

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No..... 288/06

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SECTION OFFICER (Judl.)

FORM NO. 4
 (SEE RULE 24)
 CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH:

1. Original Application No. 288/06
 2. Misc Petition No. _____
 3. Contempt Petition No. _____
 4. Review Application No. _____

Applicant(s) Preakash Deba
 Respondent(s) U. O. I. Govt

Advocate for the Applicant(s) M. K. Mazumdar.....

Advocate for the Respondent(s)..... Case.....

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|------|-----------------------|
|-----------------------|------|-----------------------|

This application is in relation
 is filed/C. F. for as 06
 deposited v.c. P. D
 No. 285932718
 Dated 17.11.06

23.11.06

Heard learned counsel for the parties.
 Order passed, kept in separate sheet
 The C.A. is disposed of at the admission stage itself in terms of the order. NO costs.

Glen
 Dy. Registrar

NS
 22.11.06

✓
 vice-Chairman

Steps taken with
 one copy short and
 without envelope.

bb

Received
 NS
 24.11.06

NS

Parul
 6pm 28/11/06
 28/11/06

28.11.06
 29.11.06 Copy of the order
 may be sent to the office of
 the Commissioner to the application
 29.11.06

27/11/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.288 of 2006

DATE OF DECISION : 23.11.2006

Shri Prakash Deka¹ Applicant/s

Mr.M.K.Mazumder Advocate for the
Applicant/s.

- Versus -

U.O.I & Others Respondent/s

Mr.M.U.Ahmed, learned .C.G.S.C Advocate for the
Respondents

CORAM

HON'BLE MR K.V. SACHIDANANDAN, VICE-CHAIRMAN

| | |
|--|--------|
| 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 to be forwarded for including in the Digest Being complied at Jodhpur Bench & Other Benches? | Yes/No |
| 4. Whether their Lordships wish to see the fair copy of the Judgment ? | Yes/No |

24/11/2006
Vice-Chairman

✓

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 288 of 2006.

Date of Order: This, the 23rd Day of November 2006.

THE HON'BLE MR. K.V.SACHIDANANDAN, VICE CHAIRMAN.

Shri Prakash Deka
Son of Late Amulya Deka
C/O. M/S. Deka Store
Santipur, Guwahati-781009
Dist: Kamrup, Assam.

... Applicant.

By Sr. Advocate Shri B. Kalita & Advocates Mr. M. K. Mazumdar & Mr.S.Dutta.

- Versus -

1. Union of India
Represented by the Director General
Department of Posts
Sanchar Bhavan
New Delhi-1.
2. The Chief Post Master General
Assam Postal Circle
Guwahati-781001.
3. The Director of Postal Services
Office of the Chief Post Master General
Assam Postal Services
Guwahati-781001.
4. The Manager
Mail Motor Services
Guwahati – 781 001. Respondents.

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

.....

✓

ORDER (ORAL)SACHIDANANDAN, K.V.(V.C.) :

The applicant claimed that he is a Group 'D' employee and was appointed on daily wages basis by the Manager, Mail Motor Services on 25.04.2000 and he is continuing as such. According to him, despite the approval of the Director (MV) sanctioning the post of Group 'D' vide approval dated 20.3.1999/9.2.2001 his services has not yet been regularised even after serving continuously for more than six years. The applicant further contends that he is enjoying the scale of pay including DA, HRA and CCA etc. He has made several representations through Union at least for conferment of temporary status but to no response. Aggrieved by the said inaction of the respondents the applicant has filed this application seeking the following reliefs:-

"The respondents may be directed to regularise the service of the applicant in Group - 'D' service under the Manager, Mail Motor Service, Guwahati or under Assam Postal Circle, with effect from the day of completion of 1(one) year/240 days of continuous service as casual labourer by the applicant."

2. Heard Mr. M. K. Mazumdar, learned counsel for the applicant and Mr. M. U. Ahmed, learned Addl. C.G.S.C. for the respondents.



3. When the matter came up for consideration Mr.M.K.Mazumar, learned counsel for the applicant, submitted that the applicant has been working for the last six years continuously and therefore, he is entitled to get temporary status as envisaged by rules. But since the applicant has not made any individual representation, counsel for the applicant submits that he will be satisfied if the applicant is permitted to make comprehensive representation before the second respondent individually and if a direction is given to the said respondent to consider and dispose of the same within a time frame. Mr.M.U.Ahmed submits that he has no objection in adopting such course of action.

