

FORM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. original Application No. 45/06
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s) Md. Wahid Ali & Ors

Respondents U.O.I. Govt

Advocate for the Applicant(s) M. Chanda, G.N. Chakraborty
S. Sarkar

Advocate for the Respondant(s) Mrs A.K. Chaudhuri
Adv. C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C.F. for Rs 30/-
deposit paid 30
No. 266319142
Dated 22.2.06

16/2/06
16/2/06
16/2/06
16/2/06

17.2.2006 Present: Hon'ble Mr.K.V.Sachidanandan,
Vice-Chairman

The applicants were initially appointed as Safaiwala on casual basis on different dates since 1989 but after serving a long period they were terminated in the month of November, 1993/May 1994. The applicants approached this Tribunal through O.A.Nos. 215 of 1998, 294 of 2001 and 7 of 2002 which were disposed of on 15.02.2001, 25.02.2002 and 12.06.2002 respectively, with the direction to the respondents to consider the case of the applicants for grant of temporary status. Vide order dated 14.12.2002 the respondents were pleased to grant temporary status to the applicants but they were not engaged/ reengaged /appointed in

Steps taken

16/2/06

22.2.06
C-Copy has been
collected by the applicant's
Advocate and same has
been sent to the D/Secy
for returning to the L/bdr.
for the Respondent

16/2/06

Contd.

2
Contd.

17.2.2006

service by the respondents on the ground of ban on recruitment. The said order is reproduced below:-

"GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS PER HON'BLE CAT JUDGMENT ORDER DATED 25FEB. 2002.

1. please refer to Hon'ble CAT judgment/order dated 25 Feb 2002 passed on O.A. No.294/2001.
2. In compliance with Hon'ble CAT judgment/order dated 25.Feb, 2002, you are hereby granted temporary status as casual labourer as provided for in Govt. of India DOPT OM No.510182/2/90-Estt(C) dated 10 Sept. 93.
3. It is relevant to clarify here that as per these Govt. orders the scheme for grant of temporary status as casual labour does not guarantee immediate regular employment. The employment as a casual labourer is made available to such an employee whenever the Estt needs to engage any casual labourer for a job of casual nature in accordance with the provisions of these Govt. orders. You will thus be provided employment as casual labourer if the Stn HQ needs to engage casual labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual labourer with a temporary status under the provisions of the Govt. orders dated 10 Sep 93 during the period of employment as a casual labourer with a temporary status. As regards the provisions under the scheme regarding providing two group D posts out of three posts being filed by direct recruitment to the casual labourers with temporary status to employ on regular basis, you will be considered alongwith other casual labourers with temporary status against such an earmarked quota at the time of filling of Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt. to fill the vacant posts."

Contd..

Contd.

17.2.2006

Mr.M.Chanda, learned counsel for the applicants has brought my attention to the judgment and order dated 30.6.05 in O.A.No.331 of 2004 wherein identical persons have been reengaged as casual labourer. The counsel for the applicants is also praying for a similar direction. However, he submitted that he will be satisfied if the applicants are given liberty to file comprehensive representation before the respondents within a time frame. Mr. A. K. Chaudhuri, Addl. C.G.S.C. has no objection in this regard. I accordingly direct the applicants to file comprehensive representation within a period of two weeks the date of receipt of this order. If any such representation is filed by the applicants, the respondents shall dispose of the same on merit with reference to the judgment/order dated 30.6.05 in O.A.No.331 of 2004 within two months from the date of receipt of the representation.

Application is disposed of as above at the admission stage itself. *No Cost.*



Vice-Chairman

lm

URGENT

BY POST/ BY HAND.

Respd No 4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::: GUWAHATI.

DESPATCH NO. CAT/GHY/JUDL/

435

/DTD. GUWAHATI THE 12-4-06

ORIGINAL APPLICATION NO.

44 /2006 & 45/06

MISC. PETITION NO.

200

CONTEMPT PETITION NO.

1200

REVIEW APPLICATION NO.

1200

Md. Tajnur Ali in OA 44/06

Md. Wahid Ali & ors. in OA 45/06

APPLICANT(S)

VERSUS

41. O. I. v. opps

RESPONDENT(S)

To

The Administrative Commandant,
Station Headquarters,
Rangiya,
c/o 99 APO.

Please find herewith a copy of Judgment/Order dated

17.2.06

passed by the Bench of this Hon'ble Tribunal

Comprising of Hon'ble Justice Shri K. V. Sachidanandam
Vice-Chairman and Hon'ble Shri

Member(Admin) in the above noted case for information and necessary
action, if any.

Please acknowledge receipt of the same.

By Order

Enclo.: As above..

(Copy of the Original
Application in O.A. No. _____)

No. 5000 12-4-06
SECTION OFFICER(JUDL).

Memo. No.

Dtd.

Copy for information to:

1. Mr./Mrs. _____

/Sr. CGSC, Addl. CGSC.

2. Mr./Mrs. _____

/Rly. Standing Counsel/
Govt. Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

Original Application No.

45/06

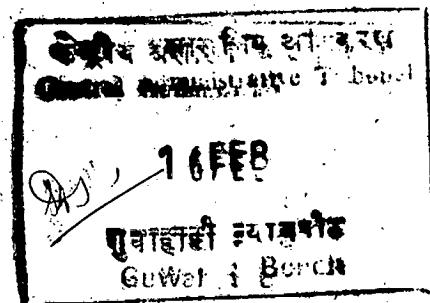
1. a) Name of the Applicant:- Md. Wahid Ali (Hm)
b) Respondents:-Union of India & Ors.
c) No. of Applicant(S):-
2. Is the application in the proper form:- Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title :- Yes / No.
4. Has the application been duly signed and verified :- Yes / No.
5. Have the copies duly signed :- Yes / No.
6. Have sufficient number of copies of the application been filed :- Yes / No.
7. Whether all the annexure ~~parties~~ are impleaded :- Yes / No.
8. Whether English translation of documents in the Language :- Yes / No.
9. Has the application is in time :- Yes / No.
10. Has the Vokatlatnama/Memo of appearance /Authorisation is filed: Yes / No.
11. Is the application by IPO/BD/for Rs.50/- 266319142
12. Has the application is maintainable : Yes / No.
13. Has the Impugned order original duly attested been filed: Yes / No.
14. Has the legible copies of the annexurea duly attested filed: Yes / No.
15. Has the Index of the documents been filed all available :- Yes / No.
16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes / No.
17. Has the declaration as required by item 17 of the form: Yes / No.
18. Whether the relief sough for arises out of the Single: Yes / No.
19. Whether interim relief is prayed for :- Yes / No.
20. Is case of Condonation of delay is filed is it Supported :- Yes / No.
21. Whether this Case can be heard by Single Bench/ Division Bench:
22. Any other pointd :-
23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order.

SECTION OFFICER(J)

1/1C DEPUTY REGISTRAR

OAI

16/2/06



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 45 /2006

Md. Wahed Ali and others.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

1989- Applicants were initially appointed/engaged as conservancy Safaiwala on casual basis on different dates since 1989 but after serving a fairly long period they were terminated in the month of November 1993/ May 1994.

15.02.2001, 25.02.02, 12.06.02- Applicants approached Hon'ble CAT, Guwahati Bench through O.A. No. 215/98, 294/01, 7/02 which were disposed of on 15.02.01, 25.02.02 and 12.06.02 respectively, with the direction to the respondents to consider case of the applicants for grant of temporary status. (Annexure- 1, 2 and 3)

04.06.2002- Hon'ble Gauhati High Court dismissed the W.P (C) No. 3174/2002 filed by the Union of India & Ors. against the order dated 15.02.01 of this Hon'ble Tribunal. (Annexure- 3A)

14.12.2002- Respondents were pleased to grant temporary status to the applicants, but they were not engaged/reengaged/appointed in service by the respondents. (Annexure- 4 Series)

27.02.2004- Respondent No. 4 vide letter dated 27.02.04, it is informed to the applicant No. 1, 2 and 3 that the case of the applicants will be considered as soon as the ban on recruitment will be lifted by the Government. (Annexure- 5)

30.06.2005- This Hon'ble Tribunal passed judgment and order in O.A. No. 331/2004, in case of similarly situated employees who were granted temporary status on 14.12.02 but denied reengagement on the plea of ban on recruitment. In the said judgment it is specifically held that there are 16 vacancies of conservancy safaiwala under the administrative control of respondent No. 4. (Annexure- 6)

St: 2024 01/01

03.12.05/26.12.05- Applicants being highly aggrieved for non-consideration of their engagement/re-engagement/appointment in service served a Lawyer's Notice upon the Respondent No.4 praying interalia their immediate reengagement. (Annexure- 7 and 8)

19.09.2005- Applicant No. 4 submitted representation to the Respondent No. 4, praying interalia his reengagement in service. (Annexure-9)

02.12.2005- Respondents issued appointment letter to the similarly situated employees in compliance with the direction passed by this Hon'ble Tribunal on 30.06.05 passed in O.A. No. 331/2004. The present applicants being similarly situated like those applicants in O.A. No. 331/04, approaching before this Hon'ble Tribunal for a direction upon the respondents for their reengagement in remaining 12 vacancies. (Annexure-10)

Hence this Original Application.

