

FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 53/06
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) Sonbare Das. 7012.

Respondants U.O.I 7015.

Advocate for the Applicant(S) Adil. Ahmed.....

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

Notes of the Registry	Date	Order of the Tribunal
<p>22x22x2286</p> <p>The applicant is working</p> <p>The claim of the applicants are that they are working as skilled labour under the respondent No.6 and as per the circular dated 10.5.2004 issued by the Government of India, Ministry of Labour they are entitled to get the minimum rate of wages prescribed there under. The applicants are still employe</p> <p>Earlier the applicants had approa ched this Tribunal by way of O.A. No. 308/2004 wherein this Tribunal vide order dated 22.8.2005 directed the respondents to consider their represen tation and pass appropriate orders. pursuant thereto Annexure-F order date 19.12.2005 has been issued.</p> <p>Mr.A.Ahmad, learned counsel for the applicants submits that though th 19.12.2005 order is a lengthy one, connects points that have been direc ted to be considered, have not been considered therein. Therefore, this O.A.</p>	<p>02.03.2006</p>	

Steps not taken

contd.

Contd.

2.3.2006

Ms. U. Das, learned Addl. C.G.S.C. appearing for the respondents submits that notice should be issued to the respondents.

Issue notice to the respondents. Post on 17.4.2006.

Vice-Chairman

bb

24.4.2006

Ms. U. Das, learned Addl. C.G.S.C. for the respondents sought for four weeks time to file reply statement. Let it be done.

Post on 24.5.2006.

Vice-Chairman

mb

24.05.2006

When the matter came up for hearing, Mr. B.C. Pathak, learned counsel for the respondents submitted that this case may be posted on 26.06.2006 for filing reply statement alongwith the connected matter.

Post on 26.06.2006.

Vice-Chairman

mb

26.06.2006

Learned counsel for the respondents would like to have some time to file reply statement. Post on 27.7.06.

Vice-Chairman

mb

Se comply order dated 2.3.06.
NS
21/3/06

Notice & order sent to D/Section for issuing to resp. nos. 1 to 4. by regd. A/D post and resp. nos. 6 & 5 received 6/3/06 by hand.
D/No = 291 to 294
Dt = 10/3/06.

Received for R. 5 & 6
Alshar Dar.
Addl. ChSE
7/3/06

Notice duly served on resp. nos. 5, 6, 2.

7/3

Att

No. Ws has been filed.

21.4.06

23-5-06


No. Ws has been filed.

No Ws has been filed.
23.6.06

3

16.3.07.

Judgment delivered in open Court.
Kept in separate sheets. Application is
disposed of. No costs.


vice-Chairman

lm

22.3.07

C Copy has
been collected
by the L/Adm to
the applicant and
a copy of the
same handed
over to the L/Adm.
for the Respondent.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.53 of 2006

DATE OF DECISION 20.03.2007

Shri Sonabar Das & 14 Others

.....Applicant/s

Mr. A.Ahmed

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr.B.C.Pathak

..... Advocate for the
Respondents

CORAM

THE 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 compiled at Jodhpur Bench & other Benches ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice-Chairman

20/3/07


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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.53 of 2006.

Date of Order: This, the 20 th day of March, 2007.

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

1. Shri Sonabar Das
Son of Bipin Chandra Das
Vill. & P.O: Azara (Kootpara)
District:- Kamrup.
 2. Shri Kan Das
C/O Shri Hiren Das
Kahikuchi, P.O: Azara
Dist: Kamrup (Assam)
Pin-781 017.
 3. Md. Farid Ali
Son of Md. Khariat Ali
Vill: Lower Mizapur
P.O: Azara
Dist: Kamrup, Assam
Pin: 781 017.
 4. Shri Jiten Chandra Das
Vill: Matia, P.O: Azara
Dist: Kamrup
Guwahati-17.
 5. Md. Nizam Ali
Vill. & P.O: Azara
District: Kamrup
Guwahati-17.
 6. Shri Bishnu Ram Medhi
Vill. & P.O: Azara
District: Kamrup
Guwahati-17.
 7. Shri Brajen Sarmah
Vill. & P.O: Azara
Dist: Kamrup
- 

Guwahati-17.

8. Shri Nagendra Medhi
Vill. & P.O: Azara
Dist: Kamrup
Guwahati-17.
9. Shri Bipul Baruah
Vill. & P.O: Azara
Dist: Kamrup
Guwahati-17.
10. Shri Shushil Kalita
Vill. & P.O: Azara (Kalitapara)
Dist: Kamrup
Guwahati-17.
11. Shri Tuku Baishya
Vill. & P.O: Azara
Dist: Kamrup
Guwahati-17.
12. Shri Tapan Baishya
Vill. & P.O: Azara
Dist: Kamrup
Guwahati-17.
13. Shri Ranjit Ch. Das
Son of Late Keshab Ch. Das
Vill.: Mirzapur (Medhipara)
P.O: Azara, Dist: Kamrup
Guwahati-17.
14. Shri Bijoy Ch. Das
C/O Chandradhar Das
Vill.: Mirzapur
P.O: Azara, Dist: Kamrup
Guwahati-17.
15. Shri Diganta Medhi
~~Vill. Mirzapur~~ (Medhipara)
Vill & P.O: Azara / Dist: Kamrup
Guwahati-17.

.....Applicants.

By Advocate Mr.A.Ahmed.



- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Agriculture
New Delhi.
2. The Director General
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi.
3. The Secretary
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi.
4. The Director
Central Plantation Corps Research Institute
Indian Council of Agricultural Research
Kasaragod-671124
Kerala.
5. The Director
Central Plantation Corps Research Institute (RC)
(Indian Council of Agricultural Research)
Kahikuchi, Guwahati- 781 017.
6. The Co-Principal Investigator
Mini Mission-1
Central Plantation Corps Research Institute (RC)
(Indian Council of Agricultural Research)
Kahikuchi, Guwahati- 781 017.

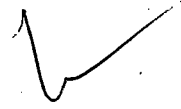
.....Respondents.

By ~~Mr. B. C. Pathak, Sr. C. O. S. O.~~ Mr. B. C. Pathak.

ORDER


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

The Applicants, 15 in number, were initially called for
appearing in the interview for temporary posts of Skilled Labour.



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Their names were sponsored by the local Employment Exchange. Accordingly they appeared in the interview and was selected and ever since they are working as Skilled Labour on temporary basis for a consolidated pay of Rs.1,500/-pm. under sixth Respondent. The engagement of the Applicants expired on 31.03.2002 and the Respondents, without renewing, kept engaging them continuously. Since the Respondents did not terminate the services of the Applicants, they were under the assumption that their engagement would be regularized subsequently and they did not try for any other jobs and now all of them have become over aged for Govt. job, Semi-Govt. as well as private jobs. Aggrieved by the non-regularisation, the Applicants approached this Tribunal by way of O.A. No.236/2003, which was admitted and interim order was passed protecting their interest. When the case came up for hearing on 29.09.2004, the O.A. was allowed to be withdrawn enabling the Applicants to file representations before the Respondents for regularisation of their services. The Applicants submitted representation (Annexure-D) before the Respondents. Since the said representation was not being disposed of another O.A. No.308/2004 was filed before this Tribunal seeking justice in the matter and this Tribunal vide order dated 22.08.2005 while disposing of the O.A. directed the Respondents to consider and dispose of the representation and pass appropriate orders thereon within stipulated



time frame and the interim order continued till such disposal. The Respondent No.4 had disposed of the Applicants' representation vide his order dated 19.12.2005 rejecting their claim on some flimsy grounds. No minimum fixation of wages was reflected in the impugned order as declared by the Government of India, Ministry of Labour by circular dated 10.05.2004 by which minimum wages of the Skilled Labour in Agriculture Sector, Central sphere is fixed @ Rs.114.59 per day at Guwahati city including places within a distance of 15 km. from the periphery of Municipal Corporation. As such, minimum wages has to be paid to them, claim the Applicants. But the Respondents are depriving the Applicants and was paying only 1500/- p.m. in gross violation of fundamental rules. The Applicants relied on a decision in Bharatia Dak Tar Mazdoor Manch vs-U.O.I. & Another reported in 1988 (1) SCC 122 wherein the Hon'ble Supreme Court held that daily rated casual labourers are entitled to minimum pay in the pay scale of the regular workers plus DA and low fixation of pay at Rs.1,500/- p.m. is, therefore, illegal, arbitrary and not sustainable in law. Hence, this Original Application before this Tribunal seeking the following main relief:-


- "8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to pay the applicants the minimum rate of daily wages of Skilled Labour as per Government of India, Ministry of Labour Circular No., G/R.93(1)/96-Cor.LS.II dated 10 May,



2004 from the date of their engagement as Skilled Labour under the Respondents."

2. The Respondent Nos. 3 & 4 filed a detailed reply statement contending and raising a preliminary objection as to the maintainability of the O.A. for want of jurisdiction as the matter clearly pertains to alleged non-payment of minimum wages and payment of wages or short payment of wages which comes within the purview of the Minimum Wages Act, 1948 and Payment of Wages Act, 1936 read with the provisions of Industrial Disputes Act, 1947. The legislative authority while enacting these legislations have clearly indicated and prescribed the authorities including the appellate authority within the framework of the special enactments by prescribing separate and independent authorities to try such matter. Such authorities are prescribed under Section 15 and 17 of the said Payment of Wages Act and Section 24 under the Minimum Wages Act, 1948. Therefore, this Tribunal has no jurisdiction to adjudicate the matter.

3. I have heard Mr. A. Ahmed, learned counsel for the Applicants and Mr. B.C. Pathak, learned counsel for the Respondents. I have also given due consideration to the arguments advanced by the learned counsel for the respective parties. Mr. Pathak submitted that since the issue involves in this case is for payment of wages




this Tribunal has to adjudicate as to whether it has jurisdiction to entertain the O.A.

4. After hearing the parties I am of the considered view that there is substance in the arguments advanced by the learned counsel for the Respondents. On going through the pleadings and considering the arguments advanced by the learned counsel for the parties it is quite evident that pay has not been fixed as per the Minimum Wages Act. My attention is brought to Sections 15 and 17 of the Payment of Wages Act, 1936 and Section 24 of the Minimum Wages Act, 1948. Relevant portions of the Sections 15 & 17 of the Payment of Wages Act, 1936 are reproduced below:-

“15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims - The State Government may, by notification in the Official Gazette appoint a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947,”

17. (1) An appeal against an order dismissing either wholly or in part an application under sub-section (2) of Sec 15, or against a direction made under sub-section (3) or sub-section (4) of that section may be preferred within thirty days of the date on which the order or direction was made, in a Presidency Town before the Court of Small Causes and elsewhere before the District Court -”

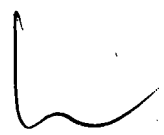
Section 24 of the Minimum Wages Act, 1948 says, “*Bar of suits. - No Court shall entertain any suit for the recovery of the wages in so far*



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as the sum so claimed." Further, Mr.B.C.Pathak, learned counsel for the Respondents has brought my attention to the decision rendered by the Hon'ble Supreme Court in the case of Krishna Prasad Gupta Vs. Controller, Printing & Stationery AIR 1996 SC 408 and canvassed for a position that the Presiding Authority or the Appellate Authority are not the authority subordinate to this Tribunal, and therefore, the application before this Tribunal is not maintainable.

5. At this juncture, Mr.A.Ahmed, learned counsel for the Applicants, submitted that since the Applicants' grievance is for non-payment of minimum wages Applicants may be permitted to approach the appropriate authority within a time frame and the O.A. can be disposed of accordingly.

6. Considering the issue involved in this case, I am of the view that since a separate authority has been constituted by a different Statute i.e., the Minimum Wages Act which excludes jurisdiction of the Civil Court and finding this Court not being the Appellate Authority as prescribed in the said enactment, I am of the view that this Court may not have jurisdiction to entertain this O.A. However, considering the submissions made by the learned counsel for the Applicants, I grant permission to the Applicants to approach the appropriate authority, as prescribed by the Statute, within a time frame of two months from the date of receipt of this order and the



said authority shall entertain such application condoning the delay caused, if any, and dispose of the same accordingly. In other words, the time taken by the Applicants in this O.A. and for disposal thereof cannot be the reason for rejection of such application. Approaching a wrong forum may not stand as a punishment to the Applicants hence the delay stands condoned.

The Original Application is disposed of accordingly with no order as to costs.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/BB/

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL SIDE
ORIGINAL JURISDICTION

DATED THE ALLAHABAD : 9 January, 2003.

PRESENT

THE HON'BLE M. KATJU, JUDGE.

THE HON'BLE YATINDRA SINGH, JUDGE.

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CIVIL MISC. WRIT PETITION NO.41675 OF 2001

Order on the Petition of Indian Council of agricultural
Research Krishi Bhawan Dr. Rajendra Prasad Road, New
Delhi.

.....Petitioner.

