative reasons some of the TSMs were engaged to perform the job of watch and ward duties along with the existing chowkidars as a stop-gap arrangement. The institute has however floated tenders for outsourcing of security services and the Institute is in the process of finalizing the tender. As soon as the tender process is finalized and a firm is engaged for the purpose the stop-gap arrangement aforesaid would be dispensed with. However, the TSMs presently engaged as such have been provided with all the basic requirements namely Lathis, Torches, Raincoats, Gum Boots etc.
9. That with regard to the statements made in paragraph 12 (mentioned as para 11) of the Reply, the respondents strongly deny the allegation that they have made a false statement in paragraph 5 to 8 of the Additional Written Statement. It is stated that no direct appointment in Group - D post was made without calling for interview. As a matter of fact it was mentioned in paragraph 8 of the Additional Written Statement that out of 5 vacancies three were filled up by TSMs. The remaining two vacancies in the Group-D post were filled up by duly qualified persons sponsored from the Local Employment Exchange.
10. That with regard to the statements made in paragraph 13 (mentioned as para 12) of the Reply, the allegations made therein are emphatically denied by the respondents. The correspondences produced by the applicants themselves in the Original Application would belie the allegations made by the applicants.

11. That with regard to the statements made in paragraph 14 and 15 (mentioned as para 13 and 14) of the Reply, the respondents beg to state that they have extended all the benefits admissible under the norms and the Scheme to the TSMs and they were never treated unfairly and in an unjust manner.

12. That with regard to the statements made in paragraph 16, 17 and 18 (mentioned as para 15, 16 and 17) of the Reply, the allegations made therein are denied. In view of the law laid down by the Apex Court with regard to regularization of Casual Labourers and in view of the Sixth Central Pay Commission Report, the applicants are not entitled to any relief and the application is therefore liable to be rejected.



VERIFICATION

I, Dr. S. V. Ngachan, s/o. K,S, Shangrai Khai, aged about years, working as Director, Indian Council of Agricultural Research for NEH Region, Uniam, Meghalaya resident of

..... being
authorized by respondents No. 1, 2, 3, 4, 5, 6 do hereby verify
that the contents in paragraphs are true to
..... are true to
my personal knowledge and those in paragraphs
..... believed to be
true on legal advice and that I have not suppressed any material
fact.

And I sign this verification on this 7th day of January' 2010 at Guwahati.

Date:

Place:

Signature of the applicants.

Director
ICAR Res. Complex for
N.E.R. Region,
Silvassa-3

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR M.E.H. REGION
UMROI ROAD, UMIAM -793103 (MEGHALAYA)

No. RC(G)14/95 (Vol.II) Dated Umiam, the 3rd Nov, 2003.

To,

Mr. Harbhajan Singh,
Under Secretary (NRM),
Indian Council of Agricultural Research
Krishi Bhavan,
New Delhi.

Sub:- Furnishing information regarding Counting of past services rendered by Casual labourers prior to grant of temporary status for pensionary benefits.

Ref:- i) Council's letter F.No.1-26/2003.IA-II dated 30.9.2003.
ii) This Institute's letter No.RC(G)14/95(Vol.II) dtd.22.10.2003.

Sir,
I would like to inform you that the required information sent vide this Institutes letter under reference (ii) was only for Hqtrs.Umiam. Now, we have received the information from our regional Centres and accordingly a consolidated list has been made which is as under:-

1. Number of Casual employees who were regularized after:-

i) Less than one year of Casual service	- 12
ii) one year of C/Service	- 83
iii) Two years of C/Service	- 12
iv) Three years of C/Service	- 18
v) Four years of C/Service	- 13
vi) Five years of Casual Service	- 7
vii) Six years of C/Service	- 13
viii) Seven years of C/Service	- 22
ix) Eight years of C/Service	- 46
x) Nine years of C/Service	- 43
xi) Ten years of C/Service	- 36
xii) Eleven years of C/Service	- 26
xiii) Twelve years of C/Services	- 29
xiv) Thirteen years of C/Services	- 22
xv) Fourteen years of C/Services	- 14
xvi) Fifteen years of C/Services	- 22
xvii) Sixteen years of C/Services	- 1

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(Total number of T/MS Hqtrs Umiam
Regional Centres)

xviii) Number of Casual employees yet to be regularised:-

Some cases are still pending for regularization
Information in respect of Casual employees working
under the Administrative Control of various Ministries/
Departments from

Nil.

It is to state that the information furnished above
is including the Temporary Mazdoors who had already expired.
The T/MS those who have already got regular appointment are not
included in the list.

This is for favour of your kind information and further
necessary action.

Yours faithfully,

(H. J. Karmawphlang)
Administrative Officer

rkd/-

DL

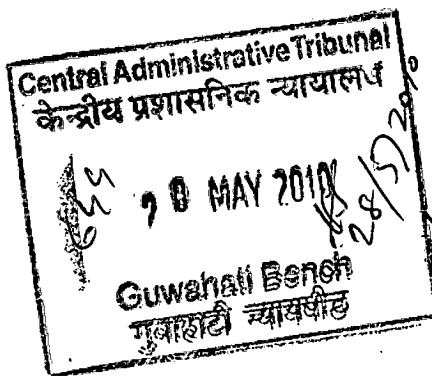
Received at 4.30 P.M.
28/5/2010

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Filed by the deponent
through

Rupam Sarma
Advocate
28/5/2010

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, AT GUWAHATI



ORIGINAL APPLICATION NO. 275/2006

North East ICAR Mazdoor Union & anr.

.....Applicants.