PRAYERS

Relief(s) sought for

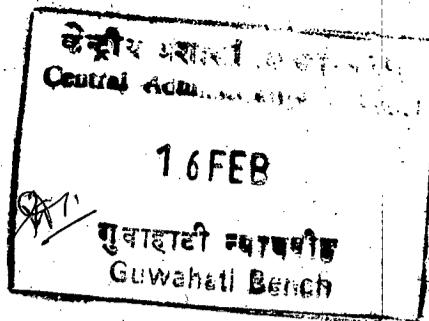
1. That the Hon'ble Court be pleased to direct the respondents to appoint/re-engage the applicants as conservancy safaiwala with immediate effect in preference to their juniors already appointed in service with all consequential service benefits, in the light of the decision rendered by this Hon'ble Tribunal on 30.06.2005, passed in O.A. No. 331/2004, in respect of similarly situated employees.
2. Costs of the application.
3. Any other relief(s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

During pendency of this application, the applicants pray for the following interim relief:-

1. That the Hon'ble Tribunal be pleased to direct the respondents to consider the applicants as conservancy safaiwala as an interim measure against the existing 12 vacancies till disposal of the original application.
2. That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar to appoint the applicants as conservancy safaiwala.

At: 2224 GRAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 45 /2006

Mr. Wahid Ali and Others. : Applicants.

- Versus -

Union of India & Others. : Respondents.

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Filed by

Date:

Advocate

Ex: 5522 N IN 517

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

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

O. A. No. 45 /2006

BETWEEN:

1. Mr. Wahed Ali.
S/o- Md. Manimat Ali.
Village- Chikubari No. 1,
P.O and P.S- Rangiya.
Dist- Kamrup, Assam.
2. Mrs. Asuran Begum.
D/o- Md. Mammat Ali,
Resident of Pub-Sahan,
P.O- Rangiya,
Dist- Kamrup, Assam.
3. Md. Salimuddin Ahmed,
S/o- Md. Dhansa Ali,
Village and P.O- Titkuri,
District- Kamrup, Assam.
4. Shri Dharanidhar Das,
S/o- Sri Mukundaram Das,
Vill- No. 1, Kakula,
P.O- Rangiya,
Dist- Kamrup, Assam.

...Applicants.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Defence
New Delhi.
2. The Additional Director General
Staff duties (DSGE), General Staff Branch
Army Headquarters, D.H.Q.
New Delhi.
3. Administrative Commandant,

ಎ. ಕರ್ನಾಟಕ ರಾಜೀ

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Purv Kaman Mukhalaya
Headquarters, Eastern command.
Fort William, kolkata-70021.

4. Administrative Commandant,
Station Headquarters
Rangiya,
C/o 99 APO.

... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made praying for a direction upon the respondents for appointment/re-engagement of the applicants in service immediately since all the applicants have already been granted temporary status vide order dated 14.12.2002, following the decisions rendered by this Hon'ble Tribunal in O.A. No. 215/1998, O.A. No. 294/2001 and O.A. No. 7/2002 as well as in the light of the direction contained in the judgment and order dated 30.06.2005 in O.A. No. 331/2004 which was implemented by the respondents.

2. Jurisdiction of the Tribunal.

The applicants declare that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

The applicants further declare that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

ST: 5724 574

4.1 That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicants pray permission to move this application jointly in a single application under Section 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common therefore they pray for granting leave to approach the Hon'ble Tribunal by a common application.

4.3 That all the applicants were initially appointed/engaged as conservancy Safaiwala on casual basis on different dates since 1989 under the Administrative Commandant, Station Headquarter, Rangiya and they have continued to work till November 1993/May 1994. However, after serving for a fairly long period under the respondent No. 4 their services were terminated by a verbal order of the Commandant, Station Headquarter, Rangiya. However, subsequently without considering the cases of the present applicants for re-engagement on priority basis who were retrenched as casual workers, the respondents engaged as many as 17 fresh casual workers in violation of the rules/instructions issued by the Govt. of India from time to time and also in violation of the laws laid down by the Hon'ble Court. Being aggrieved for non consideration of their cases for absorption/re-engagement and for non consideration of conferment of temporary status applicants approached this Hon'ble Tribunal for number of occasions by filing Original Application for their re-engagement, for conferment of temporary status and regularization such as O.A. No. 99/97. However, the applicants again approached this Hon'ble Tribunal through O.A. No. 215/1998, 294/2001 and O.A. No. 7/2002 and the Hon'ble Tribunal was pleased to allow those Original Applications with the direction to the respondents to consider the case of

the applicants for giving them temporary status and to consider their cases alongwith similarly situated employees and thereafter to take steps for their regularisation. However, the respondents Union of India, approached the Hon'ble Gauhati High Court through W.P (C) No. 3174/2002 (Union of India- Vs- Sri Dharani Dhar Das) against the judgment and order dated 15.02.2001, but the said W.P (C) No. 3174/2002 was dismissed by the Hon'ble High Court on 04.06.2002 and upheld the decision of this Hon'ble Tribunal passed on 15.02.2001.

Copy of the judgment and order dated 15.02.2001, 25.02.02, 12.06.02 and 04.06.02 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1, 2, 3 and 3 A respectively.

4.4 That it is stated that following the judgment and order dated 15.02.2001, 25.02.02 and 12.06.02 the respondents Union of India were pleased to grant temporary status to the present applicants vide letter No. 3004/1/CC-20/Q dated 14.12.2002, 3004/1/CC-21/Q dated 14.12.2002, and 3004/1/CC-23/Q dated 14.12.2002 but in the aforesaid order of temporary status issued on 14.12.2002 it is further stated that grant of temporary status to a casual labourer does not guarantee for immediate regular employment but as and when employment as casual labourer is required the case of the applicants will be considered under the provisions of the DOPT O.M No. 510162/2/90-Est (c) dated 10.09.1993 and further stated in the event of recruitment in the cadre of Group "D" post in the case of the applicants will be considered as per provision laid down in O.M dated 10.09.1993, after the ban on recruitment is lifted.

It is stated that although the applicants were granted temporary status pursuant to the order dated 15.02.2001, 25.02.02 and 12.06.02 passed in O.A. No. 215/2001, 294/2001 and 7/2002 respectively but till date the respondents did not engaged/reengaged/appointed the applicants in

D. 5/2/2003

service under the respondent No. 4 and as a result applicants are being denied wages/salary till date.

Copy of the order dated 14.12.02 of conferment of temporary status are enclosed herewith and marked as Annexure- 4 (Series).

4.5 That your applicants beg to state that a large number of juniors who were subsequently engaged as conservancy safaiwala were conferred temporary status in terms of the O.M dated 10.09.1993 and they are continuing in service under the respondent No.4, whereas applicants being senior have been denied re-engagement even after conferment of temporary status. The detailed particulars of juniors who were appointed subsequently and conferred temporary status and still working under the respondents as temporary status conservancy safaiwala, the details of those juniors furnish hereunder.

<u>Sl. No.</u>	<u>Name of Juniors</u>
1.	Md. Habibur Rahman.
2.	Sri Putul Das.
3.	Sri Phunu Barman.
4.	Md. Syed Islam Ali.
5.	Sri Maniram Das.
6.	Md. Jaynur Ali.
7.	Sri Krishna Das.
8.	Syed Sanshed Ali.
9.	Mrs. Sairabanu.
10.	Ayesha Begum.
11.	Md. Kafiz Ali.
12.	Md. Tazuddin Ahmed.
13.	Atul Chandra Kalita.
14.	Minu rajbonshi.
15.	Smt. Anima Das.

5
22/12/2011
Smt. Anima Das.

16. Md. Maznoor Ali Ahmed.
 17. Sri Madan Chandra Kalita.

In view of the above factual position the applicants have acquired a valuable and legal rights for engagement in work, when the juniors and subsequent recruits are working but the action of the respondents for not re-engaging the applicants attract Article 14 and 16 of the Constitution of India.

4.6 That it is stated that Respondent No. 4 vide his letter bearing No. 3004/1/CC-20/Q dated 27.02.2004, it is informed to the applicant No. 1, 2 and 3 that the case of the applicants will be considered as soon as the ban on recruitment will be lifted by the Government. Therefore, it is quite clear that the respondents on the plea of ban on recruitment denying the applicants engagement/reengagement in service, whereas a large number of vacancies of conservancy safaiwala are available under the Administrative Commandant, Station Headquarter, Rangiyia. Further, no order of ban is specifically mentioned in the impugned order dated 20.04.2004, neither the period of ban imposed by the Govt. of India is indicated in the said letter dated 27.02.2004. Moreover, the recruitment/engagement of juniors in supersession of claims of the senior temporary status conservancy safaiwala as per law, attracts Article 14 of the Constitution of India.

Copy of letter dated 27.02.04 is enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 5.