In Re

Indian Council of Agricultural Research
Krishi Bhawan Dr. Rajendra Prasad Road,
New Delhi through its Secretary.

.....Petitioner.

Versus

1. Raja Balwant Singh College, Agra
through its Principal.
2. The Secretary, Committee of Management
Raja Balwan Singh College, Agra.
3. A.K. Singh, S/o late Dr. R. Singh
R/o 32, MIG, Kailashpuri, Mathura
Road, Agra.
4. A.K. Goyal S/o Late Sh. R.S. Goyal,
R/o 3/174, Roshan Mohalla, Agra.
5. R.K. Vishnoi S/o Sri Ran Nath Singh
Vishnoi, R/o Vishnoi Nagar, Nagina,
Bijnor.
6. M.P. Singh S/o Late Mand Kan
R/o Vill. Gadima, P.O. Mansola,
Agra.

.....Respondents.

7. Dr. C.P. Singh, Soil Scientist,
R/o 10, Gandhi Nagar, Agra.
8. Dr. A.P. Singh, Jr. Soil Scientist,
C/o Salim Water Project, RBS
College, Bichpuri, Agra.
9. Dr. B. Dayal, Jr. Soil Scientist,
C/o Saline Water Project, R.B.S. College,
Bichpur, Agra.
10. State of U.P. through the Principal
Secretary, Ministry of Higher
Education, Lucknow.
11. C.A.T. Allahabad Bench,
23- Thornhill Road, Allahabad.

.....Proforma-respondents.

Counsel for the Petitioner : Sri J.N. Tewari
Sri Vivek Mishra
~~Sri Rakesh Tiwari~~

Counsel for the Respondents : Sri Suresh Singh
Sri A.K. Goel
S.C.

BY THE COURT

Civil Misc. Writ Petition No. 41675 of 2001

Indian Council of Agricultural Research Krishi Bhawan Dr. Rajendra
Prasad Road, New Delhi
Versus
Raja Balwant Singh College, Agra and others

Hon'ble M. Katju, J.

Hon'ble Yatindra Singh, J.

(Delivered by Hon'ble M. Katju, J.)

This writ petition has been filed against the order of the Central Administrative Tribunal dated 27.4.2001 copy of which is Annexure 10 to the writ petition.

We have heard learned counsel for the parties.

The petitioner (hereinafter referred to as I.C.A.R.) is a society registered under Societies Registration Act. The Minister for Agriculture is ex-officio President of the Society and it is wholly funded by the Govt. of India. As stated in para 3 of the writ petition, the society was set up for undertaking scientific research in Agriculture, Animal Husbandry and other allied subjects. The research work is done by various institutions situated all over the country. The number of scientists and helping staff and their qualifications are fixed by the I.C.A.R. The I.C.A.R. does not make selection or appointment of such employees nor are they employees of I.C.A.R. The grantee college/institution invites applications and appoints staff required for the project. The pay scale is determined by the I.C.A.R. but they work under the supervision and control of the grantee institution and are governed by the rules and regulations of the institution in all matters, such as leave, holidays etc. The Indian Council for Agricultural Research has no control or supervision over their work. The I.C.A.R. only provides funds for the project and nothing more and it has not to bear any expenditure on pension etc. All projects approved for the grantee institutions are of temporary nature and are sanctioned for specified periods, normally for a period of five years, and at the end of the project the work done is reviewed. The staff recruited is appointed on temporary basis and no

guarantee is given that on completion of the project they will be absorbed. The project employees have no legal right to remain in service after the project comes to an end. In para 9 of the writ petition it is stated that a project titled as "Use of Saline water in Agriculture" was approved for Raja Balwant Singh College, Agra respondent no.1 in the year 1972. This project was extended by the Indian Council of Agricultural Research in the year 1975 named as "Management of Salt Affected Soil & Use of Saline Water for Agriculture. The respondent nos.3 to 6 were selected by the said college after due advertisement ^{and} were appointed on various dates as mentioned in para 10 of the writ petition. True copies of the appointment orders are Annexures 1 to 4 to the writ petition.

The management of the college terminated the services of the respondent nos. 3 to 6 on restructuring of the project by letters dated 28.8.1993 Annexures 5 to 8. The respondent nos.3 to 6 who were working on the project started claiming regularisation of their services in the Indian Council of Agricultural Research. The respondent nos.3 to 6 filed O.A. No. 281 of 1996 before the Central Administrative Tribunal to which the ICAR filed objection stating that they being project employees have no right of regularization and their claim was liable to be rejected. A true copy of the submission filed on behalf of ICAR before the Tribunal is Annexure 9 to the writ petition. However, by means of the judgment dated 27.4.2001 the Tribunal has held that respondent nos.3 to 6 are liable to be absorbed by the I.C.A.R. True copy of the impugned judgment is Annexure 10 to the writ petition.

The petitioner submits that the respondent nos.3 to 6 were not employees of the petitioner and have no right to claim absorption. The posts of which they were working do not exist in the project any more. It is also submitted that the Tribunal has no justification to direct the creation of posts or giving employment to the respondent no.3 to 6. The employees of each project are selected by the sponsoring institute according to the nature of research to be done and the employees of one project cannot be employed for any other project of Research.

The respondent nos.1 and 2 have filed a counter affidavit and we have perused the same. In para 7 of the counter affidavit it is stated that the petitioner launched a coordinated scheme for research on use of Saline Water in Agriculture during the Fourth Five Year Plan period at

ral centres and the respondent no.1 College was selected for the aforesaid scheme as one of the centres. The petitioner financed the scheme as 100 per cent sponsored scheme during the Fourth Five Year Plan from the grants to be given to the College by the Govt. of India. The members of the staff employed on the aforesaid Scheme were governed by the aforesaid terms and conditions and the guidelines issued by the petitioner from time to time. Initially the aforesaid Scheme for research was for the Fourth Five Year Plan period vide letter dated 14.4.1972 but it was renewed for the 5th Five Year Plan period vide letter dated 22.4.1975, for the 6th Five Year Plan period vide letter dated 20.3.1980, for the 7th Five Year Plan period vide letter dated 3.10.1986 and for the 8th Five Year Plan period vide letter dated 31.5.1993, true copies of which are annexed as Annexure CA-1 and CA-2 to the writ petition. In para 8 of the counter affidavit it is stated that the respondent nos.3 to 6 were appointed on temporary basis under the aforesaid scheme in accordance with the terms and conditions of the scheme on contractual basis for the period of the Scheme. When the aforesaid scheme during the 7th Five Year Plan came to an end the 8th Five Year plan period changed the staffing pattern and also reduced the strength of the staff vide letter dated 31.5.1993. The college had no option but to terminate the services of the respondent nos.3 to 6. In para 11 of the counter affidavit it is stated that the College had requested the petitioner through letter dated 10.7.1993 to permit adjustment of respondent nos.3 to 6, but when the petitioner did not respond the college had no option but to terminate the services of the respondent nos. 3 to 6. as the appointments of the respondent nos. 3 to 6 were on temporary basis. Photostat copy of the letter dated 10.7.1993 is Annexure CA 3 to the counter affidavit. In para 13 of the counter affidavit it is stated that the grantee institutions have a very limited role in the appointment of the staff of the scheme of the petitioner. In para 15 it is stated that the college is not responsible for adjusting the staff of the scheme/project after completion of the project/scheme or after restructuring of the scheme.

A counter affidavit has also been filed on behalf of respondent nos. 3 to 6 and we have perused the same. In para 13 it is stated that the Research Project at R.B.S.College, Agra continued for the 8th Five Year

Plan (1992-97) with a further stipulation that the Project Coordinator of the All India Coordinated Research Project Saline Water shall locate the new centres and operationalise the same at Tamilnadu Agricultural University and Haryana Agricultural university, Hisar during the 8th Five Year Plan. In paragraph 15 and 16 of the counter affidavit it is stated that the respondent no.3 to 6 were initially appointed after due selection. In paragraph 28 of the counter affidavit it is stated that ICAR vide sanction letter dated 5.11.99 has conveyed the sanction of the Government of India for implementing the ongoing All India Coordinated Research Project on Salt affected soils and use of Saline Water in agriculture during the IX Five Year Plan period as before at all existing Research Centers including the respondent College. As such the answering respondents are entitled for their adjustment in the said Project or another ongoing All India Coordinated Research Project. Photocopy of the relevant extract of the sanction order is Annexure-CA-8 to the counter affidavit.

A Supplementary Counter Affidavit was filed on behalf of respondent no.3 to 6 and we have perused the same.

It is well settled that abolition of a post is a management function and an employee cannot have anything to say in this matter vide *K. Rajendran V. State of Tamil Nadu AIR 1982 SC 1107*. In 1999 (2) SCC 317—*Rajendra V. State of Rajasthan* the Supreme Court has held that an employee has no right to continue when the post is abolished.

In 1997(2) LLJ 677 *Joyachan M. Sebastian v. The Director General and others* the Supreme Court has held that on abolition of post, the holder of the post has no right to continue on the post.

Similarly, in *State of Himachal Pradesh v. Ashwani Kumar 1996(1) SCC 773* the Supreme Court has observed that when the Project is completed and closed due to non-availability of funds, the employees have to go along with the closed Project. The High Court was not right in giving the direction to regularise them or to continue them in other places. No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of any existing vacancies nor can directions be given to create posts by the State to non-existent establishment.

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In 1999(2) SCC 317 *Rajendra v. State of Rajasthan* the Supreme Court has held that when the posts temporarily created for fulfilling the needs of a particular Project or a Scheme limited in its duration comes to an end on account of the need for the Project itself having come to an end either because the Project was fulfilled or had to be abandoned wholly or partially for want of funds, the employer cannot be compelled by a writ of mandamus to continue employing such employees as have been dislodged because such a direction would amount to requisition for creation of posts though not required by the employer and funding such post though the employer did not have the funds available for the purpose.

The Tribunal has observed in para 42 of its judgment that the employees were sacked after they had put in long years of service and had become overage for other employment, and this has inhuman civil consequences. In our opinion, the law is well settled by the judgments of the Supreme Court referred to above. When there is a conflict between law and equity it is the law which is to prevail, in accordance with the Latin maxim 'dura lex sed lex,' which means, 'the law is hard but it is the law.'

Merely because in some decisions the Supreme Court directed regularization of employees it does not amount to laying down any law vide AIR 2002 S.C. 3088, *Delhi Administration V. Manohar Lal*, A.I.R. 1975 S.C. 1087 *Municipal Committee V. Hazara Singh* etc.

The respondents no. 3 to 6 were only purely temporary employees and it is well settled that temporary employees have no right to the post. The termination of services is not punitive and hence it is valid.

In view of the above discussion the impugned order of the Tribunal dated 27.4.2001 cannot be sustained and it is hereby quashed. Petition allowed.

mdm/ 9 January, 2003

Sd/- M. K. S. S. S.

Sd/- V. K. S. S. S.

TRUE COPY

Sd/- 21-1-2003
Section Officer

to file in Section
High Court, Allahabad.

the water leading to the 11 villages, were prevented to run. Consequently, they are put to great loss. In view of these we think it is a matter to be gone into not by us but by the High Court. We are not inclined to exercise the jurisdiction under Article 136 of the Constitution for the reason they are matters for the High Court to be decided. Counsel for the petitioner undertakes to file the application for writ in fitness of things, it would be open to each industry affected by the closure to approach the High Court and place necessary facts before it and seek appropriate direction, if deemed necessary. Liberty is given to them to file the application as expeditiously as possible. It would be open to the High Court to dispose of the same according to exigency. SLP is accordingly disposed of.

(1996) 1 Supreme Court Cases 773

(BEFORE K. RAMASWAMY AND G.B. PATTANAIK, JJ.)

H.P., THROUGH THE SECRETARY
(DEVELOPMENT) TO THE GOVT. OF H.P.,

Appellant;

Versus

Respondents.

JI KUMAR AND OTHERS

Civil Appeal No. 1538 of 1996, decided on January 3, 1996.
Law — Regularisation — Entitlement to — Daily-wagers engaged
by Government on muster-roll basis in Central Scheme and paid out
provided by the Central Government — Services of such daily-wagers
on closure of the scheme — In such circumstances, held, the High
Court is not right in giving direction to regularise them or to continue them in
service — Temporary — Termination — Continuance in service (Para 4)
H-M/15622/CLA

who appeared in this case:
Senior Advocate (Naresh Kumar Sharma, Advocate, with him) for the
Appellant;
Singh, Advocate, for the Respondents.

ORDER

have granted.

heard counsel on both sides.

The facts are that the respondents were engaged on daily wages on
muster-roll basis in Central Scheme and were paid out of the funds provided
by Central Government. It is stated that after the scheme was closed their
services were dispensed with. When the respondents filed the writ petition in
the High Court, the High Court gave interim direction dated 6-1-1993 and
directed them to be re-engaged elsewhere. Pursuant to the interim direction

the Judgment and Order dated 9-3-1993 of the Himachal Pradesh High Court in C.W.P.
No. 18 of 1993

the writ petition came to be disposed of on 9-3-1993. Thus this appeal by special leave.

