

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 289/06

R.A/C.P No.

E.P/M.A No.

- ✓ 1. Orders Sheet.....Pg.....to 01
2. Judgment/Order dtd. 23-11-06 Pg. 01 to 04
3. Judgment & Order dtd.....Received from H.C/Supreme Court
- ✓ 4. O.A. 289/06 Pg. 01 to 15
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

30/11/20
SECTION OFFICER (Judl.)

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

1. Original Application No. 289/06
2. Mice Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Mukut Das Jais.

Respondant(S) U. O. I Jais.

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

Advocate for the Respondant(S) CASE.....

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

23.11.06

Heard learned counsel for the parties.

Order passed, kept in separate sheets

The O.A. is disposed of at the admission stage itself in terms of the order. No costs.

Dy. Registrar

Vice-Chairman

Steps taken without
envelops.

bb

Received
24.11.06

Received
Addl. encl.
28/11/06

29.11.06

Copy of the order has been
sent to the Dy. Sec. for info
to the applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.289 of 2006

DATE OF DECISION : 23.11.2006

Shri Mukut Das & Another

Applicant/s

Mr. M.K. Mazumdar

Advocate for the
Applicant/s.

- Versus -

U.O.I & Others

Respondent/s

Ms. Usha Das, 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~~

2A/11/06
Vice-Chairman

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 289 of 2006.

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

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

1. Shri Mukut Das
Son of Late Keshab Das
Village & P.O: Dadara
P.S: Hajo, Dist: Kamrup
Assam.
2. Md. Nizamuddin Ahmed
Son of Md. Ganisha Ali
Village & P.S: Hajo
Dist: Kamrup, Assam.

... Applicants.

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 Ms. Usha Das, Addl.C.G.S.C.

ORDER (ORAL)

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

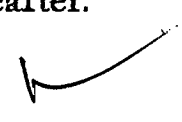
The applicants claimed that they were recruited as Drivers on daily wages basis by the Manager, Mail Motor Services on 25.04.2000 and they are continuing as such. According to them, despite the approval of the Director (MV), sanctioning the post of Group 'D' vide approval dated 20.3.1999/9.2.2001 their services have not yet been regularised even after serving continuously for more than six years. The applicants further contend that they are enjoying the scale of pay including DA, HRA and CCA etc. They had made several representations through Union for regularisation of their services but to no response. Aggrieved by the said inaction of the respondents the applicants have filed this application under Rule 4(5)(a) of the CAT Procedure Rules, 1987 seeking the following reliefs:-

“The respondents may be directed to regularise the service of the applicants as Driver 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 labourers by the applicants.”

2. Heard Mr. M. K. Mazumdar, learned counsel for the applicants and Ms. Usha Das, 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 applicants, submitted that the applicants have been working for the last six years continuously and therefore, they are entitled to get temporary status as envisaged by rules. But since the applicants have not made any individual representations, counsel for the applicants submits that he will be satisfied if the applicants are permitted to make comprehensive representations before the second respondent individually and a direction is given to the said respondent to consider and dispose of the same within a time frame. Ms. Usha Das 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 both the applicants to submit individual comprehensive representation along with copies of this O.A. and other documents before the second respondent within two weeks from today. On receipt of such representations, 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 applicants it is also directed that if there is a regular selection, case of the applicants will also be considered as per rules.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

/BB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI.

O.A. No. 289 06.

Sri Mukut Das & another.

.... Applicant.

- Vs -

The Union of India & Ors.

.... Respondent.

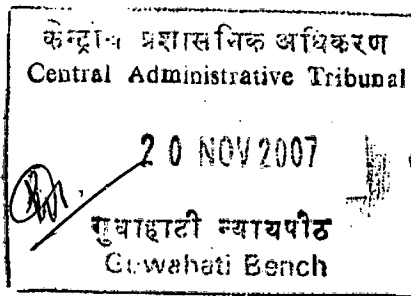
- Synopsis -

| <u>Sl.No.</u> | <u>1.</u> | <u>Particulars</u> | <u>Annexure/Page.</u> |
|---------------|-----------|--|-----------------------|
| | | This application is made under rule 4(5)(a) of the CAT Rule 1987 with a prayer to join in a single application for similar relief. The applicants are recruited for the post of Driver on daily wage basis vide appointment order dated 25-4-2000 Memo No. MM/Driver/GHY/OA-11 and they are continuing the post. | Annx. 1 P - 11 |
| <u>Sl.No.</u> | <u>2.</u> | 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. |
| <u>Sl.No.</u> | <u>3.</u> | That since appointment as driver they made various representation to the authority for regularisation of the service but the authority did not pay any heed irrespective of sanction of the post. Finding no other alteranative applicant approached this Hon'ble Tribunal for redressal of his grievence. | |

Filed by :

M.K. Majumder
Advocate

20.11.06



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. 289 of 2006.