4. Considering the pleadings and submissions made by the counsel for the parties, I direct the applicant to submit an individual comprehensive representation along with the copies of this O.A. and other documents before the second respondent within two weeks from today. On receipt of such representation, the said authority or any other competent authority shall consider and dispose of the same within a period of three months thereafter.

The Original Application is disposed with the above observations and directions. In the circumstances, there is no order as to costs.

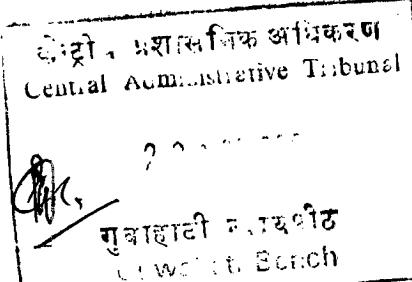
✓

By way of protection to the applicant it is also directed that if there is a regular selection, applicant's case will also be considered as per rules.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

/BB/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

O.A. No. 288 06.

Prakash Deka,
.... Applicant.

- Vs -

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

- Synopsis -

| <u>Sl.No.</u> | <u>Particulars</u> | <u>Annexure/Page</u> |
|---------------|--|----------------------|
| 1. | The applicant is a Group D employee. The applicant was appointed on daily wage basis by the Manager Mail Motor Service on 25-4-2000. And he is continuing in the same post. | Annx. 1 P-11 |
| 2. | That the Director (MV) sanctioned the post of Group D vide approval order dated <u>20-3-99</u> <u>9-2-01</u> . Now the applicant is enjoying the scale of pay including DA, HRA and CCA. Unfortunately his job is not being regularised yet. | Annx. 2 P-13 |
| 3. | That since his appointment, the employees' Union have consulted the matter with the authority for regularisation and/or atleast confirming in the temporary status but the same had failed to elicit any response. Finding no other alternative applicant approached this Hon'ble Tribunal for redressal of his grievence. | |

Filed by :

M K Majumdar
Advocate

20. 11. 07

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20/11/2007

गुवाहाटी न्यायपीठ
Guwahati Bench

DISTRICT : KAMRUP (METRO)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:
GUWAHATI.

An application under Section 19 of the Central
Administrative Tribunal Act, 1985.

O.A. No.

286 of 2006.

Sri Prakash Deka

.... Applicant.

- Versus -

The Union of India & others.

.... Respondents.

I N D E X

| <u>Sl. No.</u> | <u>Particulars</u> | <u>Page No.</u> |
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| 1. | Application | 1 to 9 |
| 2. | Verification | 10 |
| 3. | Annexure- "1" | 11 & 12 |
| 4. | Annexure- "2" | 13 to 15 |

Filed by -

Moinul Haq Majumder
Advocate. 20.11.07

DISTRICT : KAMRUP (METRO).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI
BENCH : GUWAHATI.

An application under Section 19 of the Central
Administrative Tribunal Act, 1985.

O.A. No. 288 of 2006.

Shri Prakash Deka

son of Late Amulya Deka

C/O. M/S. Deka Store

Santipur, Guwahati-781009,

District- Kamrup, Assam.

.... Applicant.

- Versus -

1. The Union of India

represented by the Director

~~General~~, Department of Post

Sanchar Bhavan, New Delhi-1.

2. The Chief Postmaster General

Assam Postal Circle

Guwahati-781001.

3. The Director of Postal Services,

Office of the Chief Postmaster

General, Assam Postal Services,

Guwahati-781001.

contd.... 2.

Sri Prakash Deka

10
In Application
for Legal Aid
through Mr. Md. Md. Md. Md. Md.
20-11-07

4. The Manager,

Mail Motor Services,

Guwahati- 781001.

.... Respondents.

1. DETAILS OF APPLICATION :

This application has been filed for directions to the Respondents to regularise the service of the applicant with all financial benefits with effect from the date of completion of 1 (one) year/240 days of continuous service as full time casual Labourer and to regularise his service in Group- 'D' post in view of the sanction Order No.5-3/98-MV dated 20-3-99 - 9-2-2001 passed by the Director (MV).

2. Jurisdiction of the Tribunal :

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

3. Limitation :

The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case :

(i) That the applicant had appeared before the Recruitment Selection Committee for selection Test for

contd...3

Sri Bokash Deka

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appointment for the Group- 'D' post as daily wage labourer, upon his name duly forwarded by the District Employment Exchange.

(ii) That after being selected by the Selection Committee, the applicant was provisionally selected for engagement as daily wage labourer/casual labourer in the establishment on daily wage basis vide appointment letter No.MM/C-IV/GHY/1 dated 25-4-2000 issued under the signature of the Respondent No.4 (Manager, Mail Motor Services) and the petitioner had joined on 25-4-2000 in such capacity i.e. as full-time casual labourers/daily wage labourer.