4. It is seen that when the project is completed and closed due to non-availability of funds, consequently the employees have to go along with the closed project. The High Court was not right in giving the direction to regularise them or to continue them in other places. No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of any existing vacancies nor can directions be given to create posts by the State to a non-existent establishment. The Court would adopt pragmatic approach in giving directions. The directions would amount to creating of posts and continuing them in spite of non-availability of the work. We are of the considered view that the directions issued by the High Court are absolutely illegal warranting our interference. The order of the High Court is set aside.

5. The appeal is allowed. No costs.

(1996) 1 Supreme Court Cases 774

(BEFORE M.M. PUNJIB AND SUJATA V. MANOHAR, JJ.)

UNION OF INDIA AND OTHERS

Appellants

Versus

KAMATH HOLIDAY RESORTS PVT. LTD.

Respondent

Civil Appeal No. 3548 of 1989†, decided on January 9, 1996
Forest (Conservation) Act, 1980 — S. 2 — Dereservation of forest or use of forest land for non-forest purpose — S. 2 applicable not only to State Govts. but to Union Territories as well — Expression 'other authority' in S. 2 includes Collector — Hence Collector of Union Territory obliged to obtain approval of Central Govt. before issuing order granting lease of site in reserved forest area to respondent for putting up snack bar and restaurant to cater needs of tourists visiting the forest — That having not been done, Collector directed to send the proposal as approved by him, together with the objection of Conservator of Forests, to Central Govt. under S. 2 r/w the Rules — On receipt of the proposal Central Govt. may, after obtaining advice of the Advisory Committee set up under S. 3, pass such orders thereon as warranted by the facts and circumstances keeping in mind that a balance has to be struck between the need to protect environment and preserve forest and need to promote tourism — Environment — Protection of — Tourism

Appeal disposed of

R-M/18626C

Advocates who appeared in this case :

W.S.A. Qadri and Ms A. Subhashini, Advocates, for the Appellants;
Yogeshwar Prasad, Senior Advocate (Ms Rachna Gupta, Advocate, with him) for Respondent.

† From the Judgment and Order Dated 28-4-1989 of the Bombay High Court in W.P. No. 24 of 1989

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.1591/98

Friday, this the 23rd day of April, 1999.

CORAM:

HON'BLE MR RK AHOOJA, ADMINISTRATIVE MEMBER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

1. Rachel Samuel,
W/o. John Varghese,
Research Associate,
Central Plantation Crops Research Institute,
Regional Station, Kyamkulam.
2. P.R. Lekha Kumari,
W/o. Prathapachandran Pillai.P.,
Research Associate,
Central Plantation Crops Research Institute,
Regional Station,
Kayamkulam.
3. Bindu .S. Menon,
W/o. K.M. Ravindranath,
Research Associate,
Central Plantation Crops Research Institute,
Regional Station,
Kayamkulam.

...Applicants

By Advocate Mr. P.V. Mohanan

Vs.

1. The Director,
Central Plantation Crops Research Institute,
Kasaragod.
2. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.

...Respondent.

By Advocate Mr. C.H. Radhakrishnan

The application having been heard on 3.3.99, the
Tribunal on 23.4.99 delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

applicants seek the following reliefs:

- (1) to call for the records relating to
complaint A-14 and get the same

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(111) To carry the conduct of the service of the applicants as Research Associates of the Institute on or on the dates on which the Institute was established.

2. Applicants say that they were appointed under the scheme of 25 Cross Land and USSR Research Project. At the of commencement of the project and appointment of the in that project, the Director of Central Plantation Cross Research Institute entered into an agreement with the Embassy of United States of America regarding to absorb in the USSR the USSR project period of transition. The said agreement the custody of the first respondents and the applicants with earnest efforts made could not obtain a copy of the scheme in which the applicants are working terminates on 29.11.1990 consequent to which the service of the applicant will also be terminated.

3. Learned counsel appearing for the respondents who argued that this O.A. is liable to be dismissed at the of

4. The case of the applicants is built upon an alleged agreement entered between the Director of the Central Plantation Cross Research Institute and the Embassy of U.S.A. whereby it was agreed to absorb the applicants in the on termination of the scheme. Apart from the applicants that there is an agreement agreeing to absorb them on termination of the scheme in the Institute, no details of the agreement have been mentioned in the O.A. For non-mention the details, the applicants say that the agreement is of first respondent and in spite of best efforts made,



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should not get a copy of the same.

Learned counsel appearing for the respondents submitted that there is no such agreement executed as stated by the applicants. Learned counsel appearing for the respondents made available for our perusal a letter from James H. Thomas, Director for U.S. Department of Agriculture addressed to the first respondent dated April 2, 1993 containing a copy of the project proposal. It says that the total amount obligated by the United States Department of Agriculture for this project shall not exceed 13,62,400 Indian Rupees during a period not to exceed three (3) years. In the project report, it is specifically stated that the duration of the project is three years. It is further specified that this scheme cannot be combined with another scheme financed entirely by the Central/State Government/University or private institution for their own funds, not financed by or submitted to I.C.A.R and the Research Associates will be employed on a co-terminating basis with the scheme. (Emphasis supplied).

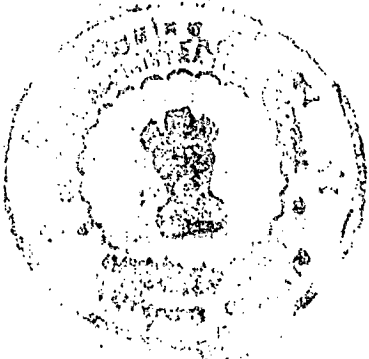
6. All the three applicants were appointed provisionally to temporary posts of Research Associates in the project. The first applicant was offered temporary post of Research Associate under the project as per A-1 dated 22.11.93 on the terms and conditions laid down therein. The first condition is that the post is temporary for a period of three years. The fourth condition is that the appointment may be terminated on completion of the term of appointment or on the date the sanction of the scheme expires, whichever is earlier. The fifth condition is that the appointment may also be terminated without notice, at any time the incumbent is found to be negligent in her work or is guilty of any misconduct. Applicants 1 and 2 were appointed as per A-1 order dated 17.11.93 on terms and conditions laid down therein.

shall be terminated on that date without further notice.

7. The second applicant was appointed as per A-6 dated 18.1.95 as Research Associate on a temporary basis on the terms and conditions stipulated in O.M. dated 4.12.93. The said O.M. mentioned in A-6, is not made available. From A-4 and A-6, it is clearly seen that the appointment is only temporary and will be terminated on completion of the term of appointment or the date on which sanction of the scheme expires, whichever is earlier. A-1, A-2 and A-3 are in conformity with what is contained in the project proposal. The Research Associates will be employed on a co-terminating basis with the scheme.

8. Apart from the said averment that an agreement was entered into between the first respondent and the Embassy of U.S.A., there is nothing to show that any such agreement was entered into.

9. Even assuming there is an agreement as alleged by the applicants, what is the position? An agreement enforceable by law is a contract. It is well accepted principle that a stranger to a contract, as a general rule, cannot sue upon the contract. It is true that there are certain exceptions recognised. There is no case for the applicants that the exceptions apply here. That being the position, the applicants being strangers to the contract, they cannot sue upon the



Applicants have also raised a ground that the impugned order A-14 is barred by estoppel. The rule of estoppel depends for its application on certain questions of fact. It should, therefore, be specifically pleaded. Where estoppel is not specifically pleaded, a party cannot be permitted to rely upon. To sustain the plea of estoppel, which is a mixed question of law and fact, there should be a distinct pleading standing the facts on which an estoppel can be founded. There is no distinct or specific pleading standing on facts in the O.A. In the absence of such pleading, the contention on the point of estoppel cannot be gone into.

1. We do not find any ground, much less any good ground to admit the Original Application.

2. Accordingly, the Original Application is dismissed.
costs.

Sd/-
M. SIVADAS
JUDICIAL MEMBER

Dated the 23rd day of April, 1939.

Sd/-
R.K. AHOOJA
ADMINISTRATIVE MEMBER





सत्यमेव जयते

BEFORE THE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL - CUM - LABOUR COURT

"Shram Sadan",
G.G. Palya, Tumkur Road,
Yeshwantpur, Bangalore - 560 022.

DATED : 12th MARCH 2003

PRESENT : Shri V.N.KULKARNI
Presiding Officer

C.R. No. 91/1999

I Party

Sh Ananda,
S/o S. Sanjeeva,
Kudakorigudda,
Kankandy Post
MANGALORE - 575 002.

II Party

The Director,
Central Plantation Crops Research
Institute,
Kumbhari G.,
KACHAROD - 671 124.

Appearances

I Party : Ramesh Upadhyay & S N Bhat
Advocates

II Party : S V Shastri
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-94R(DU) dated 27.07.1999 for adjudication on the following



Ananda vs. CPCR I

THE SCHEDULE

"Whether the action of the management of Central Plantation Crops Research Institute (Indian Council of Agricultural Research), Kasargod, Kerala in not considering the case of Sri Ananda, Ex-climber for reinstatement and regular employment on the plea that he is overaged is legal & justified? If not, to what relief the said workman is entitled?"

2. I party workman was working with the Management. He was not reinstated and was not taken as Regular Employee and therefore Industrial Dispute is raised.
3. Parties appeared and filed claim statement and counter respectively.
4. The case of the workman in brief can be narrated as under:

5. I party was appointed as Climber on consolidated pay of Rs. 1,100.00 per month from 24.09.1992 at CPCRI SEED FARM at Kidu, Dakshina Kannada. He has been continuously working as a Climber. There were no complaints against him. He was terminated by an order dated 28.02.1994 which is not correct. Some other 7 employees were also terminated. It is his further grievance that subsequently except him all other employees service whose services were terminated along with him were re-appointed and they are working. I party has been attending the Regional Station and requesting for reinstatement but he was asked to wait and ultimately he has not been reinstated. He was sponsored by the Employment exchange and the Management appointed the workman as Climber with effect from 24.09.1992. It is his further case that while terminated Mandatory requirements of Industrial Disputes Act 1947 are not complied with. I party for these reasons and some other reasons has prayed to pass award in his favour.

applicant is 16.05.1965, he has crossed the age limit of 30 years and he is not eligible for regular appointment.

9. It is further said that the Management does not come under the Industrial Dispute Act. Management for these reasons and some other reasons has prayed to reject the reference.

10. It is seen from the records that the Management examined one witness MW 1 and closed the case. On behalf of Management number of documents were marked.

11. Against this, the workman filed affidavit as evidence and he was cross-examined.

12. I have heard both the counsels at length. I have carefully perused the records. I have read the evidence and also considered the decisions relied by the Management.

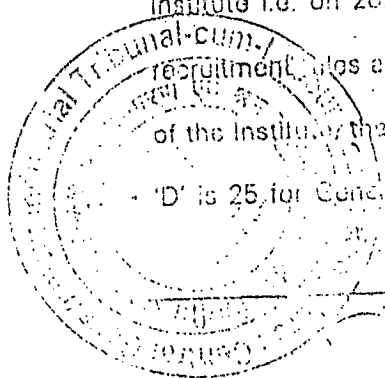
13. According to the evidence of MV/ 1 workman was appointed under a scheme and it was purely temporary appointment. He also said that on the expiry of the scheme automatic services of the I party came to an end. Ex M-1 is the appointment order of the workman. It is an established fact that the appointment of the workman was under a scheme namely 'Production of genetically superior high yielding planting materials of arecanut' of CPCRI. According to the appointment order Ex M-1 the appointment was temporary for a period of one year till the termination of the above-referred scheme. With this, it is clear that the appointment was under a particular scheme for a specific period and therefore there is no merit in the arguments of the learned counsel appearing for the workman that the workman has worked continuously

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for more than 20 years
has not complied with
the termination is

6. As against this, the case of the Management in brief is as under:

7. It is the case of the Management that Central Plantation Crops Research Institute (CPRCRI) is an Institution functioning under Indian Council of Agricultural Research (ICAR), a Registered Society under the Societies Registration Act 1860 and fully financed by the Government of India, Ministry of Agriculture, conducting research on Plantation Crops. Regarding its functioning details are given.

8. It is the further case of the Management that the workman was appointed under a Adhoc scheme entitled 'Production of genetically superior high yielding planting materials of arecanut' and the appointment was purely temporary. He was appointed through Employment exchange along with 7 others. This workman and others worked till the termination of the period of scheme. Consequently upon the expiry of the aforesaid scheme the services of workmen came to an end. This was as per the terms and conditions of the appointment order itself. It is the further case of the Management that some others were regularly appointed except this workman. They were appointed considering their experience and they were earlier sponsored by the Employment exchange and they were called as fresh nominees and were selected under Group 'D' regular posts of Climber-cum-Mazdoor in 1994. It the further case of the Management that after a lapse of 4 years and 8 months of the termination of the said ad-hoc scheme, the workman represented the Institute i.e. on 28.10.1993 to give him regular appointment. But as per the recruitment rules applicable to Central Government Employees and employees of the Institute, the age limit for appointment against the regular post of Group 'D' is 25 for General, 28 for C.C.C and 30 for SC/ST. The date of birth of the



for more than 240 days and he is deemed to be in service and Management has not complied with the provisions of 25 (F) of the Industrial Dispute Act and the termination is bad.