4.7 That it is stated that similarly situated casual workers Md. Karimudding Ahmed, Md. Roshid Ali, Md. Monzil Ghori and Md. Kadar Ali, who were granted temporary status vide order dated 14.12.2002, following the direction of this Hon'ble Tribunal but they were not engaged/reengaged/appointed on the plea of ban on recruitment, approached this

Dr. Gyanendra

Hon'ble Tribunal through O.A. No. 331/2004 praying for a direction upon the respondents to engage/reengage/appoint them as conservancy Safaiwala under the same respondents. However, this Hon'ble Tribunal after hearing the contention of the respondents and after going through the written statement of the respondents and materials on record decided the O.A. No. 331/2004 on 30.06.2005 with the following observations:

"5. Now the facts remains that there are 16 vacancies of Safaiwala. It is not clear as to whether the ban on recruitment was there even prior to September, 2004 which disabled the respondents from engaging the applicants in the 16 vacancies of Safaiwala even on casual basis. Even though there is a regular ban on recruitment to the said posts, having regard to the fact that the work load of Safaiwalas was considered and the strength of Safaiwala was fixed at 100 and that at present there are only 84 persons appointed as Safaiwala, I am of the view that direction will have to be issued to the respondents to consider the case of the applicants herein for engagement on casual basis in the 16 vacant posts of Safaiwala. The ban on recruitment imposed by the Central Government will not stand in the way of making casual engagement. Accordingly, there will be a direction to the third respondent to consider the case of the applicants for engaging them on casual basis in the 16 vacant posts of Safaiwala pending decision on ban recruitment in the said post imposed by the Central Government. This will be done within a period of three months from the date of receipt of this order and the decision taken thereon will be communicated to the applicants immediately thereafter. The question of regular absorption of the applicants to the Group 'D' post, namely, the post of Safaiwala has to be considered on the basis of seniority in the list of persons who are assigned temporary status immediately on lifting the ban on recruitment.

The Original Application is disposed of as above. The applicants will produce this order before the concerned respondent for compliance."

It is categorically submitted that following the judgment and order dated 30.06.2005, Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil Ghori and Md. Kadar Ali, who were applicants in O.A. No. 331/2004 have been reengaged by the respondents in the month of December 2005. The present applicants are similarly situated Conservancy Safaiwala worked under the same respondents i.e. respondents in O.A. No. 331/2004, therefore they are also entitled to be reengaged by the respondents having granted temporary status way back on 14.12.2002. It is relevant to mention here that out of 16 vacant posts of Conservancy Safaiwala only 4 posts have been filled up following the direction of this Hon'ble Tribunal and now 12 vacant posts are still available to re-engage the applicants.

Copy of judgment and order dated 30.06.05 passed in O.A. No. 331/04 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-6.

4.6 That your applicants being highly aggrieved for non consideration of their engagement/re-engagement/appointed in service served a Lawyer Notice upon the respondent No. 4 through their lawyer on 03.12.2005 and 26.12.05, praying interalia for their immediate employment in service. Be it stated that applicant No. 3 also submitted a representation on 19.09.05 addressed to the respondent No. 4, praying interalia for his engagement in service as casual labour, but to no result.

It is stated that action of the respondents is in violation of Article 14 of the Constitution of India. On that score alone the Hon'ble Tribunal be pleased to pass an order to re-engage/appoint the present applicants with immediate effect with all service benefits including wages.

Copy of the lawyer's notice dated 03.12.2005, 26.12.05, representation dated 19.09.05 and order dated 02.12.05 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-7, 8, 9 and 10 respectively.

4.9 That it is stated that when temporary status was granted to the applicants following order of learned Tribunal way back on 14.12.2002 as such ban cannot stand on the way of the respondents for recruitment/re-engagement on service, more so when large number of vacancies of conservancy safaiwala available under the Administrative Commandant, Station Headquarter, Rangiya. Moreover, the recruitment/ engagement of juniors in supersession of claims of the Senior Temporary status conservancy safaiwala as per law attracts Article 14 of the Constitution. Therefore, the Hon'ble Court be pleased to direct the respondents to re-engage the applicants in service.

4.10 That it is stated that the applicants have repeatedly approached the authorities for the re-engagement but finding no result, they are approaching this Hon'ble Tribunal for protection of their valuable legal rights and for the appropriate order/direction upon the respondents for immediate re-engagement of the applicants with all consequential service benefits.

4.11 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, in view of the order of conferment of temporary status passed by the respondents on 14.12.2002 in favour of the present applicants following the decision of the learned tribunal dated 15.02.2001, 25.02.02 and 12.06.02 and also on the ground that large number of subsequent recruits, junior to the present applicants has been engaged/appointed and still working under the respondents.

5.2 For that, when temporary status was granted to the applicants following order of learned Tribunal way back on 14.12.2002, more so when large number of vacancies of conservancy safaiwala available under the Administrative Commandant, Station Headquarter, Rangiya.

5.3 For that, the recruitment/engagement of juniors in supersession of claims of the Senior Temporary status conservancy safaiwala as per law, attracts Article 14 of the Constitution.

5.4 For that, Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil Ghori and Md. Kadar Ali, who were applicants in O.A. No. 331/2004, have been reengaged in service following the decision of this Hon'ble Tribunal, therefore, the applicants being similarly situated like those applicants in O.A. No. 331/2004 cannot be denied appointment/engagement in service.

5.5 For that, the applicants came to learn from reliable source that ban on recruitment is no more in force. Moreover, 12 vacancies out of 16 vacancies are still available to re-engage the applicants.

5.6 For that, vide order-dated 01.10.2001, one Sri Abed Ali was recruited/appointed in service as conservancy safaiwala. Therefore similar benefit cannot be denied to the present applicants that too after conferment of temporary status.

5.7 For that, non recruitment/re-engagement of the applicants in service, when juniors have been recruited in services with temporary status resulted violation of Article 14 and 16 of the Constitution of India.

5.8 For that, plea of ban on recruitment cannot be sustainable under the law in view of the fact that juniors are still working under the respondents and large numbers of vacancy to the grade of conservancy safiawala is available in the respondents department.

5.9 For that, the applicants have acquired a valuable and legal right for recruitment/re-engagement in service in preference to their juniors, in the light of the decision of the Hon'ble Tribunal passed in O.A. No. 331/2004, in respect of similarly situated employees.

6. Details of remedies exhausted.

That the applicants state that they have exhausted all the remedies available to them and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicants further declare that they had approached this Hon'ble Tribunal through Original Applications, which were decided in favour of the applicants and no other application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s).

8.1 That the Hon'ble Court be pleased to direct the respondents to appoint/re-engage the applicants as conservancy safaiwala with immediate effect in preference to their juniors already appointed in service with all consequential service benefits, in the light of the decision

rendered by this Hon'ble Tribunal on 30.06.2005, passed in O.A. No. 331/2004, in respect of similarly situated employees.

8.2 Costs of the application.

8.3 Any other relief(s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicants pray for the following interim reliefs: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents to consider the applicants as conservancy safaiwala as an interim measure against the existing 12 vacancies till disposal of the original application.

9.2 That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar to appoint the applicants as conservancy safaiwala.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I.P.O. No. : 269 319142
 ii) Date of Issue : 7.2.06.
 iii) Issued from : G.P.O. Gauahali
 iv) Payable at : G.P.O. Gauahali

12. List of enclosures.

As given in the index.

20
21/2629 21/2629

VERIFICATION

I, Md. Wahed Ali, S/o Md. Mammat Ali, aged about 34 years, resident of Village- Chikubari No. 1, P.O & P.S- Rangiya, Dist-Kamrup, Assam, applicant No. 1 in the instant application, duly authorized by the others to verify this Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 15th day of February 2006.

Md. Wahed Ali

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 215 of 1998.

Date of Order : This the 15th Day of February, 2001.

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

The Hon'ble Mr K.K.Sharma, Administrative Member.

Sri Dharani Dhar Das,
Son of Mukandaram Das,
Village No.1 Kakula,
P.O.Rangiya,
Dist. Kamrup (Assam).

... Applicant.

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
through the Secretary,
Government of India,
Ministry of Defence,
New Delhi.
2. The Addl.Director General
of Staff Duties (SDGE),
General Staff Branch,
Army Headquarters,
D.H.Q.,
New Delhi-1.
3. The Administrative Commandant,
Headquarters Eastern Command,
Fort William,
Calcutta-21.
4. The Administrative Commandant,
Station Headquarters,
Rangiya,
C/O 99 A.P.O.

... Respondents

By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J. (V.C.)

The issue pertains to employment of casual labourers. The applicant who worked under the respondents as Safaiwala in the year 1989, 1990, 1991 and 1993. The applicant was terminated by an order. The applicant has moved this Tribunal seeking a direction on the respondents to absorb him as a regular employee under the respondents. For that purpose

contd..2

*Affexd
Law Advocate*

the applicant relied upon the scheme dated 10.9.93 prepared by the Government of India in the light of a direction issued by the Central Administrative Tribunal, Principal Bench, New Delhi in Raj Kamal and others vs. Union of India & Ors. delivered on 16.2.90 reported in (1990) 2 CAT 169. The applicant stated and contended that he was engaged as Conservancy Safaiwala in the month of December 1989 on casual basis under the control of the Administrative Commandant, Station Headquarters, Rangiyा upto December 1990 without any break. The service of the applicant was terminated on verbal order. However, in March 1991 the applicant was again re-engaged on casual basis in the same establishment. The applicant was allowed to continue in service as Conservancy Safaiwala upto November 1993 without any break. Again his service was terminated in November 1993 on the ground that the service was no longer required by verbal order with the assurance that he would be re-engaged whenever there was requirement of Safaiwalas on priority basis. The applicant stated and contended that he was moving the authority for his absorption agitating his grievance before the respondents and could not approach the Tribunal by ventilating his grievance due to financial constraint. The applicant also referred to the scheme promulgated by the Central Government and sought for his regularisation in the light of the scheme as well as the direction issued by this Tribunal and the Court from time to time.