A copy of the said appointment letter dated 25-4-2000 has been annexed hereto as Annexure-1.

(iii) That the applicant on being appointed in the said post of daily wage labourer/casual labourer has been serving continuously as full-time casual labourer till date from the date of appointment to the satisfaction of all concerned without any break.

(iv) That the applicant has been serving continuously for more than 6(six) years in the said post of driver, but his service has not been ~~regularised~~ regularised inspite of sanction from the Director (MV) vide approval order No.5-3/98-MV dated 20-3-99 9-2-01 and presently working on daily basis.

A copy of the said order is annexed as
Annexure- 2.

Sri Jayakishan Deora

contd... 4

(v) That the applicant begs to state that under the circular No.45-95/87-SPB, I dated 20-4-91 on the subject "Casual Labourers (grant of Temporary status and Regulation) issued from the office of the Secretary Post, New Delhi, a casual labour rendering continuous service of atleast 1(one) year and having completed 240 days' service without break is entitled to temporary status with pay scale for regular Group- 'C' & 'D' official, Relevant portion of the said circular is quoted under :-

" Temporary Status - would be conferred on the casual labourers in P & T department as on 29-11-89 and who continues to be currently and have rendered continuous service of atleast 1(one) year and in that year they must have engaged for a period of 240 working days in case of offices observing five days week. Such casual workers engaged for full working hours viz 8(eight) hours including $\frac{1}{2}$ hours lunch time will be paid at daily rates on the basis of minimum of the pay scale for regular Group- 'D' official including DA, MRA and CCA".

(vi) That since after joining as daily wage labourer/ casual labourer in pursuance of the appointment letter No.MM/C-IV/GHY/1 dated 25-4-2000, the applicant has been continuously serving as a full time casual labourers against a substantive Group- 'D' part under the Manager, Mail Motor Service, Guwahati, on daily basis on regular pay scale and considering the continuance of the post,

necessity of the service of the Applicant, the Director (MV) had agreed to the proposal of creation of 2(two) Group- 'D' posts vide order dated 20-3-99/9-2-01, but unfortunately, the applicant's service has not yet been regularised although he has completed more than 6(six) years of service in the said department as a full time casual labourer/ daily wage labourer (Group- 'D' service).

(vii) That the applicant begs to submit that his case may be considered for the regular Group- 'D' post by the Respondent authorities especially since he has rendered continuous service in the said substantive post (Group- 'D' service) for more than 6(six) years, without break on daily wage basis enjoying the same pay scale for a regular Group- 'C' employee including DA, HRA and CCA".

(viii) That the applicant begs to state that he had made representations to the Respondents Authority through his Union on 8-12-2001, 09-08-2003 and 27-04-2004 for regularisation of casual and part-time employees including the applicant, but the same had failed to elicit any response from the Respondents authority, although the applicant was entitled to get regularised their service long ago. The applicant had personally also made representations on many occasions and the last such representations was made in October, 2006.

contd... 6

Sri Prakash Deo

(ix) That there are 5(five) numbers of vacant posts of Driver, in the department, the break up position of which are as follows :-

(i) In MMS Office, Tea-maker 1

(2) Due to promotion of one Group-D
to Driver Cadre 1

(3) For introduction of 2 new
lines i.e. Guwahati via
Boko to Goalpara and
Guwahati via Mangaldoi to
Tezpur. 2

(4) On voluntary retirement of
one Sri D.R. Rava on

15-11-2006 1

Total 5 posts.

(x) That the applicant states that inspite of there being 5(five) vacant posts as stated hereinabove, and inspite of representations made on several occasions, the Respondent authorities not yet regularised the service of the applicant and as such he has been compelled to approach this Hon'ble Tribunal for reliefs sought for in this application.

(xi) That the applicant state that he has got information that the Respondents authorities are making process to fill-up the said vacancies by making recruitment from outside and in that case a great injustice will be caused to the applicant if the

contd... 7

Sri Balash Deba

Respondent authorities are not restrained from doing so through interim order.

(xii) That the applicant states that he has several dependants and by this time he has also crossed the age bar for getting a new employment in any Govt. Department and as such unless his service is regularised he will suffer irreparable loss and injury.

(xiii) That this application is made bonafide and in the interest of justice.

5.