14. From the material before us and from the records, it is clear that it is not a case of termination. I party workman in his cross-examination has said that he accepted the terms and conditions of Ex M-1 and reported for duty. He also admits that he was appointed under a scheme and he was removed after the completion of the scheme.

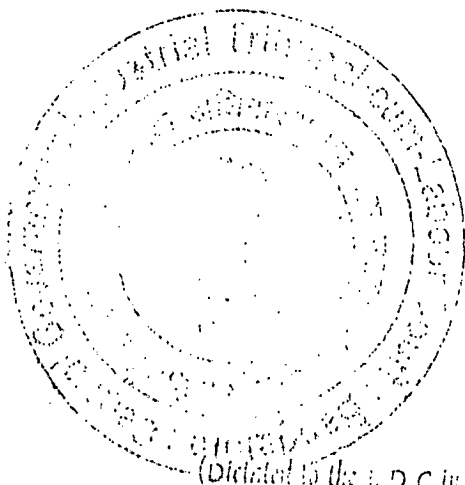
15. The learned counsel appearing for the Management has relied on the following decisions:

1. AIR 1997 SUPREME COURT 1855
2. W.A. No. 466/2000 dated July 10, 2000 &
3. W.A. No. 1210 of 1991 dated 19th March, 1998

16. Keeping in mind the principles held in W.A. No. 466/2000 dated July 10, 2000. I am of the opinion that the case of the workman is not retrenchment at all. The next contention of the Management as per MIV 1 is that subsequently some other workmen were regularly appointed but by the time, I party workman approached the management, he was over aged. Workman has admitted in his cross-examination that he gave representation in writing in October 1998. He also admitted that in October 1998 he was over aged. He says that his case he was not considered. He says that his case he was not considered because he was age barred. It was argued by the learned counsel for the Management that till 1998 this workman did not approach the

by the learned counsel appearing for the workman that in the year 1994, I was not regular employee and at that time he was not over aged and that there is infirmity in his statement. There is no merit in this argument. Even the workman himself has said that only in the year 1993 he gave that representation. By that time he was over aged and the Management could not recruit him as regular employee as per rules.

17. It is clear from the records that the workman was appointed under particular scheme and he was removed after the completion of the scheme and he could not be appointed as regular employee because by the time he gave application he was over aged. I have given my best consideration to the material before me and I am of the opinion that there is no merit in this reference and accordingly, I proceed to pass following order:



C A D E R

Reference is rejected.

(Dictated to the L D C in charge court, transcribed by him, corrected and signed by me on 12th March 2003)

(V.R. KULKARNI)
PRESIDING OFFICER

C. G. I. T.—COM—L. C. B.

TRUE COPY

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

53 / 06

Original Application No. _____

1. a) Name of the Applicant:- S. Das. Joms
b) Respondants:- Union of India & Ors.
c) No. of Applicant(S):-
2. Is the application is 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 Vakalatnama/Memo of appearance /Authorisation is filed:- Yes / No.
11. Is the application by IPO/BD/for Rs.50/- 289350403
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 annexure 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 sought 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)

1/3/06
N. S. Smit
1/c DEPUTY REGISTRAR

Deposit to Sf-
for respondent no. 6.

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

G. A. R. 6

[See Rule 22 (1)]

RECEIPT

No. 1791

Date. 01/3/2006

Received from M. S. Das with

Letter No. OA 53/06 dated 20

the sum of Rupees Five only

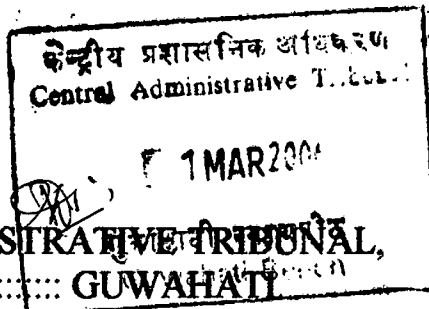
In cash/by IPO on account of Service charge for exam
by bank draft

respt. No. 6th in payment of

Rs. 5/-

Signature

Auty
Cashier



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI

(An Application Under Section 19 Of The Administrative Tribunals Act 1985)

ORIGINAL APPLICATION NO. 53 OF 2006

BETWEEN

Shri Sonabar Das & Others

...Applicants

-Versus-

The Union of India & Others

...Respondents

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Date:

1.3.2006

Filed By:

Advocate

(Abul Kalam)

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH :..... GUWAHATI.**
(An Application Under Section 19 Of The Administrative Tribunals Act 1985)

ORIGINAL APPLICATION NO. 53 OF 2006

BETWEEN

Shri Sonabar Das & Others

... Applicants

-Versus-

The Union of India & Others

... Respondents

LIST OF DATES AND SYNOPSIS:

Annexure-A to A1 are the photocopies of some of the Office Memorandum No. F No.-1(39)/2001-Esstt. Dated 27-09-2001.

Annexure-B to B1 are the photocopies of some of Office Memorandum F No.1(39)/2001-Esstt. Dated 06-12-2001.

Annexure-C is the photocopy of the Office Memorandums F No.1(39)/2001-Esstt. Dated 07-02-2001.

Annexure-D is the photocopy of Representation filed by the Applicants before the Respondents.

Annexure-E is the photocopy of order dated 22.08.2005 passed in Original Application No.308 of 2004 passed by this Hon'ble Tribunal.

Annexure-F is the photocopy of Office Order F.No.308/2004-Confl. dated 19.12.2005

Annexure-F1 is the photocopy of Circular dated 10.05.2004 issued by the Government of India, Ministry of Labour.

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Annexure-G and G1 are the photocopies of some of Roster Duties of Applicants for Day and Night Watch and Ward Duty.

This application is made against the Office Order F. No. 308/2004-Confl. dated 19.12.2005, by which the representation of the applicants was rejected by the Respondents for fixation of appropriate daily wages of skilled labour as fixed by the Government of India.

RELIEF SOUGHT FOR:

That the Hon'ble may be pleased to direct the Respondents to pay the applicants the minimum rate of daily wages of Skilled Labour as per Government of India, Ministry of Labour Circular No. G/R.93(1)/96-Cor.LS.II dated 10 May, 2004 from the date of their engagement as Skilled Labour under the Respondents.

To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

To pay the cost of the application.

INTERIM ORDER PRAYED FOR:

Pending final decision of this application the Applicant seeks issue of the interim order from the Hon'ble Tribunal:

That the Hon'ble Tribunal may be pleased to direct the Respondents to pay the applicants the minimum rate of daily wages of Skilled Labour as per Government of India, Ministry of Labour Circular No. G/R.93(1)/96-Cor.LS.II dated 10 May, 2004 till final disposal of this Original Application.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH:..... GUWAHATI.**

(An Application Under Section 19 of The Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO. 53 OF 2006.

BETWEEN

- 1) Shri Sonabar Das
S/o Bipin Chandra Das
Vill. & P.O.-Azara, (Kootpara)
District-Kamrup,
- 2) Shri Kan Das,
C/o Shri Hiren Das
Kahikuchi,
P.O.-Azara,
District-Kamrup (Assam)
Pin-781017.
- 3) Md. Farid Ali,
S/o Md. Khariat Ali,
Vill.-Lower Mizapur,
P.O.-Azara,
District-Kamrup, Assam,
Pin-781017.
- 4) Shri Jiten Chandra Das,
Vill.- Matia,
P.O.-Azara,
Dist.-Kamrup,
Guwahati-17.
- 5) Md. Nizam Ali,
Vill. & P.O.-Azara,
District - Kamrup, Guwahati-17.
- 6) Shri Bishnu Ram Medhi,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 7) Shri Brajen Sarmah,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 8) Shri Nagendra Medhi,
Vill. & P.O.-Azara,



Filed by
Shri Sonabar Das
Applicant no. 53
Through (Adic Kamrup) Assam

District-Kamrup,
Guwahati-17.

- 9) Shri Bipul Baruah,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 10) Shri Shushil Kalita,
Vill. & P.O.-Azara (Kalitapara)
District-Kamrup,
Guwahati-17.
- 11) Shri Tuku Baishya,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 12) Shri Tapan Baishya,
Vill. & P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 13) Shri Ranjit Ch. Das,
S/o Late Keshab Ch. Das,
Vill. - Mirzapur, (Medhipara)
P.O.-Azara,
District-Kamrup,
Guwahati-17.
- 14) Shri Bijoy Ch. Das,
C/o Chandradhar Das,
Village-Mirzapur,
P.O.-Azara,
District - Kamrup,
Guwahati-17.
- 15) Shri Diganta Medhi
Vill. & P.O.-Azara, (Medhipara)
District-Kamrup,
Guwahati-17.

...Applicants

- VERSUS-

1. The Union of India represented
by the Secretary to the
Government of India, Ministry
of Agriculture, New Delhi.
2. The Director General,
Indian Council of Agricultural



Research Krishi Bhawan, New Delhi.

3. The Secretary,
Indian Council of Agricultural
Research Krishi Bhawan,
New Delhi.
4. The Director,
Central Plantation Crops
Research Institute Indian
Council of Agricultural
Research, Kasaragod-671124,
Kerala.
5. The Director, Central Plantation
Crops Research Institute, (RC)
(Indian Council of Agricultural
Research) Kahikuchi, Guwhati-
781017.
6. The Co-Principal Investigator,
Mini Mission-1,
Central Plantation Crops
Research Institute, (RC) (Indian
Council of Agricultural
Research) Kahikuchi, Guwhati-
781017.

... Respondents

DETAILS OF THE APPLICATION

1. **PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :**

This application is made against the Office Order F. No. 308/2004-Confl. dated 19.12.2005, by which the representation of the applicants was rejected by the Respondents for fixation of appropriate daily wages of skilled labour as fixed by the Government of India.

2. **JURISDICTION OF THE TRIBUNAL:**

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



3. **LIMITATION:**

The Applicants further declare that the subject matter of the instant application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. **FACTS OF THE CASE :**

Facts of the case, in brief, are given below :

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

4.2) That your Applicants beg to state that they are all Local Unemployed Educated Youth. The Applicant No.1, 2, 4, 6, 11, 12 and 13 are belongs to Schedule Caste and other backward Community.

4.3) That your Applicants beg to state that as the grievances and relief prayed in this application are common, therefore, they pray for grant of permission under Section 4 (5) (a) of the Central Administrative Tribunal (Procedure) rules, 1987 to move this application jointly.

4.4) That your Applicant begs to state that the Respondent No.5 vide his Memorandum No.F No.-1(39)/2001-Esstt dated 27-09-2001 call the Applicants for their interview for temporary post of Skill Labour under the Respondent No.6 at the Consolidated pay amount of Rs.1500/- (Rupees One Thousand Five Hundred) only p.m. under Mini Mission-1. The Applicants names were sponsored by the Employment Officer, Employment Exchange, Guwahati-3. Accordingly they appeared in the said interview and appointed as Skilled Labour by the Respondents vide Office Memorandum F No.1(39)/2001-Estt. Dated 06-12-2001. The offer of engagement made by the Respondents expires on 31st March 2002 and after that



the Respondents without renewing the said offer of engagement engaging the Applicants continuously without any notice. As the Respondents have not terminated Applicants service on 31st March 2002, the Applicants also presuming that their engagement will be regularized by the Respondents and they did not tried for any other jobs. Now all the Applicants are over aged for Government, Semi Government or Private jobs. The Applicants are still working since 14-12-2001 vide Office Order F No.1(39)/2001-Esstt. Dated 07-02-2001.

Annexure-A to A1 are the photocopies of some of the Office Memorandum No. F No.-1(39)/2001-Esstt. Dated 27-09-2001.

Annexure-B to B1 are the photocopies of some of Office Memorandum F No.1(39)/2001-Esstt. Dated 06-12-2001.

Annexure-C is the photocopy of the Office Memorandums F No.1(39)/2001-Esstt. Dated 07-02-2001.