2. The respondents submitted its written statement through the Administrative Commandant, Station Headquarters, Rangiyा. According to the respondents the applicant did not serve for long time and therefore he was not eligible for grant of temporary status scheme 1993. He never served

contd..3

for 240 days continuously under the respondents. The respondents in their written statement stated that the applicant was engaged in 1990 and terminated on July 1990 as there was no work for Conservancy Safaiwala. The respondents denied that the applicant was engaged in December 1989 and the applicant was allowed to continue without break for ~~x~~ one year. The respondents stated that the applicant was engaged on daily wages basis. The requirement of such employees decrease when field units move out for their operational commitments or other reasons. It was also submitted that Rangiyia, Changsari, Tamulpur and Darranya was under the Army establishment and in all those field stations no post of regular Conservancy Safaiwala were available. Only in peace stations permanent infrastructure was created. In the above mentioned stations only the field units were staying on temporary basis. No scope of permanent engagement of could Conservancy Safaiwala arise in those risk stations. The applicant was re-employed in January 1992 for 31 days and thereafter he was terminated in February 1992. He was again re-employed in March 1993 only for 19 days and subsequently terminated in April 1992. Since the applicant was not eligible for grant of regular appointment under the scheme of 1993, though his representation was received but not responded to it for want of eligibility. The respondents also contended that there was no post of Conservancy Safaiwala lying vacant to appoint civilians in the station-headquarters.

3. We have heard Mr M.Chanda, learned counsel for the applicant and also Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. Mr Deb Roy referring to the written statement submitted that there is no scope for absorption

of the applicant or giving temporary status to the applicant. There is no dispute as to the engagement of the applicant by the respondents, what is in dispute is as to the length of his service. The applicant contented that he worked more than two years and some months continuously and the respondents authority denied the same and stated that he worked for a very limited period as a casual worker. Since he did not render required length of service as prescribed in 1993 scheme further consideration of his case did not arise. The respondents did not produce any records indicating the period of service of the applicant. No appointment letter was ever issued even termination was also made on verbal order. The applicant on their own showing rendered service under the respondents at the lowest rank. He belongs to Scheduled Caste community and under the norms prescribed by the Central Government he is entitled for some preference on appointment. The applicant in his rejoinder indicated that even after his purported termination the respondents engaged four casual Conservancy Safaiwala. He cited the names of those four persons and stated that those persons are still working. There is no denial on the part of the respondents that they do require Conservancy or casual worker in the establishment. No. records are produced save and except bare denial in the written statement. The fairness in action is the key question in the matter of public employment. The direction of the Tribunal granted in Raj Kamal Case (supra) was given to provide fair deal to the employees and for that purpose directions were issued for providing the benefit of the scheme. The Central Government made this scheme for absorption of the Casual workers. Mr. Deb Roy, learned Sr.C.G.S.C. for the respondents

contd/-5

submitted that since the scheme is prospective in operation and the applicant was terminated on April 1993, the applicant is not entitled to the benefit of the Scheme. It is difficult to exclude the applicant from the benefit on the basis of the statement made by the respondents that the applicant was terminated in April 1993. Needless to say that the scheme in question was introduced to regularise the service of the casual employee by doing away the adhocism from public employment. In our considered opinion the applicant is also entitled for a fair deal from the respondents.

4. In the circumstances we direct the respondents to consider the case of the applicant for giving him the temporary status and to consider his case alongwith the case of similarly situated employees and thereafter to take steps for regularisation. Till such consideration is made the respondents may also consider to re-engage the applicant in any casual vacancy for the time being, till the applicant is given temporary status in the light of the scheme. The application is accordingly allowed. The respondents are directed to complete the process as early as possible, preferably within 6(six) months from to-day.

In the facts and circumstances of the case there shall, however, be no order as to costs.

Sd/VICE CHAIRMAN
Sd/MEMBER(A)

13/3/01

W.D. 13/3/01
Central Assam High Court
State Capital
Guwahati
Assam
India

13/3/01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.294 of 2001

Date of decision: This the 25th day of February 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

1. Mrs Asuran Begam

2. Mr Wahed Ali

3. Mr Moslem Ali

.....Applicants

By Advocates Mr M. Chanda, Mrs N.D. Goswami and
Mr G.N. Chakraborty.

- versus -

1. The Union of India, through the
Secretary to the Government of India,
Ministry of Defence,
New Delhi.

2. The Additional Director General of Staff Duties (SDGE),
General Staff Branch,
Army Headquarters,
D.H.Q., New Delhi.

3. The Administrative Commandant,
Purv Kaman Mukhyalaya,
Headquarters, Eastern Command,
Fort William, Calcutta.

4. The Administrative Commandant,
Station Headquarters,
Rongiya, C/o 99 A.P.O.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....
ORDER (ORAL)

CHOWDHURY. J. (V.C.)

The applicants are three in number, who had come before this Tribunal by way of O.A.No.283 of 1998 for conferment of temporary status. By the aforementioned O.A. the applicants sought for a direction on the respondents for conferment of the benefit of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993. By Judgment and Order dated 15.3.2000 their cases were disposed of directing the respondents for considering their cases. The respondents by order dated 2.8.2000 turned down their prayer

*Attest
Sachin Adv.*

on the ground that the applicants were not employed on the date of commencement of the Scheme.

2. We have heard the learned counsel for the parties at length. The very Scheme of conferment of temporary status was introduced with the object to provide a fair deal to the employees. The Scheme was made for absorbing the casual labourers and this aspect was already dealt with in O.A.No.215 of 1998 disposed of on 15.2.2001.

3. Considering all the aspects of the matter we are of the view that this is also a case in which the applicants are entitled to be considered for conferment of temporary status. The ground that the applicants were terminated before 1993 will not absolve the respondents from considering the case of the applicants. The respondents are accordingly directed to consider the case of these applicants also as per law for conferment of temporary status along with other similarly situated employees and thereafter the respondents shall take steps for their regularisation. Till completion of the aforesaid exercise the respondents may re-engage the applicants against any existing vacancy as per law.

The application is accordingly allowed. There shall, however, be no order as to costs.

SD/VICE CHAIRMAN
SD/MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Annexure-3

Original Application No.7 of 2002.

Date of Order : This the 12th Day of June, 2002.

THE HON'BLE MR JUSTICE D.N.CHOUDHURY, VICE CHAIRMAN.

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER.

Md.Selimuddin Ahmed
S/o Md. Dhansa Ali
Resident of Vill. & P.O:- Titkuchi
P.S: Rangia, Dist:- Kamrup, Assam. Applicant.

By Sr. Advocate Mr.S.Ali.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence
New Delhi.
2. Additional Director General of Staff
Duties (SDGE), General Staff Branch
Army Head Quarters, B.H.Q:- New Delhi.
3. The Administrative Commandant
Purav Kaman Mukhalaya, Head Quarter
Eastern Command, Fort William
Calcutta-700.021.
4. The Administrative Commandant
Station Head Quarter, Rangia
C/o 99 APO. Respondents.

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

O R D E R

CHOWDHURY J.(V.C.) :

In this application under Section 19 of the Administrative Tribunal's Act, 1985 the applicant has sought for a direction for conferment of temporary status in the light of the direction issued by the Tribunal from time to time, more particularly, in O.A.

Contd./2

Abul Sajid Advocate

Nos. 98 & 99 of 1997 disposed on 21.11.1997 as well as the judgment and order dated 26.4.2001 in O.A.451/1999.

1. Admittedly, the applicant worked under the respondents in the year 1991 and 1992 as per the records submitted by the respondents. The applicant discharged duty for 247 days during the period from the 1st of January, 1991 to 31st December, 1991. Similarly, he rendered services for 237 days from 1st January, 1992 to 31st September, 1992. The persons worked alongwith the applicant were conferred with the benefits of temporary status. The applicant is entitled for the benefits of the Office Memorandum No.49014/2/86-Estt.(C), dated

1988 issued by the Government of India, Deptt. of Personnel & Training as well as Office Memorandum No.5302/16/86-W.C.(M.W.), dated 23.8.1988 issued by the Government of India, Ministry of Labour.

2. Sr. We have heard Mr.S.Ali, learned/counsel for the applicant as well as Mr.B.C.Pathak, learned

Addl.C.G.S.C. for the respondents at length. Mr.Pathak, opposing the claim of the applicant mentioned about the want of vacancy in the Station Head Quarter at Rangia.

Needless to state that in the matter of conferment of temporary status, there is no question of any vacancy.

As pointed out earlier the applicant completed about two years of service under the respondents as casual

labourer and as per the policy decision promulgated from time to time he is entitled for consideration of

: 3 :

temporary status. In the O.A.s 98 & 99 of 1997 the Tribunal directed the respondents to consider the case of the applicant for conferment of temporary status. Despite the direction issued by the Tribunal his case was not considered.

We direct the respondents to re-consider the case of the applicant for conferment of temporary status in the light of the observations made above with utmost expedition preferably within a period of six months from the receipt of the order.