Sri Mukut Das & another.

.... Applicants

- Versus -

The Union of India & others.

.... Respondents.

I N D E X

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

Filed by -

Moinul Kt Majumdar
Advocate.

DISTRICT : KAMRUP (METRO)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH : GUWAHATI.

16
Filed by Mr. Majumdar
Through Mr. Majumdar
20.11.06

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

O.A. NO. 289 OF 2006.

1. Shri Mukut Das
son of Late Keshab Das
Village- Dadara, P.O. Dadara,
P.S. Hajo, District- Kamrup,
Assam.
 2. Md. Nizamuddin Ahmed
son of Md. Ganisha Ali
Village- Dadara, P.S. Hajo,
District- Kamrup, Assam.
- Applicants.

- 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.

Shri Mukut Das

contd...2

4. The Manager,

Mail Motor Service,

Guwahati- 781001.

.... Respondents.

1. DETAILS OF APPLICATION :

This application has been filed for directions to the Respondents to regularise the service of the applicants 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 their service in the post of Driver in view of the sanction Order No.5-3/98-MV dated 20-3-99 - 9-2-2001 passed by the Director (MV). Application is filed u/r 4(5)(a) of the CAT Rules 1987 with a prayer to join in single application.

2. Jurisdiction of the Tribunal :

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

3. Limitation :

The applicants declare 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 applicants had appeared before the Recruitment Selection Committee for selection Test for

Sd/- Minkar

contd.... 3

121
appointment for the post of Driver on daily wage basis, upon their names duly forwarded by the District Employment Exchange.

This application is made u/r 4(5)(a) of CAT Rule 1987 with a prayer to join in a single application for similar relief.

(ii) That after being selected by the Selection Committee, the applicants were provisionally selected for engagement as Driver in the establishment on daily wage basis vide appointment letter No.MM/Driver/GHY/OA-11 dated 25-4-2000 issued under the signature of the Respondent No.4 (Manager, Mail Motor Service) and the petitioners had joined on 25-4-2000 in such capacity i.e. as full-time casual labourers (Driver).

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

(iii) That the applicants on being appointed in the said post of driver have been serving continuously as full-time casual labourers till date from the date of appointment to the satisfaction of all concerned without and break.

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

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

Sd/- M. K. Singh

contd... 4

(v) That the applicants beg to state that under the circular No.45-95/87-SPB,1 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 ½ 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, HRA and CCA".

(vi) That since after joining as drivers in pursuance of the appointment letter No.MM/Driver/GHY/OA-11 dated 25-4-2000, the applicants have been continuously serving as a full time casual labourers against a substantive posts of Driver, postal Mail Motor Service, Guwahati Circle on daily basis on regular pay scale and considering

contd... 5

See mukhtars

the continuance of the post, necessity of the service of the Applicants, the Director (MV) had agreed to the proposal of creation of 2(two) posts of Driver vide order dated 20-3-99/9-2-01 but unfortunately, the applicants' service has not yet been regularised although they have completed more than 6(six) years of service in the said department as casual labourers on daily wage basis (as drivers).

(vii) That the applicants beg to submit that their case may be considered for the regular posts of driver by the Respondent authorities especially since they have rendered continuous service in the said substantive post of driver (Group- 'C' 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 applicants beg to state that they had made representations to the Respondent Authority through their Union on 8-12-2001, 09-08-2003 and 27-04-2004 for regularisation of casual and part-time employees including the applicants' regularisation of their service, but the same had failed to elicit any response from the Respondent authority, although the applicants were entitled to get regularised their service long ago. The applicants' had personally also made representations on many occasions and the last such representations was made in October, 2006.