4.5) That your Applicants beg to state that being aggrieved by the action of the Respondents for non-regularization and non-payment of equal pay for equal work they have approached this Hon'ble Tribunal by filing Original Application No.236 of 2003. The Hon'ble Tribunal admitted the said Original Application and was pleased to pass an interim order by protecting the interest of the Applicants. The said case was came up for hearing on 29-09-2004. During the course of hearing the Applicants seek permission from the Hon'ble Tribunal to withdraw the said Original Application No.236 of 2003 to enable them to file representation before the Respondents for regularization of their service. The Hon'ble Tribunal granted the permission. Accordingly the said case was dismissed on withdrawn. After that the Applicants immediately filed a Representation before the Respondents praying for regularization of their service and also for payment of



appropriate pay scale of Skilled Labour. They also prayed in their Representation that the Respondents may pass an appropriate order within a reasonable time preferably within two months. But the Respondents did not dispose the said representation of the Applicants in time. Being aggrieved by this the applicants filed another Original Application No.308 of 2004 before this Hon'ble Tribunal for seeking justice in this matter. This Tribunal heard the said Original Application No.308 of 2004 on 22.08.2004 and was pleased to dispose the said Original Application by directing the 4th Respondent i.e. the Director, Central Plantation Crop Research Institute, Indian Council of Agricultural Research, Kasaragod, Kerala to consider the Representation submitted by the applicant and passed appropriate orders in accordance with law and the relevant government orders within a period of four months from the date of receipt of order. The interim order passed on 29.11.2004 will continue in force till orders are passed on the representation as directed.

Annexure-D is the photocopy of Representation filed by the Applicants before the Respondents.

Annexure-E is the photocopy of order dated 22.08.2005 passed in Original Application No.308 of 2004 passed by this Hon'ble Tribunal.

4.6) That your applicants beg to state that the Respondent No.4 vide its Office Order F. No.308/2004-Confl. dated 19.12.2005 disposed the representation of the applicants by giving some flimsy grounds and rejected the demand of the applicant for their service regularization with pay scale etc. Most interestingly the Respondents in their rejection office order dated 19.12.2005 deliberately and intentionally avoided in giving authentic and proper reply about the facts of minimum fixation of wages payable to a Skilled Labour by the Government of India, Ministry of Labour. The Government of India, Ministry of Labour, Office of



the Regional Labour Commissioner (Central), Rajgarh Road, Chandmari has issued a circular vide No.G/R.93(1)/96-Cor.L.S.II dated 10th May 2004 by which minimum wages of the Skilled Labour in Agriculture sector, Central sphere is fixed @114.59 per day at Guwahati city including places within a distance of 15 Km. from the periphery of Municipality corporation. As such the minimum wages to be paid to a Skilled Labour per month in Agriculture sector at Guwahati city including places within a distance of 15 Km. from the periphery of Municipality corporation is Rs.3435/-. But the respondents have deprived the applicant from their legitimate wages by paying only Rs.1500/- per month which is gross violation of Fundamental Rights guaranteed under the Constitution of India. Hence finding no other alternative the applicants are again compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Annexure-F is the photocopy of Office Order F.No.308/2004-Conf. dated 19.12.2005

Annexure-F1 is the photocopy of Circular dated 10.05.2004 issued by the Government of India, Ministry of Labour.

4.7) That your Applicants beg to state that they are entrusted with the work of Agricultural Skilled Labour Field Duty. The Applicants are looking after 90 (Ninety) Bighas Agricultural Land under Central Plantation Crops Research Institute, Research Center Kahikuchi Azara, Guwahti-17. The said Agriculture Land Cultivated Coconut trees, Betel-nut trees, Cashew-nut trees, Peppers and varieties of Vegetables etc. The said food and vegetables products are use for research work and also for selling it to the local public by the Respondents. Apart from normal work of Agriculture Skilled Labour the Applicants are also entrusted to work as Day and Night Watch and Ward duty at Central Plantation Crops Research Institution (RC) Kahikuchi, Guwahati-17.

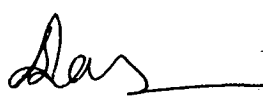
Annexure-G and G1 are the photocopies of some of Roster Duties of Applicants for Day and Night Watch and Ward Duty.



4.8) That your Applicant begs to state that they are entitled for some privilege which the regular employees are enjoying. In the instant case the Applicants are subjected to hostile discrimination. India is a socialist republic; it implies the existence of certain important obligations, which the state has to discharge. The right to work, the right of every one to just and favourable remuneration assuring a decent living for himself and his family, the right of every one without discrimination of any kind to equal pay for equal work, the right of rest, leisure, reasonable limitation of working hours and periodic holidays with pay, the right to security of works are some of the rights which have to be ensured by appropriate Legislative and Executive measure.

4.9) That your Applicant submits that the Hon'ble Supreme Court in Daily rated casual labour employed P & T. Department through Bharatiya DAK TAR MAZDOOR MANCH -Vs- Union of India and another (1988 (1) S.C.C. 122) held that Government cannot take advantage of its dominant position and further held that Daily rated casual labourers are entitled to minimum pay in the pay scale of the regular workers plus D.A.

4.10) That your Applicants beg to state that the Respondents are exploiting the man power of the Applicants by giving them a very lower fixed pay of Rs.1500/-p.m. which is illegal, arbitrary and non sustainable in the eye of law. The Central Government being a model employer cannot deprive the Applicants from their legitimate pay of a Skilled Labour. The Applicants are drawing a fixed pay, which is also lower than unskilled labour working under any Government, Semi-government or Private Organization. They have been illegally deprived from the minimum wages fixed by the Government of India, Ministry of Labour. Moreover jobs of the Applicants are permanent in nature and the Respondents needs the works of the Applicants for smooth running of the Central Plantation Corps Research Institute, Kahikuchi, Guwahati.



4.11) That your Applicants beg to state that they are being a poor persons and they are working under the Respondents very sincerely without any blemish in their services. They are entitled for minimum wages, payable to a skilled labour under Agriculture sector. Hence, the Hon'ble Tribunal may be pleased to protect the interest of the Applicants by giving a direction to the Respondents to pay the minimum wages immediately to the applicants as per Government of India Circular in this regard.

4.12) That your Applicants beg to state that the action of the Respondents is illegal, mala fide with a motive behind.

4.13) That your Applicants beg to state that the Respondents have violated the fundamental rights guaranteed under the Constitution of India.

4.14) That your Applicants beg to state that the Respondents have acted in an arbitrary manner, by which the applicants are deprived from their appropriate daily wages.

4.15) That your Applicants demand justice and the same has been denied.

4.16) That this application is filed bona fide and for the interest of justice.

The Applicants craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, malafide, arbitrary and without jurisdiction.



5.2) For that, the actions of the Respondents are mala fide, illegal and with a motive behind.

5.3) For that, the Central Government being a model employer cannot be allowed to adopt a different treatment as regard payment of wages to the Applicants.

5.4) For that, the Respondents have violated the Article 14, 16 & 21 of the Constitution of India.

5.5) For that, the Respondents have deprived the Applicants from their minimum daily wages as per Government of India Circular.

5.6) For that, the Applicants are legally entitled to the payment of daily wages for Skilled Labour as per Government of India Circular issued by the Ministry of Labour.

5.7) For that, in the appointment letter of the appointment it has been specifically mentioned that they were appointed as Skilled Labour. As such the Respondents cannot deny the benefits of payment of Skilled Labour to the Applicants.

5.8) For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law as well as in fact of the case.

The Applicants crave leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the Applicants except the invoking the jurisdiction of



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- 11 -

this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the Applicants further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, Writ Petition of suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the Applicants most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicants may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

2:1

8.1) That the Hon'ble ^{Tribunal} may be pleased to direct the Respondents to pay the applicants the minimum rate of daily wages of Skilled Labour as per Government of India, Ministry of Labour Circular No. G/R.93(1)/96-Cor.LS.II dated 10 May, 2004 from the date of their engagement as Skilled Labour under the Respondents.

8.2) To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

Ans

8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

Pending final decision of this application the Applicant seeks issue of the interim order from the Hon'ble Tribunal:

9.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to pay the applicants the minimum rate of daily wages of Skilled Labour as per Government of India, Ministry of Labour Circular No. G/R.93(1)/96-Cor.LS.II dated 10 May, 2004 till final disposal of this Original Application.

10) Application is filed through Advocate.

11) Particulars of L.P.O.:

L.P.O. No. : 26 G 350403

Date of Issue : 6.2.06

Issued from : Guwahati

Payable at : Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification . . .



-VERIFICATION-

I, Shri Sonabar Das, Son of Bipin Chandra Das, Vill. P.O.- Azara, (Kootpara), District-Kamrup, Guwahati-17 I am the Applicant No.1 of the instant application and as such I am authorized by other Applicants to sign this Verification and do hereby solemnly verify the statements made in accompanying application and in paragraph nos. 4.1, 4.2, 4.3, 4.8 to 4.14 are true to my knowledge, those made in paragraph 4.5, 4.6, 4.9, 4.7, _____ nos. are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this Verification on this the 1st day of March 2006 at Guwahati.

Shri Sonabar Das

-16-

ANNEXURE - A

Roll No. 36

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Research Centre, Kahikuchi-781 017, Guwahati, Assam

F.No. 1(39)/2001-Estt.

Dated 27-09-2001


MEMORANDUM

Shri Sonabar Ch. Das whose name has been sponsored by the Employment Officer, Employment Exchange, Pub-Sarania Mandap Road, Chandmari, Guwahati-3 for a temporary post of 'Skilled Labour' (for the period upto 31-03-2002) at a consolidated amount of Rs. 1500/- pm under an adhoc scheme entitled to "Mini Mission I" is hereby directed to present himself for an Interview at CPCRI Research Centre, Kahikuchi, Guwahati-17 on **10-10-2001(WEDNESDAY) at 10.00 am**

He should bring with him the following documents in original

- i) Certificate in proof of date of birth and educational qualifications.
- ii) Certificate in proof experience, if any
- iii) Caste certificate issued by the competent authority (for SC, ST, OBC candidates)

No TA or other allowances will be paid for the journey in connection with the interview.

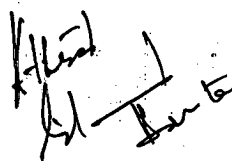

(AK RAY)
Co-Principal Investigator
Mini Mission I

To

Sri Sonabar Ch. Das
C/o Bipin Ch. Das
Vill. & PO Azara (Kootpara)
Guwahati-17

DR CPCRI Kahikuchi is situated about 22 km away from Guwahati Railway Station and on the NH 17 towards Guwahati Airport (Opposite to Kendriya Vidyalaya Azara from Gate 4 towards left)

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CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Research Centre, Kahikuchi-781 017, Guwahati, Assam

F.No. 1(39)/2001-Estt.

Dated 27-09-2001

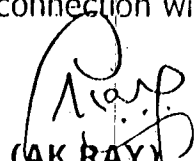
MEMORANDUM

Shri Kan Das whose name has been sponsored by the Employment Officer, Employment Exchange, Pub-Sarania Mandap Road, Chandmari, Guwahati-3 for a temporary post of 'Skilled Labour' (for the period upto 31-03-2002) at a consolidated amount of Rs. 1500/- pm under an adhoc scheme entitled to "Mini Mission I" is hereby directed to present himself for an Interview at CPCRI Research Centre, Kahikuchi, Guwahati-17 on **11-10-2001(THURSDAY) at 10.00 am**

He should bring with him the following documents in original

- i) Certificate in proof of date of birth and educational qualifications.
- ii) Certificate in proof experience, if any
- iii) Caste certificate issued by the competent authority (for SC, ST, OBC candidates)

No TA or other allowances will be paid for the journey in connection with the interview.

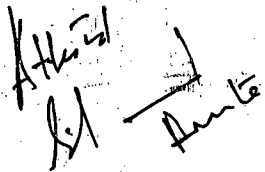

(AK RAY)
Co-Principal Investigator
Mini Mission I

To

Sri. Kan Das
c/o. Hiren Das
Kahikuchi, PO. Azara
Kamrup.

NB: CPCRI Kahikuchi is situated about 22 km away from Guwahati Railway Station and on the NH 37 towards Guwahati Airport (Opposite to Kendriya Vidyalaya, Azara) Farm Gate (Bus stoppage)

ty*



ANNEXURE - B

◆◆◆◆◆◆

Date: 06-12-2001

The undersigned is pleased to offer a temporary assignment of "Skilled Labour" under the ad-hoc time bound Scheme entitled "Technology Mission for Integrated development of horticulture in North Eastern States including Sikkim (MINI- MISSION-1)" to Sri. Kan Das on the following terms and conditions:-

- 01 The offer is purely on temporary basis for a period upto 31st March, 2002 from the date of his/her joining the post and are liable to be terminated on completion of the term of engagement or on the date, the sanction of the scheme expires, whichever is earlier.
- 02 He/She will be paid a fixed fellowship of Rs.1,500/- pm without any allowances.
- 03 Grant of traveling allowances for journeys if required to be undertaken for the work connected with the Scheme will be regulated by the relevant rules in force at this Institute.
- 04 The assignment shall be terminated without notice at any time, if he/she is found to be negligent in his /her work or is guilty of unbecoming conduct.
- 05 If he/she leaves his/ her assignment without permission of the Co-Principal Investigator of the scheme, he/she will not be paid any amount due to him/her by the Institute.
- 06 He/She will be under the administrative / Technical control of the Co-Principal Investigator of the Scheme.
- 07 He/She should devote his/her whole time to the assignment given to him/her, and he/she will not be allowed to accept nor hold another appointment during the term of assignment.
- 08 He/She will not be entitled to any other benefits as are applicable to regular ICAR employees.
- 09 He/She should give an undertaking in the attached proforma to the effect that patent rights in respect of the discoveries and inventions that he/she may make and the technical and engineering know-how of processes that he/she may develop during the course of his/her assignments with the ICAR shall vest with the ICAR.