There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

Certified to be true copy
প্রমাণিত প্রতিক্রিয়া

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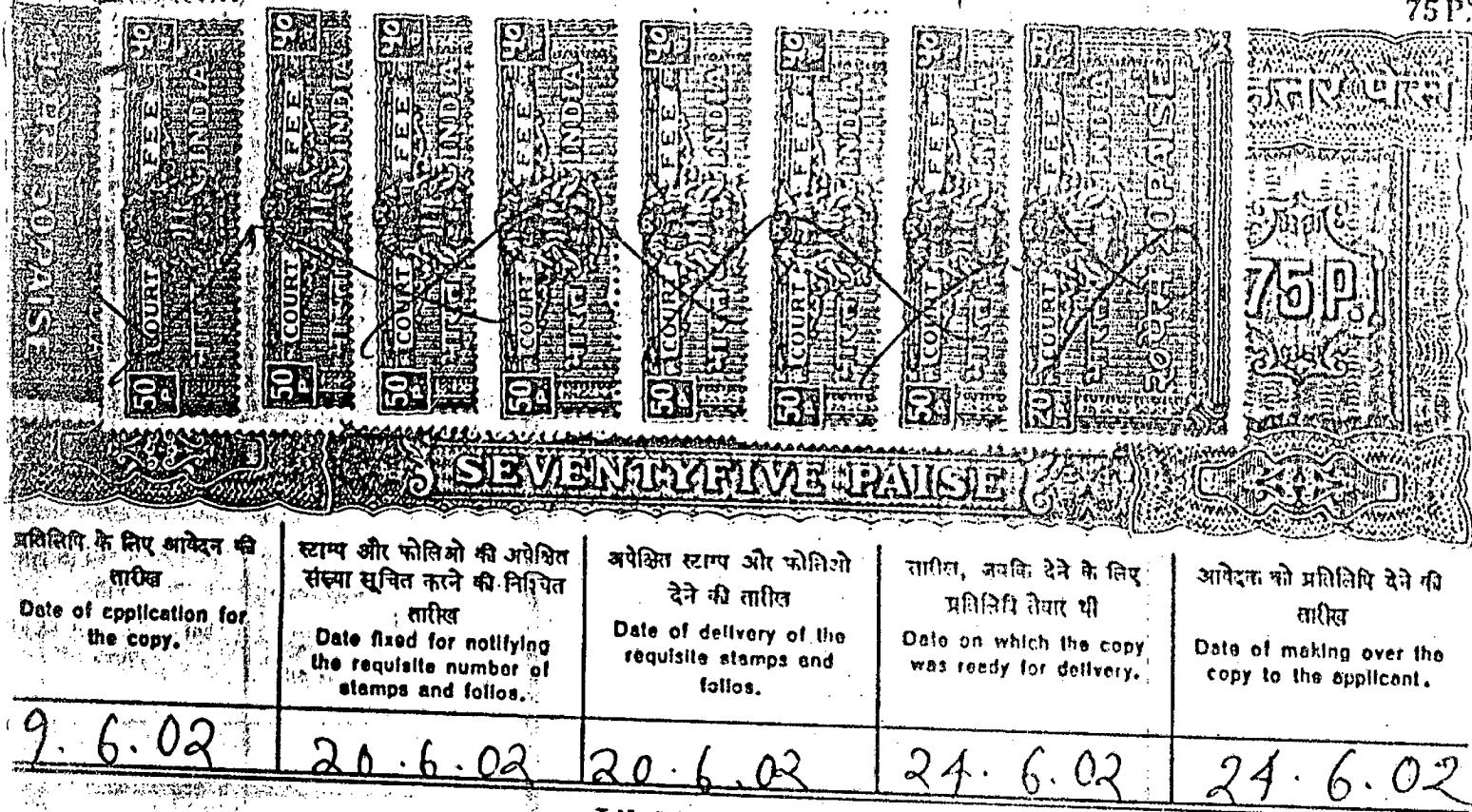
Section Office (D)

অসম প্রযোগ পরিষদ (স্বামী পরিষদ)
Central Administrative Tribunal

কেন্দ্রীয় প্রযোগ পরিষদ
সুবাহাস বাংলা
সুবাহাস স্বামী, প্রযোগ

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14/6/02*

*Abeswar
Lal
private*



IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM NAGALAND MEGHALAYA MANIPUR TRIPURA
MIZORAM & ARUNACHAL PRADESH)

W.P. (C) NO. 3174/2002

1. Union of India,
represented by the Secretary,
Govt. of India, Ministry of Defence,
New Delhi.
2. The Addl. Director General of Staff Duties,
(SDGE) General Staff Branch,
Army Head Quarters, DHQ, New Delhi.
3. The Administrative Commandant,
HQRS, Eastern Commandant,
Fort William, Calcutta-21.
4. The Administrative Commandant,
Station HQRS, Rangia,
C/o 99 APO.

... Petitioners
Respondents of the Original
Application.

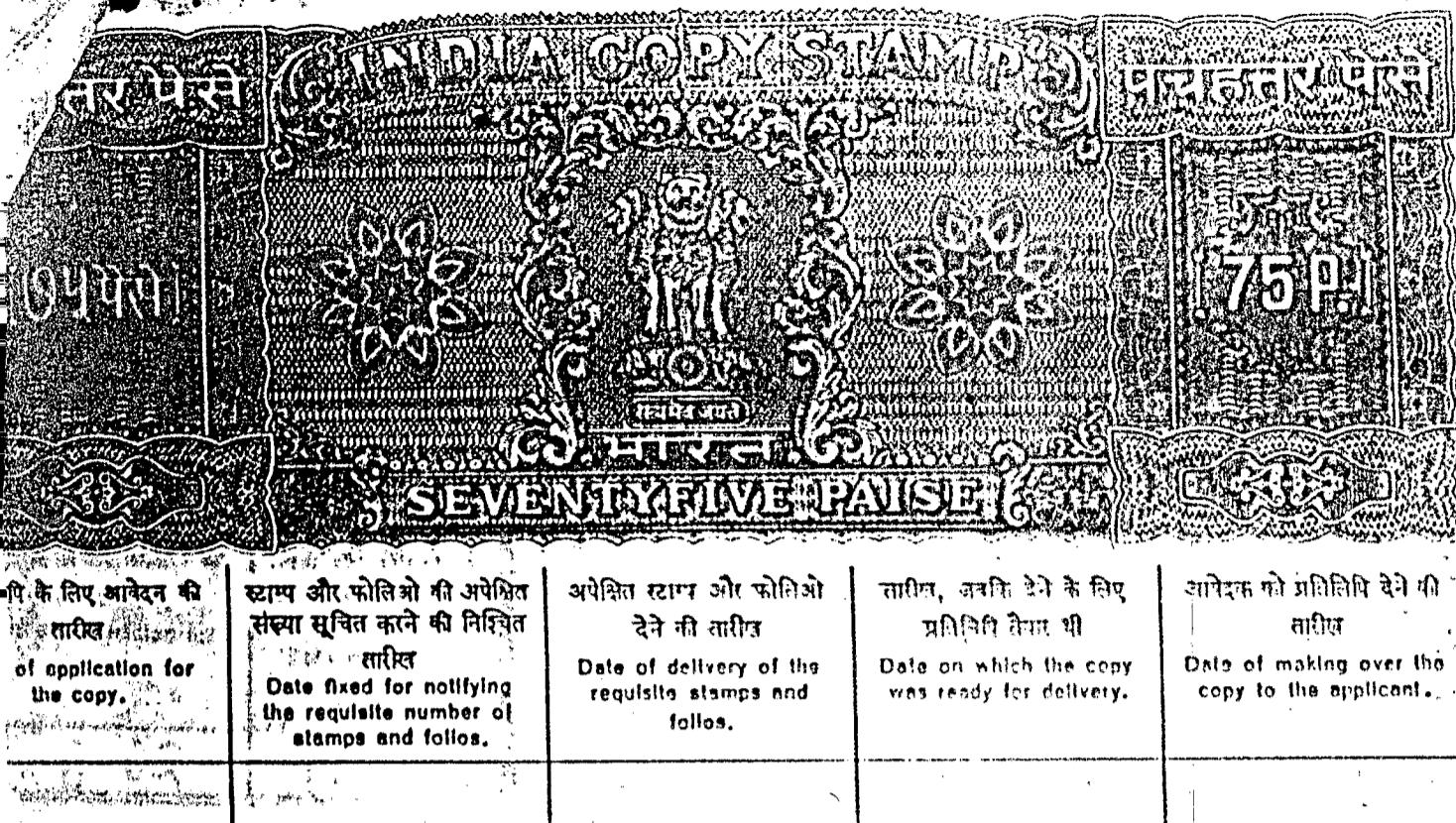
-And-

Sri Dharani Dhar Das,
S/o Mukunda Ram Das,
Vill-No.1 Kakula,
P.O. Rangia, Dist - Kamrup, Assam.

Defendant
Applicant of the Original
Application.

Contd... 2.

*Affest
Sach.
Advocate*



PRESTIE.

THE HON'BLE MR JUSTICE JN SARMA

THE HON'BLE MR JUSTICE D. BISWAS

FOR THE PETITIONERS : Mr. Bipul Sarma,
Addl. C.G.S.C.

4.6.2002

ORDER

Heard Mr. B. Sarma, Learned Addl. CGSC for the
Union of India.

We have perused the application. There is no
merit in this writ application and the same shall
stand rejected.