-VS-

Union of India & Ors

..... Respondents.

IN THE MATTER OF:

Additional -Affidavit filed on behalf of respondent
Nos. 1,3,4,5 and 6 in compliance of order dated 29-
3-2010.

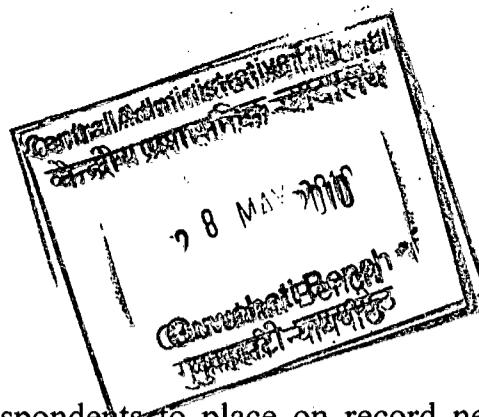
[ADDITIONAL AFFIDAVIT]

I, Dr. N. S. Azad Thakur, s/o. late Shri Janglu Ram, aged about 56 years, presently residing at Laban, Shillong, Meghalaya do hereby solemnly declare and affirm as follows:

1. That I am the I/C Director, Indian Council for Agricultural Research for NEH Region, Umroi, Meghalaya of the Indian Council for Agricultural Research and as such I am conversant with the facts and circumstances of the case. I have been duly authorised to swear this affidavit by the Director who is presently away on official tour.
2. That on 29-3-2010 when this case was taken up for hearing, the Hon'ble Tribunal directed respondents to file specific affidavit placing on record necessary documents/details as to when the Governing Council of the ICAR has taken the decision communicated on 23-07-2009. This Hon'ble Tribunal

SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B

NOTARY
Guwahati, Kamrup.
Regd. No:-KAM. 02



has also given liberty to respondents to place on record necessary details in respect of any other subject on the issue raised in present case.

3. That ICAR is an autonomous organisation under the Department of Agriculture, Government of India with its headquarters at New Delhi. The Union Minister of Agriculture is the Ex-Officio President of the ICAR Society and Secretary, Department of Agriculture Research & Education (DARE), Ministry of Agriculture, Government of India & Director General, ICAR is the Principal Executive Officer of the Council.
4. That the Council is the Apex Body for coordination, guidance and managing research and education in agriculture including horticulture, fisheries and animal science in the entire country. ICAR Research Complex for North-East, Barapani is one of its 97 institutes spread across the country. The Governing Body is the policy making body constituted under the Rules of the Indian Council of Agricultural Research Society.
5. That the power of the Governing Body of the Council is subject to such limitation as the Government of India may from time to time impose. The decision communicated on 23-7-2009 was not placed before the Governing Body. However the said decision was taken by the Additional Secretary, Department of Agricultural Research & Education who is also Secretary, ICAR, in consultation with A.S. & F.A., DARE and ICAR following a series of deliberation on the issue of creation of posts in question. Ultimately no justification was found by the ICAR to create posts considering the fact that there is no provision for creation of any Group-D post in the XIth Plan EFC for NEH Research Complex, Barapani. The decision was sent to the Secretary, (Exp), Ministry of Finance by Secretary, ICAR after having discussed the matter with Financial Adviser of DARE/ICAR. The Ministry of Finance then concurred with such decision and the process of creation of posts ended there.

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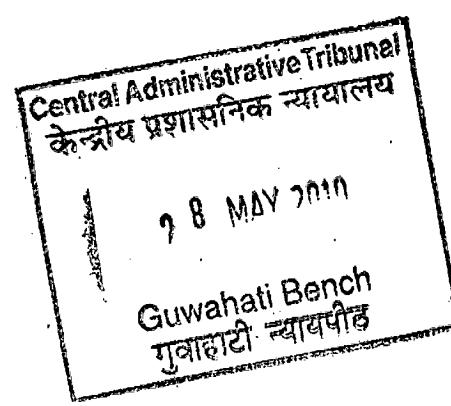
SHAH SYED SAMADUR RAHMAN

M.A., B.Ed., LL.B

NOTARY

Guwahati, Kamrup.

Regd. No:-KAM. 03



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It is worth mentioning here that the Secretary, ICAR and Additional Secretary, DARE is the same person. Another Additional Secretary, DARE is also the Financial Adviser for both ICAR and DARE

6. That the statements made in this paragraph and in paragraphs 1, 3 and 4 of this affidavit are true to my knowledge and those made in paragraph 2 are true to my information based on the records of the case and those made in paragraph 5 are true to my information derived from the ICAR Headquarters at Delhi and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

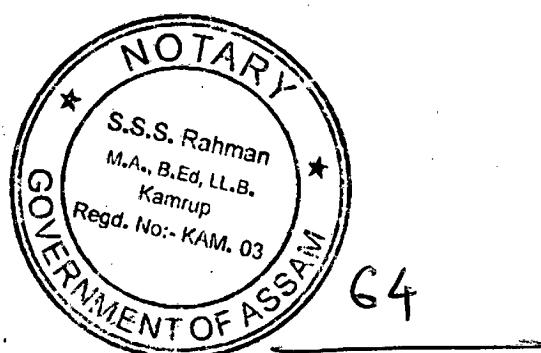
And I sign this affidavit on this the 28th day of May'2010 at Guwahati.

IDENTIFIED BY

Rupen Sarma

DEPONENT
Director I/C
ICAR RC for NEH Region,
Umiam, Meghalaya - 793103

ADVOCATE



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28-5-10

SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B
NOTARY
Guwahati, Kamrup.
Regd. No.: KAM. 03