Sudhakar

contd... 6

(ix) That there are 4(four) numbers of vacant post of Driver, in the department, the break up position of which are as follows :-

| | |
|---|--------|
| In SSP Office | 1 |
| For Cash Van (under process) | 1 |
| For Introduction of 2 new lines i.e. Guwahati via Boko to Goalpara and Guwahati to Mangaldoi | 2 |
| Total | 4 |

(x) That the applicants state 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 applicants and as such they have been compelled to approach this Hon'ble Tribunal for reliefs sought for in this application.

(xi) That the applicants state that they have got information that the Respondent 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 applicants if the

contd... 7

case mentioned

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

(xii) That the applicants state that each of them has several of dependants and by this time they have also crossed the age bar for getting a new employment in any Govt. Department and as such unless their service is regularised they 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 years (240 days) continuous service as full time casual labourers and the respondents not regularising the service of the applicants 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 posts of driver, dated 20-3-99/9-2-01 and ought to have regularised the service of the applicants.

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

See Annexure

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

v) For that the applicants after serving continuously for more than 6(six) years have acquired a valuable right for regularisation of service as driver under the Respondent No.4.

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

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicants declare that have 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 applicants state that they have not filed any other case/application before any Court/Tribunal.

8. RELIEFS PRAYED FOR :

The Respondents may be directed to regularise the service of the applicants as Driver under the Manager,

18

Mail Motors Service, Guwahati or under Assam Postal Circle, with effect from the day of completion of 1(one) year/ 240 days of continuous service as x casual labourers by the applicants.

9. INTERIM RELIEF PRAYED FOR :

During the pendency of the case, the applicants pray that till disposal of the case, the Respondents be directed not to make any recruitment of Drivers 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. :- 28 G 932719

Date :- 9-11-06

Issue from :- G.P.O

Payable to :- C.A.T.A.H.Y

12. LIST OF ENCLOSURES :- As per index.

contd... Verification

Pg. ... 10

Shi Mukant Das

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

We, (1) Sri Mukut Das, son of Late Keshab Das and (2) ~~Shri Mukut Das~~, son of ~~Shri Mukut Das~~, 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 we have not suppressed any material facts.

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

Date : 17.11.06

1. *Shri Mukut Das*

2.

Deponents.

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

To,

- 1) Shri Mukut Das,
S/O. R.C. Das,
Vill. & P.O. Dadara
Kamrup.
- 2) Shri Nizamuddin Ahmed
C/O. Majibur Rahman
O/O the Manager, MMS
Guwahati- 781001.

No.MM/Driver/GHY/Cn-II, dtd. at Guwahati-1 the 25-4-2000.

Sub :- Engagement of Driver on daily wage basis.

In pursuance of DSC meeting held on 10-4-2000 and 20-4-2000, you are hereby provisionally selected for engagement as Driver in this establishment on daily wage basis with immediate effect. Please furnish two 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.

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

contd...12

*Certificate to be furnished
M. Majumdar
4/5/00*

Copy to :-

1. The Chief PMG (Mails), Assam Circle, Guwahati-781001
for information w.r. to CO's No. Mails/27-27/98
(Part-IV) dtd. 23-2-2000.
2. The District Employment Exchange, Rehabari,
Guwahati- 781001 for information w.r. to his
letter No.ORD/17/2000/622-23 dtd. 10-3-2000.

Manager,
Mail Motor Service,
Guwahati- 781001.

*Certified to be true
Manager
A.C.*

Government of India
Ministry of Communications
Department of Posts
Dak Bhavan, 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 routes.

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 :-

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

contd... 13

*Certified to be true
M. H. G. Das*

3. The transit, insurance and transportation charges etc. shall be extra if applicable. The cost of vehicles to be purchased is debitable to the head 5201-AA 2(3) MMV ~~Plan~~ (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 schedules as proposed. After substitution of new vehicles in service formal orders for increase in the sanctioned

contd... 14

*Certificate to be
submitted
to the
Minister*

fleet of MMS vehicles/introduction of new MMS Unit are 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 of Finance.

7. This issues with the concurrence of Ministry of Finance vide their U.O. No.452/E.Coord/99 dated 18-3-99 and 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 Bhavan, New Delhi-110001.
8. Manager, Mail Motor Service, Guwahati-781 001.
9. Sanction file.
10. Spare 2 copies.

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

*Certified to be
true and correct
APR 1999*