Sd/- D. BISWAS
JUDGESd/- JN SARMA
JUDGE

Registered No. of Petition.....	11353
Shorthand by/ Typew by.....	25.6.02
Read by.....	25.6.02
Compared by.....	25.6.02

CERTIFIED TO BE TRUE COPY

25.6.02

DATA 25.6.02

Superintendent (Copying Section)

Calcutta High Court

Authorised U/S 76, Act 1, 1873

24/6

Station Headquarters
Rangiya - 781354

3004/1/CC-20/Q

14 Dec 2002

Mr. Wahed Ali
[Individual concerned]

**GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS
PER HON'BLE CAT JUDGEMENT/ORDER DATED 26 FEB 2002**

1. Please refer to Hon'ble CAT Judgement/Order dated 25 Feb 2002 passed on OA No 294/2001.
2. In compliance with Hon'ble CAT Judgement/Order dated 25 Feb 2002, you are hereby granted temporary status as casual Labourer as provided for in Govt of India DOPT OM No 510182/2/90-Est (c) dated 10 Sep 93.
3. It is relevant to clarify here that as per these Govt orders, the scheme for grant of temporary status as casual Labourer does not guarantee immediate regular employment. The employment as a casual Labourer is made available to such an employee whenever the Estt needs to engage any casual Labourer for a job of casual nature in accordance with the provisions of these Govt Orders. You will thus be provided employment as casual Labourer if the SIn HQ needs to engage casual Labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual Labourer with a temporary status under the provisions of the Govt orders dated 10 Sep 93 during the period of employment as a casual Labourer with a temporary status. As regards the provisions under the scheme regarding providing two Group D posts out of three posts being filled by direct recruitment to the casual Labourers with temporary status to employ on regular basis, you will be considered along with other casual Labourers with temporary status against such an earmarked quota at the time of filling the Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt to fill the vacant posts.

Ringgold

After 50
Law Advocate

Station Headquarters
Rangoon - 781354

14 Dec 2002

3004/1/CC-20/C

Mrs. Asgiran Begum
(Individual concerned)

GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS
PER HON'BLE CAT JUDGEMENT/ORDER DATED 26 FEB 2002

1. Please refer to Hon'ble CAT Judgement/Order dated 26 Feb 2002 passed on OA No 294/2001.

2. In compliance with Hon'ble CAT Judgement/Order dated 25 Feb 2002, you are hereby granted temporary status as casual Labourer as provided for in Govt of India DOPT OM No 510162/2/90-Est (c) dated 10 Sep 93.

3. It is relevant to clarify here that as per these Govt orders, the scheme for grant of temporary status as casual Labourer does not guarantee immediate regular employment. The employment as a casual Labourer is made available to such an employee whenever the Estt needs to engage any casual Labourer for a job of casual nature in accordance with the provisions of these Govt Orders. You will thus be provided employment as casual Labourer if the Stn HQ needs to engage casual Labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual Labourer with a temporary status under the provisions of the Govt orders dated 10 Sep 93 during the period of employment as a casual Labourer with a temporary status. As regards the provisions under the scheme regarding providing two Group D posts out of three posts being filled by direct recruitment to the casual Labourers with temporary status to employ on regular basis, you will be considered along with other casual Labourers with temporary status against such an earmarked quota at the time of filling the Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt to fill the vacant posts.



Date of Application : 6.2.06
Date on which copy is ready : 6.2.06
Date on which copy is delivered : 6.2.06
Certified to be true copy

6.2.06
Section 11
C. A. T. C. Staff Section
General

6.2.06

Station Headquarters
Rangiya - 781354

3004/1/CC-21/Q

Dec 2002

Md. Selimuddin Ahmed
(Individual concerned)

**GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS
PER HON'BLE CAT JUDGEMENT/ORDER DATED 12 JUN 2002**

1. Please refer to Hon'ble CAT Judgement/Order dated 12 Jun 2002 passed on OA No 07/2002.
2. In compliance with Hon'ble CAT Judgement/Order dated 12 Jun 2002, you are hereby granted temporary status as casual Labourer as provided for in Govt of India DOPT OM No 510162/2/90-Est (c) dated 10 Sep 93.
3. It is relevant to clarify here that as per these Govt orders, the scheme for grant of temporary status as casual Labourer does not guarantee immediate regular employment. The employment as a casual Labourer is made available to such an employee whenever the Estt needs to engage any casual Labourer for a job of casual nature in accordance with the provisions of these Govt Orders. You will thus be provided employment as casual Labourer if the Stn HQ needs to engage casual Labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual Labourer with a temporary status under the provisions of the Govt orders dated 10 Sep 93 during the period of employment as a casual Labourer with a temporary status. As regards the provisions under the scheme regarding providing two Group D posts out of three posts being filled by direct recruitment to the casual Labourers with temporary status to employ on regular basis, you will be considered along with other casual Labourers with temporary status against such an earmarked quota at the time of filling the Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt to fill the vacant posts.

Station Headquarters
Rangoon - 781354

3004/1/CC-23/Q

Dec 2002

Shri Dharanikar, DAS
[Individual concerned]

GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS
PER HON'BLE CAT JUDGEMENT/ORDER DATED 15 FEB 2001

1. Please refer to Hon'ble CAT Judgement/Order dated 15 Feb 2001 passed on OA No 215/98.
2. In compliance with Hon'ble CAT Judgement/Order dated 15 Feb 2001, you are hereby granted temporary status as casual Labourer as provided for in Govt of India DOPT OM No 510162/2/90-Est (c) dated 10 Sep 93.
3. It is relevant to clarify here that as per these Govt orders, the scheme for grant of temporary status as casual Labourer does not guarantee immediate regular employment. The employment as a casual Labourer is made available to such an employee whenever the Estt needs to engage any casual Labourer for a job of casual nature in accordance with the provisions of those Govt Orders. You will thus be provided employment as casual Labourer if the Stn HQ needs to engage casual Labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual Labourer with a temporary status under the provisions of the Govt orders dated 10 Sep 93 during the period of employment as a casual Labourer with a temporary status. As regards the provisions under the scheme regarding providing two Group D posts out of three posts being filled by direct recruitment to the casual Labourers with temporary status to employ on regular basis, you will be considered along with other casual Labourers with temporary status against such an earmarked quota at the time of filling the Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt to fill the vacant posts.

2004/1/CC-23/Q
Administration Commander
Military Police
for Station Commander
- Date written

3004/1/CC-20/Q

27 Feb 2004

Mrs Asrum Begum
Vill - Pub -Sahan
PO - Rangiya, Kamrup

✓ Mr Wahed Ali
Vill - Chikubari No - 1
PO - Rangiya, Kamrup

✓ Mr Moslim Ali
Vill - Murara
PO - Rangiya, Kamrup

GRANT OF TEMPORARY STATUS AS PER HON'BLE CAT JUDGEMENT/ORDER
DATED 25 FEB 2002

1. Please reference Hon'ble CAT Guwahati Judgement/Order dated 25 Feb 2002 and your requests dated 18 Feb 2004.
2. There is no change on the status of the case as clarified vide our Letter No 3004/1/CC-20/Q dated 14 Dec 2002.
3. Your case will be considered in accordance with the Hon'ble CAT, Guwahati Judgement/Order dated 25 Feb 2002 as and when the ban on recruitment will be lifted by the Government.

Arvind Mahajan
(Arvind Mahajan)

Col
Adm Comdt
For Stn Cdr

Copy to :-

Addl Dte Gen of Staff Duties
SD-7 (Adm Civs)
GS Branch, Army Headquarters
DHQ PO New Delhi - 110 011

HQ Eastern Command (GS/SD)
Fort William, Kolkotta

For info alongwith a copy of a/m requests.

*Abbas
Jeeb
Advocate*

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Original Application No. 331 of 2004.

Date of Order: This, the 30th day of June, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

1. Md. Karimuddin Ahmed
S/O Naushad Ahmed
Village:- Berampur
P.O: and P.S: Rangia
Dist: Kamrup, Assam.
2. Md. Roshid Ali
S/O Late Rafique Ali
Vill and P.O: Udiana
Dist: Kamrup (Assam).
3. Sri Manzil Ghorai
S/O Sri Azizan
Village and P.O: Changmaguri
District: Kamrup (Assam).
4. Md. Kadar Ali
S/O Late Channur Ali
Village and P.O: Kathia
District: Kamrup (Assam). . Applicants.

By Advocates S/Shri M. Chanda, G. N. Chakraborty, S. Nath & S. Choudhury.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Defence
New Delhi.
2. The Additional Director General
Staff duties (DGSE), General Staff Branch
Army Headquarters, D.H.Q.
New Delhi.
3. Administrative Commandant
Purv Kaman Mukhalaya
Headquarters, Eastern Command
Fort William, Kolkata-70021

M. A. Naushad
Advocate

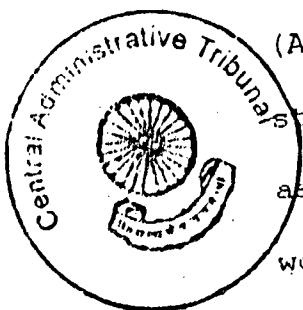
4. Administrative Commandant
Station Headquarters
Rangia, c/o 99 APO.
Respondents.