GROUND FOR RELIEFS

i) For that as per the Departmental Circular No.45-95/87-SPB-1 dated 20-4-91, the applicants are entitled to get their service regularised on completion of 1 year (240 days) continuous service as full-time casual labourer and the respondents not regularising the ~~same~~ service of the applicant as yet have acted arbitrarily, illegally and in violation of their own Departmental Circular.

ii) For that the Respondent No.2 ought to have acted upon the approval order of creation of 2 nos. of Group- 'D' posts dated 20-3-99/9-2-01 and ought to have regularised the service of the applicant.

iii) For that the Respondents have acted against the principle of Natural justice and administrative fair play which is not tenable in law.

contd... 8

Sri. Paresh Debn

iv) For that act of the Respondents is not giving the Temporary status and not regularising the applicant in Group- 'D' service amounts to clear violation of Article 14, 16, 21 and 300A of the Constitution of India.

v) For that the applicant after serving continuously for more than 6(six) years has acquired a valuable right for regularisation in Group- 'D' service under the Respondent No.4.

vi) For that the act of the Respondents have caused great hardship and ~~xx~~ irreparable loss and injury to the applicants.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant declares that he has exhausted all the remedies but with no positive result and the remedy prayed for before this Hon'ble Tribunal are just proper and adequate.

7. MATTER NOT PENDING BEFORE OR PREVIOUSLY FILED WITH ANY OTHER COURT OR TRIBUNAL :

That the applicant state that he has not filed any other case/application before any Court/Tribunal.

8. RELIEFS PRAYED FOR :

The Respondent may be directed to regularise the service of the applicant in Group- 'D' service under the Manager, Mail Motors Service, Guwahati or under Assam

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Postal Circle, with effect from the day of completion of 1 (one) year/240 days of continuous service as casual labourer by the applicant.

9. INTERIM RELIEF PRAYED FOR :

During the pendency of the case, the applicant pray that till disposal of the case, the Respondents be directed not to make any recruitment in Group- 'D' post from outside or from juniors, even by holding fresh selection test/interview.

10. This application is made through Advocate.

11. PARTICULARS OF THE POSTAL ORDER :

Postal Order No. :- 28G1 932718.

| | |
|------------|-------------|
| Date | :- 17.11.06 |
| Issue from | :- G.R.P.O |
| Payable to | :- C.A.T |

12. LIST OF ENCLOSURES :- As per index.

contd... Verification

Pg. ... 10

Sri Lakshmi

V E R I F I C A T I O N

I, Sri Prakash Deka, son of Late Amulya Deka, the applicant in this case do hereby verify and state that the statements made in paragraphs 1 to 10 of this application are true to my knowledge, information and belief and I have not suppressed any material fact.

And I sign this Verification on this 17th day of November, 2006 at Guwahati.

Sri Prakash Deka

Date :

Deponent.

DEPARTMENT OF POSTS INDIA
O/O THE MANAGER MAIL MOTOR SERVICE: GUWAHATI- 781001

To,

1. Shri Prakash Deka
C/O. Deka Store,
Santipur,
P.O. Bharalumukh, Guwahati- 781009.
2. Shri Hitesh Ch. Das,
Vill. & P.O. Bongra,
District - Kamrup.

No. MM/C-IV/GHY/1, Dated at Guwahati-1 the 25-4-2000.

Sub :- Engagement of Gr-D on daily wage basis.

In pursuance of DSC meeting held on 12-4-2000, you are hereby provisionally selected for engagement for as daily wage labour (Gr-D) in this establishment on daily wage basis with immediate effect. Please furnish the character certificates from any of the two following authorities immediately.

- (a) Deputy Commissioner
- (b) S.D.O. (Civil)
- (c) Executive Magistrate
- (d) Block Development Officer.
- (e) Any other Gazetted Officer.

Please note that this selection will not bestow any claim for future absorption in this establishment against any regular post and liable to terminate any time without any prior notice without assigning any reason whatsoever.

*Certified to be true
M. K. Majumdar
M.A.*

Sd/- Illegible,
Manager,
Mail Motor Service,
Guwahati-781001.

Copy to :-

1. The Chief PMG (Mails), Assam Circle, Guwahati- 781001 for information w.r. to C.O's No. Mails/27-27/98 (Part-IV) dtd. 23-2-2000.
2. The Employment Exchange for Unskilled Applicants, Pub Sarania, Guwahati- 781003 for information w.r. to his letter No. ORD/28/2000/189 dtd. 14-3-2000.

Sd/-

Manager,
Mail Motor Services,
Guwahati- 781001.

*Certified to be true
McNauland*

Government of India
Ministry of Communications
Department of Posts
Dak Bhawan, New Delhi- 110 001.