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10 The ICAR/ CPCRI will have no responsibility for his/her absorption in the Institute against regular posts, after his/her termination from the ad-hoc Scheme. An agreement to this effect in the prescribed form is to be executed by him/her before taking up the assignment.

In case Sri Kan Das
accepts the above terms and conditions of assignment he/she should communicate his/her acceptance to the undersigned immediately and report for duty on or before 26th December, 2001 falling which this offer will stand withdrawn/ cancelled automatically and no further correspondence in this regard will be entertained.


(Co-Principal Investigator)
Mini Mission I

To

✓

Sri Kan Das
C/o Hiras Das
Bhalukachhi, PO. Azara
Kamrup

Copy to:

01 The Director, CPCRI, Kasaragod •

02 The Principal Investigator, Mini Mission I, NRC for Orchids, Pakyang-737 106 (Sikkim)

Attest
Jil
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CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
RESEARCH CENTRE, KATHKUCHI-781017, ASSAM

ANNEXURE - B

F.No. 1(39)/2001-Estt.

Date: 06-12-2001

MEMORANDUM

The undersigned is pleased to offer a temporary assignment of "Skilled Labour" under the ad-hoc time bound Scheme entitled "Technology Mission for Integrated development of horticulture in North Eastern States including Sikkim (MINI- MISSION-I)" to Shri Sanjib Chandra Das on the following terms and conditions:-

- 01 The offer is purely on temporary basis for a period upto 31st March, 2002 from the date of his/her joining the post and are liable to be terminated on completion of the term of engagement or on the date, the sanction of the scheme expires, whichever is earlier.
- 02 He/She will be paid a fixed fellowship of Rs.1,500/- pm without any allowances.
- 03 Grant of traveling allowances for journeys if required to be undertaken for the work connected with the Scheme will be regulated by the relevant rules in force at this Institute.
- 04 The assignment shall be terminated without notice at any time, if he/she is found to be negligent in his/her work or is guilty of unbecoming conduct.
- 05 If he/she leaves his/her assignment without permission of the Co-Principal Investigator of the scheme, he/she will not be paid any amount due to him/her by the Institute.
- 06 He/She will be under the administrative / Technical control of the Co-Principal Investigator of the Scheme.
- 07 He/She should devote his/her whole time to the assignment given to him/her, and he/she will not be allowed to accept nor hold another appointment during the term of assignment.
- 08 He/She will not be entitled to any other benefits as are applicable to regular ICAR employees.
- 09 He/She should give an undertaking in the attached proforma to the effect that patent rights in respect of the discoveries and inventions that he/she may make and the technical and engineering know-how of processes that he/she may develop during the course of his/her assignments with the ICAR shall vest with the ICAR.

Attested
by
[Signature]
Date

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10 The ICAR/ CPCRI will have no responsibility for his/her absorption in the Institute against regular posts, after his/her termination from the ad-hoc Scheme. An agreement to this effect in the prescribed form is to be executed by him/her before taking up the assignment.

In case Sri Ranjith Chandra Das accepts the above terms and conditions of assignment he/she should communicate his/her acceptance to the undersigned immediately and report for duty on or before 25th December, 2001 failing which this offer will stand withdrawn/ cancelled automatically and no further correspondence in this regard will be entertained.


(Co-Principal Investigator)
Mini Mission I

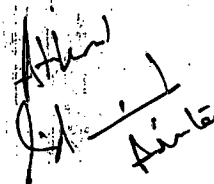
To

✓
Sri. Ranjith Chandra Das
Vill. Nonespur (Azara)
PO. Azara
Gudahati - 17

Copy to:

- 01 The Director, CPCRI, Kasaragod
- 02 The Principal Investigator, Mini Mission I, NRC for Orchids, Pakyang-737 106 (Sikkim)

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ANNEXURE - C

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Grams : 'RESEARCH' Guwahati-17
Fax : 0361 8411785

Phone : 0361 - 840251



CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Research Centre, Kahikuchi-781 017, Guwahati, Assam



F.No.1(39) 2001-Estt.


Date : 07-02-2002

OFFICE ORDER

The Under signed is pleased to assign the temporary post of Skilled Labour to the following persons under the project entitled "Technology Mission for Integrated division of Horticulture in North Eastern States including Sikkim (Mist Mission I)" at CPCRI, Research Centre, Kahikuchi on a consolidated pay of Rs. 1,500.00 pm with effect from the dates mentioned against each, on the terms and conditions stipulated in this Office Memorandum of even No. dated 06-12-2001, and accepted by them.

S.No	Name	Date of Joining
01	Md. Farid Ali	14-12-2001 (FN)
02	Mr Tuku Baishya	14-12-2001 (FN)
03	Mr Ranjith Ch. Das	14-12-2001 (FN)
04	Mr Kan Das	14-12-2001 (FN)
05	Mr Bijoy Ch. Das	14-12-2001 (FN)
06	Mr Bipul Baruah	14-12-2001 (FN)
07	Mr Sonabar Ch. Das	14-12-2001 (FN)
08	Mr Nagendra Medhi	14-12-2001 (FN)
09	Mr Diganta Medhi	15-12-2001 (FN)
10	Mr Sachin Kalita	15-12-2001 (FN)
11	Mr Bijan Samra	15-12-2001 (FN)
12	Mr Bishnu Ram Medhi	16-12-2001 (FN)
13	Mr Jyoti Baishya	16-12-2001 (FN)
14	Md. Nizam Ali	19-12-2001 (FN)
15	Mr Jitendra Ch. Das	24-12-2001 (FN)

Their assignment is for a period upto 31-3-2002 or till the expiry of the sanction of the scheme whichever is earlier and their services shall be terminated on that date without further notice


(R. P. Roy)
Co-Principal Investigator

Copy to:

- 01 The Individuals concerned by name
- 02 The Director, CPCRI, Kizangpali
- 03 The Pr. Investigator, Mist Mission I, NRC For Orchid, Pakyong 737 106 (SIKKIM)
- 04 The Sr. Fin. & Accts. Officer, CPCRI, Kizangpali
- 05 The Drawing & Disbursing Officer, CPCRI, RC, Kahikuchi

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Attn:
M-1
Date

01C

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ANNEXURE - B

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To

The Director,
Central Plantation Crops Research
Institute Indian Council of Agricultural Research,
Kasaragod-671124, Kerala.

Sub: - Prayer for Grant of Temporary Status & Regularisation of the service of the
Petitioners and also for payment of Appropriate pay scale of Skilled Labour
w.e.f. the date of our joining in the said post.

Sir,

Most respectfully and humbly we beg to state the following few lines for your
sympathetic and early consideration of our genuine grievances.

1) That we undersigned are all local unemployed educated & economically most
backward youth. The undersigned Petitioners namely Shri Sonabar Das, Shri Kan Das,
Shri Jatin Chandra Das, Shri Bishnu Ram Medhi, Shri Tuku Baishya, Shri Tapan
Baishya and Shri Ranjit Chandra Das are belongs to Schedule Caste and Other
Backward Community and rest of the Petitioners belongs to General Caste.

2) That the Director, Central Plantation Crops Research (RC) Institute (Indian
Council of Agricultural Research), Kahikuchi, Guwahati-781017, Assam vide his
Memorandum No.F No.-1(39)/2001-Esstt dated 27-09-2001 called the Petitioners for
the interview to the post of Skilled Labour Temporary under the Office of the Co-
Principal Investigator, Mini Mission-1, Central Plantation Crops Research Institute
(RC), (Indian Council of Agricultural Research), Kahikuchi, Guwahati-781017, Assam
at the consolidated pay of Rs.1500/-(Rupees Fifteen Hundred) only per month under
Mini Mission-1. The Employment Officer, Employment Exchange, Guwahati-3,
sponsored our names. Accordingly we appeared in the said interview and we were
selected and appointed as Skilled Labour by the Respondents vide Office Memorandum
No.F No.1 (39)/2001-Esstt. Dated 06-12-2001. Now we are still working since 14-12-
2001 vide Office Order F No.1 (39)/2001-Esstt. Dated 07-02-2001. It is a fact that offer
of Appointment is made for a period up to 31st March 2002 from the date of joining of
the post and liable to terminate on completion of the term of engagement or on the date
of sanction of Scheme expired. But till now our engagement are going on. Moreover the
work and nature of our duty are permanent in nature. We are looking after 90 (Ninety)
Bighas of Agricultural land under the Central Plantation Crops Research Institute (RC),
(Indian Council of Agricultural Research), Kahikuchi, Guwahati-781017, Assam. The

Attest
At *Hand*

said Agricultural Land cultivated Coconut trees, Betal-Nut trees, Cashew trees, Peppers and varieties of Vegetables etc. The said food and Vegetables products are used for research work and also for selling it to the local people by the Office Authority. Apart from normal work of Skilled Labour we are also entrusted to work as day & night watch and ward duty at Central Plantation Crops Research Institute (RC), (Indian Council of Agricultural Research), Kahikuchi, Guwahati-781017, Assam.

3) That the offer of engagement of us made by the Competent Authority expires on 31st March 2002. But the Authority without renewing the said offer of engagement, engaging us continuously without any notice or renewal of our appointment. We are on presuming that the Concerned Authority will regularize our engagement because the Authority has not terminated our service on 31st March 2002. As such we have not tried any other job. Now we are over aged for Government or Semi-Government and Private jobs. Moreover we are also deprived from legitimate pay scale of Skilled Labour and we are working in a very very low pay scale of Rs.1500/-(Fifteen Hundred) only, which is contrary to the pay scale fixed by the Government of India for the Skilled Labour.

4) That in the year 2003 i.e. after about two years continuous service we have filed an Original Application No.236 of 2003 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for regularization of our service and also to release the regular appropriate pay scale of Skilled Labour w.e.f. date of joining. The Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati admitted the said Original Application and granted interim stay of not to terminate our service by the Competent Authority. The case was finally fixed for hearing on 29-09-2004. The learned counsel for us seeks to withdraw the said Original Application No.236 of 2003 in order to file a Representation for regularization of service of the Applicant before the Appropriate Authority. Accordingly we have filed this Representation before you for taking necessary steps & actions for regularization and absorption of us in any Offices under you in the Group-D posts.

5) That we have already served for a considerable long period under this Office and are now over aged for any Government, Semi Government and Private jobs. We have acquired a legal right for granting temporary status and regularization of our above said posts. We have been deprived from regular service benefits, pay scale, Dearness Allowances and even minimum pay scale are not granted to us. The Competent Authority have deprived us the minimum wages for Skilled Labours as fixed by the Ministry of Labour, Government of India. We were selected and appointed by the Competent Authority through regular interview and selection process. We are being

[Handwritten signature]
[Handwritten signature]

local unemployed educated & economically backward youth as such the Competent Authority should engage us in a permanent manner by giving appropriate pay scale of Skilled Labour. There are many Group-D post are lying vacant under the Competent Authority. Recently in the year of 1999, 2002 and 2003 namely Shri Biman Das, Shri Purna Das and Shri Upen Ch. Das were retired from their service as Group-D staff. Shri Jamir Ali, Shri Puna Ram Das and many other permanent Group-D staff will also retire from service in the year 2005 and 2006 respectively. In the said posts the under signed Petitioners can also be absorbed.

6) That we are being poor persons and working under your Department very sincerely and without any blemish in our service. In future also we assure that we will serve this Department with the same sincerity and devotion to our work.

It is therefore, respectfully prayed that your honour may be please to take necessary and sympathetic view in this matter for absorption of undersigned Petitioners in your Department with appropriate pay scale of Skilled Labour as fixed by the Government of India and also may be pleased to pass an appropriate order within a reasonable time preferably within two months from the receive of this Representation.

Thanking you in anticipation.

Copy for Information and necessary action:

1. The Secretary, Government of India,
Ministry of Agriculture, Krishi Bhawan, New Delhi-1.
2. The Director General,
Indian Council of Agriculture
Research Krishi Bhawan, New Delhi-1.
3. The Director, Central Plantation Corps Research Institute, (RC)
(Indian Council of Agricultural Research) Kahikuchi,
Guwahati-781017.
4. The Co-Principal Investigator, Mini Mission-1,
Central Plantation Corps Research Institute, (RC)
(Indian Council of Agricultural Research) Kahikuchi,
Guwahati-781017.