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

ORDER(ORAL)

SIVARAJAN, I.(V.C.):

The applicants four in number were engaged as casual labourers under the respondents. Pursuant to the directions issued by this Tribunal on 27.2.2002 in O.A.No.80 of 2001 the applicants were assigned temporary status as per communication dated 14.12.2002 (Annexure-II Series). Their entitlements were also stated in the said communication. The scheme for assigning temporary status and regularisation of casual workers is also produced as Annexure-II to the written statement. The applicants' case is that notwithstanding the assignment of temporary status to all the applicants as early as on 14.12.2002 they are not being engaged on casual basis nor being absorbed on regular basis in Group 'D' post. The applicants challenged the communication dated 20.4.2004 (Annexure-IV) wherein it is stated that as per DOP&T instructions Casual Labourers (Grant of Temporary Status) Scheme of Government of India, 1993 the engagement will be on daily rates of pay, need basis and availability of work and that provision of engagement irrespective of need



and payment of minimum salary does not exist. It is also stated that presently it is not possible to employ the applicants in view of the ban on recruitment and that the applicants' contention that subsequent recruits have been employed is not correct. It is further stated that it will be ^{the} endeavour of the respondents to employ the applicants as soon as the ban on recruitment is lifted and the permission is granted by the Government to fill up the ^{vacant} posts.

2. The respondents have filed a written statement. In para 7 of the said statement it is stated as follows:-

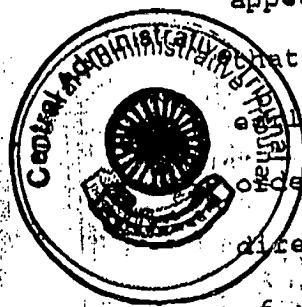
"That with regard to the statements made in paragraph 4.6 of the application, the Respondents beg to state that the vacancies of conservancy Safaiwala in Rangiya and its satellite stations were assessed by a station board of officers depend upon the work load for a period of five years and the same is required to be concurred by Controller Defence Accounts. Present authorized strength of safaiwala is 100. As against the authorized, only 84 are posted. There is deficiency of 16 safaiwala. The new enrolment for these 16 posts can not be done due to ban on recruitment of conservancy safaiwala made by the Government of India (Copy of Army Headquarters letter No C/60288/GS/SD-7) Adm Civs) dated 27 Sep. 2004 indicating the ban on recruitment is enclosed as Annexure 'I') As and when the Respondents receives the instructions for enrolment for the vacant posts, the same will be filled up."

It is further stated in para 9 as follows:-

Lok

"That allegation in para 5.1 of the O.A. are not correct. It is not correct and baseless to state that large number of subsequent recruits, junior to the present applicants have been engaged/appointed and still working under the respondents. It is submitted that the seventeen personnel mentioned by the applicants in the OA are employed as per directions of the Hon'ble Tribunal."

3. Heard Mr. M. Chanda, learned counsel for the applicants and Mr. M. U. Ahmed, learned Addl.C.G.S.C. appearing for the respondents. Mr. Chanda submitted



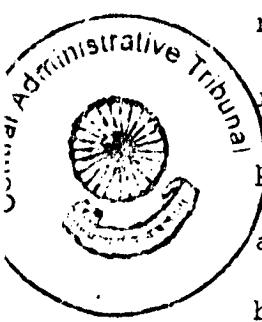
that the applicants were assigned temporary status as early as on 14.12.2002 and that this Tribunal in the order dated 27.2.2002 (Annexure-I) issued clear direction to the respondents to consider the question of re-engaging the applicants in any casual vacancy for the time being. Counsel submits that notwithstanding this direction the respondents did not re-engage the applicants nor did they absorb the applicants in regular Group 'D' post even though vacancies existed in the department. Counsel also submits that the ban order was issued only in 2004 whereas the directions to re-engage the applicants were issued by the Tribunal as early as on 27.2.2002 and that the applicants were assigned temporary status on 14.12.2002. Counsel accordingly submitted that the respondents were not justified in not engaging the applicants on casual basis though not on regular absorption. Mr. M. U. Ahmed, learned Addl.C.G.S.C., on the other hand,

GPF

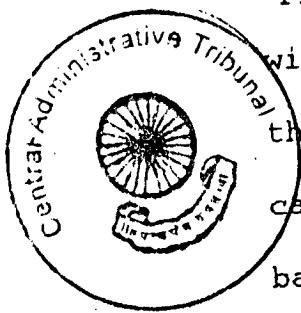
submits that even after assignment of temporary status the applicants can be provided with work only when there is work of the nature earlier done by them. He also submitted that in view of the ban on recruitment imposed by the Central Government there is no question of any absorption of the applicants in any regular **at present** Group 'D' post/ even though vacancies do exist.

4. Admittedly, the applicants were assigned temporary status as early as on 14.12.2002. The Tribunal in the judgment dated 27.2.2002 passed in O.A. No. 80 of 2001 had issued direction to consider their claim for re-engagement in casual vacancies pending regular absorption in Group 'D' post. Respondents had not re-engaged the applicants nor absorbed them in regular Group 'D' post. It is an admitted case that 16 posts of Safaiwala are lying vacant. The said vacancies are not filled up solely for the reason that there is a ban on recruitment imposed by the Central Government. Respondents have stated that those vacancies will be filled up as soon as the ban is lifted and sanction is granted to fill up the vacancies. Regarding the contention of the applicants that the persons who were subsequently assigned temporary status have been engaged/appointed and are still continuing, it is stated, that the same was done as per the direction of the Hon'ble Tribunal.

9pm



5. Now the fact remains that there are 16 vacancies of Safaiwala. It is not clear as to whether the ban on recruitment was there even prior to September, 2004 which disabled the respondents from engaging the applicants in the 16 vacancies of Safaiwala even on casual basis. Even though there is a ban on regular recruitment to the said posts, having regard to the fact that the work load of Safaiwalas was considered and the strength of Safaiwala was fixed at 100 and that at present there are only 84 persons appointed as Safaiwala, I am of the view that direction will have to be issued to the respondents to consider the case of the applicants' herein for engagement on casual basis in the 16 vacant posts of Safaiwala. The ban on recruitment imposed by the Central Government will not stand in the way of making casual engagement. Accordingly, there will be a direction to the third respondent to consider the case of the applicants' for engaging them on casual basis in the 16 vacant posts of Safaiwala pending decision on ban recruitment in the said post imposed by the Central Government. This will be done within a period of three months from the date of receipt of this order and the decision taken thereon will be communicated to the applicants immediately thereafter. The question of regular absorption of the applicants to the Group 'D' post, namely, the post of

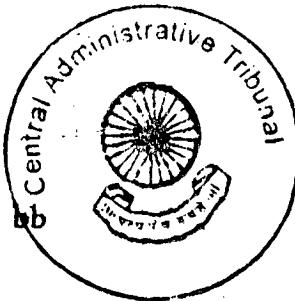


9/

Safaiwala has to be considered on the basis of seniority in the list of persons who are assigned temporary status immediately on lifting the ban on recruitment.

The Original Application is disposed of as above. The applicants will produce this order before the concerned respondent for compliance.

Sd/ VICE CHAIRMAN



17.1.06

Date of Application : 17.1.06

Date on which copy is ready : 17.1.06

Date on which copy is delivered : 17.1.06

Certified to be true copy.

N S 17.1.06

Section Officer (J. d.)

C. A. T. Guwahati Bench

Guwahati D.

17.1.06

Manik Chanda

Advocate

Guwahati High Court

- 38 -

Annexure-7

Reg. No. : 2522998

Bye Lane - 7

Lachit Nagar

Guwahati - 781 007

Ref. No.

Date..... 03.12.2005

NOTICE

From:

Manik Chanda
Advocate.

To,

The Administrative Commandant,
Station H.Q., Rangia,
C.O 99 APO.

Sub:- Engagement/absorption of ^{new} clients as casual labour who are temporary status holder

My Client:- Asuran Begum, D.O Md. Mamniat Ali, Resident of Pub Sahan, P.O and P.S Rangia, Dist- Kamrup, Assam. Md. Wahed Ali, Vill- Chikubari No. 1, P.O- Rangia, Kamrup. Mr. Moslim Ali, Vill- Murara, P.O- Rangia, Kamrup. Md. Selimuddin Ahmed, S.O Dhansha Ali, Vill. Tirkuri, P.O- Tirkuri, Dist. Kamrup, Assam.