No.5-3/98-MV

Dated : 20-3-99.

To,

The Chief Postmaster General
Assam Circle,
Guwahati- 781 001.

Sub :- Augmentation of existing fleet of Departmental
Mail Motor Service at Guwahati.

Ref :- Your Office letter No.Mails/27-27/98(Pt. IV)
Dated 15-10-98.

Sanction of the President is hereby conveyed for
augmenting the existing fleet of Departmental Mail Motor
Service Unit at Guwahati by providing 2(two) Nos.Tata-407-
31-3100 MM WB vehicle at the cost of Rs.6,24,201.76 (Rs.six lacs
twenty four thousand two hundred one and paise seventy six
only) for introduction of inter city schedules between
Guwahati-Goalpara and Guwahati-Mangaldoi route.

2. Supply order for purchase of vehicles (Tata-407-31-
3100 MM WB cow+ chassis) has been placed on M/S. TELCO
Limited, Sales office Centre-1, World Trade Centre, 26th
floor, Cuffe Parade, Mumbai- 400 005 vide this office order
No.5-3/98-MV dated 20-3-99. Particulars of which are
as under :-

*MR Maji under
Certified to be true*

| Type of vehicle | Qty. | Unit Price (Rs.) | CST (Rs.) | Total (Rs.) | G.Total (Rs.) |
|---|------|---------------------|--------------|----------------|------------------|
| Tata Model 407-31- Two 3100 MM WB Semi forward truck chassis with cowl fitted with 497 SP Direct injection engine (Item No.5 of Rate Contract). | | 300097.00 | 12003.88 | 312100.88 | 624201.76 |

contd... 13

3. That transit, insurance and transportation charges etc. shall be extra if applicable. The cost of vehicles to be purchased is debitible to the head 5201-AA 2(3) MMV (Plan) and will be met from the sanctioned allotment of the year 1998-99. Payment of vehicles will be adjusted by the concerned postal Accounts Office through settlement Account received from the DGS & D/RBI. Funds for adjustment of bills thereof are being released by the Budget Branch of PA wing. Funds for body building on these vehicles will be released in 1999-2000.

4. As proposed by your circle creation of 2 posts of drivers and 2 posts of Group 'D' by abolition of 9 posts of EDMCs is agreed to by the Ministry of Finance. Accordingly, a self-contained proposal for abolition/creation/upgradation of the posts for operating these vehicles may please be prepared and same should be sent to the DDG (T&E) for taking it up with competent authority and according necessary approval in accordance with Ministry of Finance O.M. dated 20-5-86 read with O.M. dated 15-7-86. The proposal must have personal approval of Chief Postmaster General with concurrence of Circle IFA and the same be specifically mentioned in the proposal.

5. Please ensure that the new vehicles duly body built are substituted in service latest by 30-9-2000 and the same should be utilised exclusively for MMS operative Scheeules as proposed. After substitution of new vehicles in service formal orders for increase in the sanctioned fleet of MMS vehicles/introduction of new MMS Unit are

*Confidential
M. Kapoor*

to be issued by your office with a copy to all concerned.

Chassis is being consigned to Manager, MMS, Guwahati to facilitate and expedite body building.

6. Vehicles should be utilised for the purpose and office for which it has been sanctioned by the ~~Ministry~~ Ministry of Finance.

7. This issues with the concurrence of Ministry of Finance vide their U.O. No.452/E.Cood/99 dated 18-3-99 and ~~xx~~ IF wing vide their Dy. No.130/FA/99 dated 19-3-99.

8. Receipt of this sanction memo may kindly be acknowledged at first instance.

Sd/-

(S.S. NARWARE)
DIRECTOR (MV)

Copy to :-

1. Director (Mails Management)/Director (Estt), Dak Bhavan New Delhi- 110 001 alongwith copies of proposed schedules and sanction of Ministry of Finance.
2. Director of Accounts (Postal), Calcutta- 700 012.
3. Director of Audit (P&T), Calcutta- 700 012.
4. FA (Postal) Section, Dak Bhavan, New Delhi- 110 001.
5. Budget Branch, Postal Directorate, Dak Bhavan, New Delhi- 110 001.
6. Director Postal Services, Guwahati Division, Guwahati- 1.
7. Asstt. Director General (CP), Dak Bhawan, New Delhi- 110001.
8. Manager, Mail Motor Service, Guwahati- 781 001.
9. Sanction file.
10. Spare 2 copies.

(MAHESH KUMAR)
ASSTT. ACCOUNTS OFFICER (MV).