Attested
[Signature]

- 24 -

ANNEXURE-F

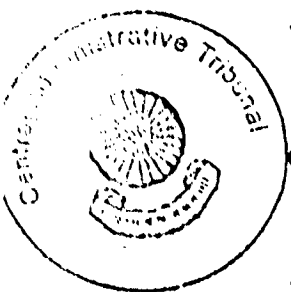
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.308 of 2004

Date of Order: This the 22nd of August 2005.

The Hon'ble Justice Shri G. Sivarajan, Vice-Chairman

1. Shri Sonabar Das
S/o Bipin Chandra Das
Vill. & P.O.- Azara (Kootpara),
District- Kamrup.
2. Shri Kan Das,
C/o Shri Hiren Das,
Kahikuchi, P.O.- Azara,
District- Kamrup (Assam)
Pin-781017.
3. Md. Farid Ali,
S/o Md. Khariat Ali,
Vill.- Lower Mizapur, P.O.- Azara,
District- Kamrup, Assam,
Pin-781017.
4. Shri Jiten Chandra Das,
Vill.- Matia, P.O.- Azara,
District- Kamrup, Guwahati-17.
5. Md. Nizam Ali,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
6. Shri Bishnu Ram Medhi,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
7. Shri Brajen Sarmah,
Vill. & P.O.- Azara,
District-Kamrup, Guwahati-17.
8. Shri Nagendra Medhi,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
9. Shri Bipul Baruah,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.



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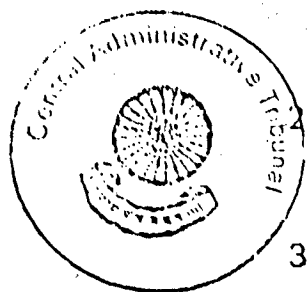
10. Shri Shushil Kalita,
Vill. & P.O.- Azara (Kalitapara),
District- Kamrup, Guwahati-17.
11. Shri Tuku Baishya,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
12. Shri Tapan Baishya,
Vill. & P.O.- Azara,
District- Kamrup, Guwahati-17.
13. Shri Ranjit Ch. Das,
S/o Late Keshab Ch. Das,
Vill.- Mirzapur (Medhipara),
P.O.- Azara, District- Kamrup,
Guwahati-17.
14. Shri Bijoy Ch. Das,
C/o Chandradhar Das,
Village- Mirzapur, P.O.- Azara,
District- Kamrup, Guwahati-17.
15. Shri Diganta Medhi,
Vill & P.O.- Azara (Medhipara),
District- Kamrup, Guwahati-17.

.....Applicants

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Agriculture, New Delhi.
2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi
3. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi.
4. The Director,
Central Plantation Crops Research Institute,
Indian Council of Agricultural Research,
Kasaragod-671124, Kerala.
5. The Director,
Central Plantation Crops Research Institute,
(RC) (Indian Council of Agricultural Research),
Kahikuchi, Guwahati-781017.



Handwritten signatures and initials:
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6. The Co-Principal Investigator,
Mini Mission-1; the respondents to
Central Plantation Crops Research Institute,
(RC) (Indian Council of Agricultural
Research), Kahikuchi,
Guwahati-781017. Respondents

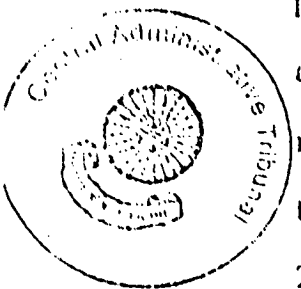
By Advocate Mr B.C. Pathak.

ORDER (ORAL)

SIVARAJAN. I. (V.C.)

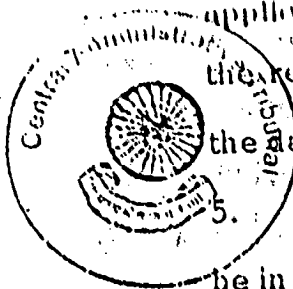
The applicants have filed this O.A. seeking for direction to the respondents for grant of temporary status and regularization of their services and also for payment of appropriate pay scale of skilled labourer with effect from their date of joining in the said post. The applicants had earlier approached this Tribunal by filing O.A.No.220 of 2003, which was later withdrawn by order dated 29.9.2004 with liberty to file representation for the said purpose before the appropriate authorities. The applicants thereafter have filed a representation in October 2004 (Annexure-F). Since no action was taken on the said representation the applicants have filed this O.A. on 29.11.2004.

2. Heard Mr A. Ahmed, learned counsel for the applicants and Mr B.C. Pathak, learned counsel for the respondents. Mr B.C. Pathak submits that the applicants have filed this O.A. without giving breathing time for the respondents to consider the representation, which is received by them. Mr B.C. Pathak, in the above circumstances, notwithstanding the filing of the written statement and additional affidavits, submits that the respondents will dispose of the



Handwritten signatures and initials:
Ahmed
B.C. Pathak

motion (Exhibits 1-4) filed by the applicant with the court on 11/11/2014.





CENTRAL PLANTATION CROPS RESEARCH INSTITUTE

(Indian Council of Agricultural Research)
KASARAGOD - 671 124, KERALA, INDIA

E-mail : cpcr1@hub1.nic.in

Fax : 91-4994-2432 322

Phone: Off: (04994) 232893, 232894, 232895, 232996



F. No.308/2004-Conf.

Dated : 19.12.2005

OFFICE ORDER

Whereas one Sri. Sonabar Das along with 14 other applicants filed a case vide O.A. No.236/2003 in the Hon'ble Central Administrative Tribunal, Guwahati Bench (referred to as the 'Tribunal'). However, the said applicants made a prayer before the said Tribunal to allow them to withdraw the said case so that they may file a representation before the authorities. Accordingly the Tribunal allowed the applicants to withdraw the case and the same was dismissed on withdrawal. The said applicants filed a representation before the authorities and the said representation was under process for consideration. The applicants again filed another case before the Tribunal vide O.A. No.308/2004 without waiting for the outcome of the representation that they filed. The matter being subjudiced, the representation so filed could not be considered and no order could be passed thereon. The written statements in the case was filed by the competent authority. The case in O.A. No.308/2004 came up for hearing on 22.8.2005. After hearing both the sides the Hon'ble Tribunal was pleased to dispose of the case with a direction to the respondent No.4 authority to consider the representation as in 'Annexure-F' submitted by the applicants and to pass appropriate order in accordance with law and relevant Govt. Order within a period of 4 months from the date of the receipt of the said order.

Whereas the certified copy of the order dated 22.8.2005 was issued by the registry of the Tribunal only on 12.9.2005 and the same was received by the authority only thereafter. After receipt of the said order through the local office, the competent authority (respondent No.4) has considered the said representation. The respondent No.4 authority after going through the said representation has found that the applicants have raised the issue that they were selected and engaged at a consolidated pay of Rs.1500/- p.m. under Mini Mission-I. It has also been stated that the applicants were sponsored by the employment exchange. It has also been stated that as per the terms of appointment the applicants were liable to be terminated on the date of expiry of the sanction of the scheme. By the said representation they have also raised the issue that their term of appointment expired on 31.3.2002 whereas they were still continuing in engagement continuously. So there was presumption that the Govt. will regularize their engagement in service. Mention has also been made about the O.A. No.236/2003 which was ultimately dismissed on withdrawal for filing a representation which is now2/-

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being considered here. The contention of the applicants is that they have served for a considerable long period under the authority and therefore they have acquired a legal right for granting temporary status and regularization in Group D post. It has also been alleged that the applicants have been deprived of regular service benefits, pay scale, D.A. and even minimum pay scales are not granted to them. It is also alleged that the competent authority has deprived them of minimum wages as admissible for skilled labourers as fixed by the Ministry of Labour, Govt. of India. It is also alleged that they were selected and appointed by the competent authority through regular interview and selection process. They have also alleged that there were vacancies in Group D post as some of such Group D employee retired from service in the year 1999, 2002 and 2003 and there would be more retirement in the year 2005 and 2006 where the applicants could be absorbed. Therefore the applicant through the said representation has prayed for absorption in service with appropriate pay scale of skilled labour as fixed by the Govt. of India.

So far as the nature of engagement of the applicants are concerned, they were engaged as daily rated workers at a monthly consolidated fixed rate against a particular scheme (project) sponsored by the Ministry of Agriculture, Department of Agriculture and Co-Operation with due approval from the competent authority of Indian Council of Agricultural Research and as per funding pattern and specification. The said scheme has been fixed for a duration of 5 years with the year of starting being 2001-2002 and the same being over by the financial year ending 2005-2006. The sponsorship of the said scheme/project is subject to the financial sanction which is made on year to year basis by the sponsoring authority for every financial year. The said Mini Mission scheme is a project with the objective to go for research in the specified area of: (1) production of nucleus/basis seeds and planting materials of horticultural crops, (2) standardization of improved production technologies for horticultural crops and (3) technology refinement and imparting of training to extension functionaries. Under the said scheme the respondent No.4 authority along with the Scientist In-Charge, Central Plantation Crops Research Institute, Kahikuchi, Guwahati is only an implementing agency of the said sponsored scheme. Therefore none of the implementing agencies are not in any way competent to decide anything regarding continuation of the project and the applicants in engagement or to regularize their services in the regular establishment as there is no regular establishment in a project of fixed term. The entire project, its implementation and funding is absolutely dependent on the sponsoring authorities i.e. the Govt. of India, Ministry of Agriculture, Department of Agriculture and Co-operation. Moreover, as per settled provisions of law the workers who are engaged against the post or jobs specifically created for such project/scheme may continue with the continuation of the project and when the works of the project is over and the project comes to an end, then the services, posts created for the said project also comes to an end. As such a project worker cannot claim regularization or continuation in such service/job after the closure of the project. The continuation or closure of a project is a matter of policy to be decided by the competent authority. The length or duration of engagement of any such worker in such project has no bearing in such

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✓ *Rajagopal*

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situation. In the instant case the sponsorship is being continued by the sponsoring authority and the same is being over by the financial year ending by 2005-2006 and accordingly the applicants are allowed to continue in engagement as the life of the project is continuing up to the financial year 2005-2006. The Mini Mission project is a research scheme earmarked for certain area of operation and such works are not of any permanent nature and specifically stipulated for a definite period of five years from the financial year 2001-2002 to 2005-2006 only.

The applicants entered into an agreement with the implementing agency that they have been offered the temporary assignment as Skilled labourer under the ad-hoc time bound scheme/project and they would not claim for continued employment or permanent absorption against any regular post/appointment in the establishment of the institute of the implementing agency during or after the termination of the assignment under the scheme/project. The applicants also declared that they were aware that their services were purely ad-hoc/temporary and shall be terminated on completion of the term of engagement or on the date when the sanction of the scheme expires, whichever is earlier. Those agreements were annexed as Annexures in the written statements filed in the case. That being the legal position, the applicants are bound by the law of contract and by the said agreement. The law is also well settled by the Hon'ble Supreme Court that when the scheme of the project is specific and it is not of permanent nature, the employee cannot ask for regularization in service. It is also held that the persons engaged against the post created under a sponsored scheme cannot be regularized in that service. A project is undertaken with an estimated fund for a particular period to do certain things, when the project is completed, funds are utilized and it is closed or comes to an end, the employees will have to go with the closure of the project. There are catena of decisions in support of such settled provisions of law as in "Sandip Kumar Vs State of Uttar Pradesh reported in AIR 1992 SC 713", "Jawaharlal Nehru Krishi Viswa Vidyalaya Vs Bal Kishan Soni - reported in 1997 (5) SCC 86", "State of Himachel Pradesh VS Ashwini Kumar reported in 1996 (1) SCC 773", "Executive Engineer, ZP ENGG. Divn. and Another Vs Digambar Rao & others as reported in 2004 (8) SCC 262" etc. This was well highlighted in the written statements (paragraph 12) submitted in the case with copy to the applicants. Hence, the applicants can not be said to have acquired any legal right for absorption or regularization. Moreover, the law is well settled that the creation and abolition of post pertains to the exclusive domain/prerogative of the executive, the employee cannot have anything to say in such matter mostly related to the policy decision of the executive concerned with various related matters. Such employee cannot continue in service when the posts are abolished. The above noted ratio has been laid down by the courts in a plethora of decisions like, "K. Rajendran Vs State of Tamil Nadu as reported in AIR 1982 SC 1107", "State of Haryana & Others Vs Piara Singh & Others as reported in AIR 1992 SC 2130", "Rajendra Vs State of Rajasthan reported in 1999 (2) SCC 317", "Jayachan M. Sebastian Vs The Director General & Others - reported in 1997 (2) LLJ 677", "P.U. Joshi & Others VS Accountant General, Ahmedabad & Others as reported in 2003 (2) SCC 632" etc. In a specific and similar case, as in "Indian Council

of Agricultural Research Vs Raja Balwant Singh College & Others (Civil Misc. Writ Petition No.41675/2001), the Hon'ble Allahabad High Court held that the temporary employees have no right to the post, when termination of service is not punitive, they cannot challenge such order of termination. In the instant case, the workers are engaged in a project as per requirement of the project. They will go with the project when it comes to an end and cannot claim regularization.