Dear Sir,

Under the instruction of my clients I do hereby give you this notice for engagement/absorption of my clients as per direction passed by the learned Tribunal in its judgment and order dated 25.02.2002 and 12.06.2002 passed in O.A.No. 294/2001 as well as O.A.No 7/2002 respectively. It is relevant to mention here that there was a specific direction for conferment of temporary status to my clients and thereafter further consideration of their regular absorption and till completion of such exercise the respondents were further directed to re-engage the applicant against any existing vacancy as per law, but unfortunately although temporary status has been granted to my clients but no steps has been taken to re-engage them in service till date. It is quite clear from a subsequent order passed in the case of Karimuddin Ahmed and others in O.A no. 331 of 2004, where the learned Tribunal has specifically observed that

Attest
Smt.
Advocate

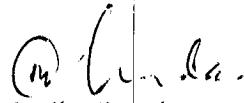
Manik Chanda
Advocate
Gauhati High Court

- 39 -

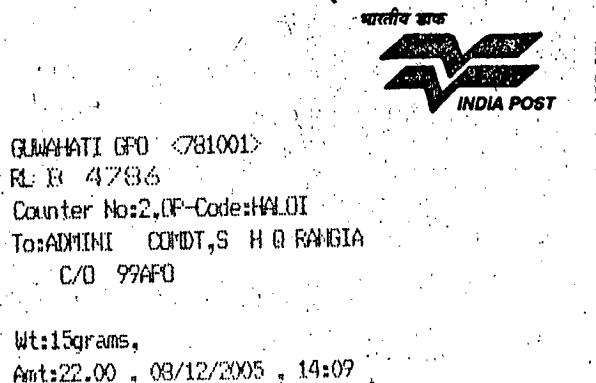
Ph : 2522998
Bye Lane - 7
Lachit Nagar
Guwahati - 781 007

Ref. No. Date..... 03.12.2005
altogether 14 vacancies are still available as such there is no justification for non-consideration of engagement of the applicants as per direction of the learned Tribunal. Therefore you are requested to consider engagement/re-engagement in service to my clients against the available vacancies of conservancy safaiwala within 30 days from the date of receipt of this notice failing which my clients will be at liberty to approach the appropriate forum for violation of the court's order. Your decision in this regards may kindly be communicated to the undersigned or to my clients directly as early as possible.

Thanking You


(Manik Chanda)

Advocate



Manik Chanda
Advocate
Gauhati High Court

- 40 -

File No. : 2522998
Bye Lane - 7
Lachit Nagar
Guwahati - 781 007

Ref. No.

Date..... 26/12/2005

NOTICE

From:

Manik Chanda,

Advocate.

To,

The Administrative Commandant
Station HQ: Rangiyia,
C/O 99 APO.

Sub:- Engagement/Absorption of my client as casual labour who has
been granted temporary status.

My Client:- Shri Dharani Dhar Das, Son of Mukunda Ram Das,
resident of village No. 1, Kakula, P.O- Rangiyia, Dist-
Kamrup, Assam.

Sir,

Under instructions of my client above named, I do hereby give you
this Notice for engagement/absorption of my client as per direction passed
by the Hon'ble Central Administrative Tribunal vide it's judgment and
order dated 15.02.2001 in O.A. No. 215/98. I want to attract your notice to the
fact that the Hon'ble Tribunal in it's order aforesaid, clearly directed you to
confer temporary status to my client and thereafter to consider his regular
absorption and until then to re-engage my client in any casual vacancy. But
unfortunately although temporary status has been granted to my client vide

*Affected
Dear
Advocate*

Manik Chanda
Advocate
Gauhati High Court

- 41 -

2522998
Bye Lane - 7
Lachit Nagar
Guwahati - 781 007

Ref. No.....

Date..... 26/12/2015.....

your letter No. 3604/LCC-23/Q dated 14.12.2002, but no steps has yet been taken to re-engage him in service. It is quite clear from the subsequent order passed in the case of Karimuddin Ahmed and Ors. in O.A. No. 331 of 2004 where the learned Tribunal has specifically observed that there are 14 vacant posts still available and as such there is no justification for non-consideration of re-engagement of my client above-named as per direction of the learned Tribunal, since you have recently absorbed some similarly situated persons against the vacant posts.

I, therefore, serve this Notice and urge upon you to consider engagement/re-engagement of my above-named client in service against one of the existing vacancies of Conservancy Safaiwala within 30 (thirty) days from the date of receipt of this Notice, failing which my client will have no other option but to approach the appropriate Forum of law for violation of Tribunal's order. Your decision in this regard may please be communicated to me or to my client directly within the earliest.

Thanking You,

Yours sincerely


(MANIK CHANDA)

प्राप्त दस्तावेज़ नहीं NOT INSURED	
प्राप्त दस्तावेज़ का मूल्य	क्रमांक
Amount of Stamps affixed	No.
एक रजिस्ट्रेशन	प्राप्त किया
Received a Registered	11350
प्राप्तवाते का नाम	सारीख घोषणा
Addressed to	Dear Stamp Lent
4692410	प्राप्तवाते अधिकारी के दस्तावेज़
	Signature of Receiving Officer

To,

The Administrative Commander,
Rangya, Head Quarter.

Dated 19th September, 2005.

Ref:- Judgement and order dated 12.6.2002 passed
in C.A. No. 7/2002,

Md. Safiuruddin Ahmed vs. the Union of India & Ors.

Sub:- Request for engagement as casual Labour.

Sir,

Respectfully, I ~~ought~~ to state that vide order
dated 12.6.2002 in C.A. 7/2002 I was given temporary status by
the H'ble C.A.T. Gauhati and accordingly I was called for
to join in the post of casual Labour with temporary status.
But unfortunately I was not allowed to join in the Casual
Labour, but subsequently I was refused to join in the post.

As per direction of the C.A. in C.A. No. 7/2002
I ought to have been engaged as casual labour in the Head
Quarter Rangya and hence temporary status was given to ~~the~~
me. But I was not allowed to join.

I, therefore request you kindly allow me
to join in the post of casual Labour in Rangya H.Q. and
oblige.

Yours faithfully

Md. Selimuddin Ahmed
S/o Dhansha Ali
Vill. Titkuri, P.O. Titkuri
Dist. Kamrup, Assam.

19.9.05

Enclosed herewith:

1. Copy judgement dated 12.6.2002 passed by the C.A.T. Gauhati
2. Copy of letter dated 14th December, 2002.

*Abulsta
Jew.
Advocate*

Station Headquarters
Rangiya 781354

02 Dec 2005

3004/App/CL/U

Md Karimuddin Ahmed
S/O Naushad Ahmed
Vill- Berampur
Post- Rangiya
Dist- Kamrup (Assam)

APPOINTMENT LETTER FOR CASUAL LABOURER

1. Please refer to the Hon'ble CAT decision dated 30 Jun 2005.
2. You are requested to report to this HQ for appointment as Casual Labourer in accordance with the decision of Hon'ble CAT.
3. The terms and conditions of your service as Casual Labourer would be as per pay fixed by the Government of Assam, Office of the Labour Commissioner : ASSAM Guwanau- 16 letter No. ACL. 43/2004/8407 dated 01 Sep 2004 (unskilled workmen).
4. You are hereby informed and directed to report to undersigned alongwith the following certificates :
 - (a) Educational qualification certificate, if any.
 - (b) Recent colour passport size photographs three copies.
 - (c) Certificate of age from concerned District Registrar if educational qualification certificate is not held.
 - (d) Certificate on local/permanent address from village Sarpanch / Panchayathi / Municipality.
 - (e) Medical fitness certificate.

(N Bhardava)
Lt Col
Unit Admin Comat
for Stn Cdr

Attested
S. B.
Advocate

5

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O. A. No. 45 2005

...Applicant(s)

M. F. Wahid Ali & ors.

-Vs-

Union of India & ors.

...Respondent(s)

Know all men by these presents that the above named Applicant do hereby appoint, nominate and constitute Sri Manik Chanda, Sri S. N. Chakraborty and Sri G. N. Chakraborty Advocate(s) and such of below mentioned Advocate(s) as shall accept this VAKALATNAMA to be my/our true and lawful Advocate(s) to appear and act for me/us in the above noted case and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all such acts to be mine/our for all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate(s) shall be bound to appear and/or act on my/our behalf.

In witness whereof, I/We hereunto set my/our hand on this the 15th day of February, 2005.

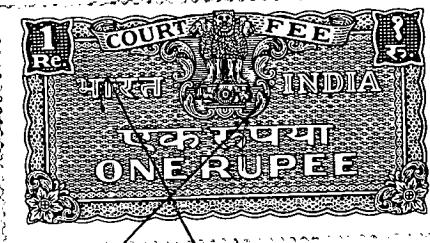
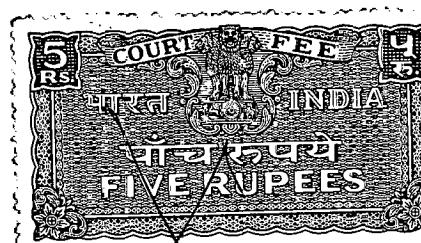
Received from the Executant, Mr. _____ And accepted
satisfied and accepted. Senior Advocate will lead me/us in the case.

Suryajit Chakraborty
Advocate

Advocate

M. F. Ali
Advocate

Subrata Nath Chakraborty
Advocate



52

NOTICE

From:
Subrata Nath,
Advocate
Central Administrative Tribunal
Guwahati Bench, Guwahati.

To,
Shri G. Baishya
Sr. C.G.S.C
Central Administrative Tribunal
Guwahati Bench,
Guwahati.

Sub: - O.A. No. _____ /2006

Md. Wahed Ali & Ors. - Vs- Union of India & Ors.

Sir,

Please take notice that the above Original application, a copy whereof is enclosed herewith for your information and necessary action, is being filed before this Hon'ble Central Administrative Tribunal today.

Kindly acknowledge receipt of the same.

Thanking you,

Yours faithfully,

Nath
Advocate

15/1

Received Copy of the Original Application
Consisting _____ pages including Annexure.

Abha Jan.
Addl C.G.S.C
(G. Baishya)
Sr. C.G.S.C 15/12/06