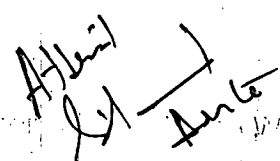
There is no vacancy of any Group D post available in the establishment of the implementing agency due to abolition of vacancies in the process of Annual Direct Recruitment Plan 1999-00 to 2004-05 as per the existing policy of the Government of India in downsizing of the establishment. Moreover, there is a ban order of the Government of India prohibiting any direct recruitment against any post of Group C and D. It is also pertinent to state here that there are specific procedures and recruitment rules for selection and appointment of Group D employee and there cannot be any selection or appointment dehors any such rules. As such there cannot be any such selection, recruitment or regularization of any service in the establishment of the implementing agency.

The implementing agency of the said Mini Mission Project for the reasons as stated herein above cannot accede to the demand of the applicant in so far as the question of his regularization in service with pay scales etc. is concerned. And accordingly the representation filed by the applicant stands disposed of in compliance with the order of the Hon'ble Tribunal.

✓ 
DIRECTOR

To

Shri Bishnu Ram Medhi
Skilled Labourer
CPCRI Research Centre
Kahikuchi.... Thru..... Co-Pr. Investigator (Minimission)



Dated this, 10 MAY 2004

N.B : The above rates are of Central Govt. and are inclusive of rest day wages.

Check 9/16/04.
A.O. / R.R.)
P. O. ...
... - A.H. / ...
S. A.
J.D. / G.E. / E.O.L.
Alken
J.A.

11. Employment in red oxide Mines, quartzite & other Mines, granite Mines, Pargasite Mines, Lignite Mines, Stone Mines, Kyanite Mines, Mica Mines, Gneiss Mines (including various grades of stone and talc) ochre Mines, asbestos, Fire clay Mines, copper Mines, uranium Mines, bauxite Mines, hematite Mines, gypsum & barite Mines, rock phosphate Mines, chromite Mines, magnetite Mines, Graphite Mines, dolomite Mines, China clay & white clay Mines, wolfram Mines, manganese Mines, Feldspar Mines, bauxite Mines, marble & calcite Mines, lignite Mines, gravel Mines and other Mines :

Category of worker	Minimum rate of wages per day	
	For work above ground	For work below ground
Unskilled	Rs. 58.36	Rs. 70.42
Semi-skilled / Unskilled supervisory	Rs. 70.42	Rs. 85.01
Skilled / Clerical	Rs. 85.01	Rs. 104.13
Highly skilled	Rs. 104.13	Rs. 124.25

N.B : The above rates are of Central Govt. and inclusive of rent day wages and effective from 01-04-2004

III. Employment in Agriculture:

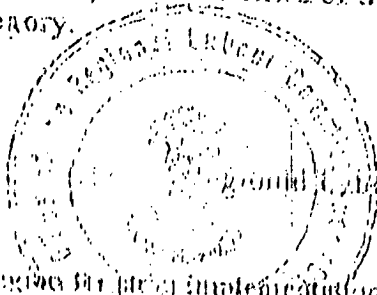
Category	Minimum rate of wages payable at Chawabati city including places within a distance of 15 Km from the periphery of Municipal corporation		Minimum rate of wages payable in other places of Assam	
	Per day	Effective date	Per day	Effective date
Unskilled	Rs. 95.09	01-04-2004	Rs. 93.09	01-04-2004
Semi skilled / unskilled supervisory	Rs. 103.84	01-04-2004	Rs. 97.47	01-04-2004
Skilled / Clerical	Rs. 114.59	01-04-2004	Rs. 104.85	01-04-2004
Highly Skilled	Rs. 128.71	01-04-2004	Rs. 114.59	01-04-2004

N.B : The above rates are of Central Govt. and inclusive of weekly rent day wages.

Minimum rate of wages payable at Chawabati city including places within a distance of 15 Km from the periphery of Municipal corporation		Minimum rate of wages payable in other places of Assam	
Per day	Effective date	Per day	Effective date
Rs. 63.70	01-04-2004	Rs. 56.14	01-04-2004

Note : The above rates are of Central Govt. and inclusive of rent day wages.

- * In the places, which are at the height of over 6000 feet above sea level, 10 % extra wages will be paid.
- * Workers employed on high rise buildings i.e. on or above 4th floor or over 30 feet height, even for one hour in a day shall be paid 20 % extra wages of the Minimum wages for the appropriate category.
- * Workers employed in tunnel work shall be paid 20 % extra of the minimum wages fixed under this Notification for the appropriate category.



(T.P. Chh.)
Regional Labour Commissioner (Central)
Chawabati

Copy to :-

1. All the A.L.C. (C) / L.R.O. (C) of this region for their implementation and wide circulation in their respective areas
2. LS I / LS II / LS III Section.
3. All P.E.s for information and wide circulation / for central trade union.
4. Press Information Bureau (PIB), Chawabati with request that wide publicity may please be given for the

(Handwritten signatures and initials)

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ANNEXURE G

Roster of day and night watch and ward duty at C.P.C.R.I. (RC), Kahikuchi, for the month of August, 2003.

Date	TIMINGS		TIMINGS		11.00pm to 05.30 A.M
	8.00 am To 12.00 Noon & 2.00 To 6.00 pm	12.00 noon To 2.00pm & 5.00 To 11.00 pm	8.00pm To 02.30am	1.30am To 8.00am	
1-8-03 to 3-8-03	Farid Ali	Tuku Baishya	Zamiruddin Seikh	Puna Ram Das	Rajul Thapa
4-8-03 to 10-8-03	Ranjit Das	Kan Das	Ram Bahadur	Kameleswar Deka	Shankar Ram
11-8-03 to 17-8-03	Bijoy Das	Bipul Baruah	Rameswar Kaivarta	Tikaram Sarma	Kesoprasad Sharma
18-8-03 to 24-8-03	Sonabar Ch. Das	Nagen Medhi	Deben Ch. Das	Biren Ch. Das	Zamiruddin Sheikh
25-8-03 to 31-8-03	Diganta Medhi	Sushil Kalita	Keso Prasad Sarma	Shankar Ram	Puna Ram Das

Forwarded to the SIC for approval

31/7

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Approved
Scientist-in-charge,
CPCRI, Kahikuchi
Scientist Incharge
C.P.C.R.I. Research Centre
Kahikuchi Guwahati-781017
(ASSAM)

Technical Officer (T-5), Farm,
CPCRI, Kahikuchi

-35-

-34-

ANNEXURE - 5

Roster of day and night watch and ward duty at C.P.C.R.I. (RC), Kahikuchi, for the month of September, 2003.

Date	TIMINGS			TIMINGS	
	8 am To 12 Noon & 2 To 6 pm	12 Noon To 2 pm & 5 To 11 pm	8 pm To 2.30 am	11 pm To 5.30 am	1.30 am To 8 am
1-9-03 to 7-9-03	Brojen Sharma	Bishnu R. Medhi	Tika Ram Sharma	Gopal Thapa	Kamaleswar Deka
8-9-03 to 14-9-03	Tapan Baishya	Nizam Ali	Rameswar Kaivorta	Zamiruddin Sheik	Puna Ram Das
15-9-03 to 21-9-03	Jiten Ch. Das	Farid Ali	Biren Ch. Das	Shankar Ram	Kesoprasad Sharma
22-9-03 to 28-9-03	Tuku Baishya	Ranjit Ch. Das	Rambahadur	Kamaleswar Deka	Gopal Thapa
29-9-03 to 5-10-03	Kan Das	Bijoy Ch. Das	Puna Ram Das	Zamiruddin Sheik	Shankar Ram

Forwarded to the SIC
for approval

30/8/03

Handwritten signature and date 30/8/03

Approved

Scientist in-Charge,
CPCRI, Kahikuchi

Handwritten signature and date 30/8/03

Handwritten signature and date 30/8/03

Technical Officer (T-5), Farm
CPCRI, Kahikuchi

70

DISTRICT: KAMRUP (METRO)

-VAKALATNAMA-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO.

OF

53

2006

APPLICANTS

Sonabaz Das & others

PETITIONER

-Versus-

The Union of India & others

Respondents
Opposite party.

Know all men by these presents that above named..... Sonabaz Das & others
do hereby nominate, constitute and appoint Shri..... ADIL AHMED.....

Advocate and such of the under mentioned Advocates as shall accept this
Vakalatnama to be my/our true and lawful Advocates to appeal and act for me/us
in the matter noted above and in connection therewith and for that purpose to do
all acts whatsoever in that connection including depositing of drawing money,
filing in or taking out deeds of composition, etc. for me/us and on my/our behalf
and I /We agree to ratify and confirm all acts so done by the Advocates as
mine/ours to all intents and purpose. In case of non-payment of the stipulated fee
in full, no Advocate will be bound to appear and on my/our behalf.

In witness whereof I/We hereunto set my/our hand this the 1st day March
2006.

ADVOCATES

A.R.Barooah

J.M.Choudhry

A.S.Bhattacharjee

N.M.Lahiri

G.K.Joshi

Adil Ahmed

A.K.Chaudhuri

R.P.Sharma

P.Sarma

S.A.Laskar

M.H.Choudhry

Sanjoy Mudoj

Sukumar Sarma

S.Jain

A.J.Atia

Received from the executants and accepted.

Advocate

(Adil Ahmed)

From

ADIL AHMED

ADVOCATE

C.A.T. Guwahati

Date

xs

1.3.2006

To

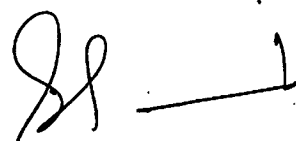
Sr. Central Govt Standing Counsel.
Central Administrative Tribunal.
Guwahati Bench at Guwahati.

Subject - Supply of Copy of original Application

Sir,

Please find herewith copy of original Application
Filed by Shri Sarabjit Das so that it may be moved before the Hon'ble
Tribunal. Kindly acknowledge
the receipt of the same. Thanking you.

Yours faithfully



(ADIL AHMED)

Advocate

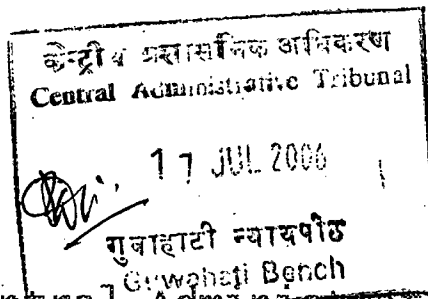
Received Copy

Adil Das.

Adil CHSC

For G. Barishya
Sr. CHSC.

1/3/06



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Filed by

Advocate
7/7/06

In the Central Administrative Tribunal
Guwahati Bench : At Guwahati

O.A. No. 53 / 2006

Shri Sonabar Das & Others Applicants

- Vs -

Union of India & Others Respondents

(Written statements filed by the Respondents No. 3 & 4)

The written statements of the respondents No. 3 and 4 are as follows:

1. That a copy of O.A. No. 53/2006 (referred to as the 'application') has been served on the respondents. The respondents have gone through the same and understood the contents thereof.
2. That the statements made in the application, which are not specifically admitted are hereby denied by the respondents.
3. That before raising any issue of objection in the instant application, the answering respondents beg to raise the preliminary issue and objection that this application is not maintainable for want of jurisdiction as the matter clearly pertains to alleged non-payment of minimum wages and payment of wages or short payment of wages. As such, this matter comes within the purview of the Minimum Wages Act, 1948 and the Payment of Wages Act, 1936 read with the provisions of the Industrial Disputes Act, 1947. The legislative authority while enacting these legislations have clearly indicated and prescribed the authorities including the appellate authority within the framework of the special enactments by prescribing

separate and independent authorities to try such matter. Such authorities are prescribed under Section 15 and 17 of the said Payment of Wages Act and Section 24 under the Minimum Wages Act, 1948. Hence, this Hon'ble Tribunal has no jurisdiction to adjudicate such matter for jurisdiction having been ousted by the said Section 15 and 17 respectively of the said Acts. The Administrative Tribunal Act, 1985 has also not repealed or superseded such provisions. The law in this regard has already been settled by the Hon'ble Supreme Court in "Krishna Prasad Gupta - Vs - Controller, Printing and Stationary" as reported in A.I.R. 1996, S.C. 408 / (1996) I SCC 96 and in "Union of India - Vs - Punnial" as reported in (1996) II SCC 112. According to the Hon'ble Supreme Court, the prescribed authority to hear claims and the appellate authority under the Act are not authority subordinate to CAT (Central Administrative Tribunal). Hence, application before CAT was not maintainable. As such the respondents respectfully state that this application is liable to be dismissed with cost.

4. That before traversing the various paragraphs of the application, the answering respondents gives a brief background of the facts and circumstances of the case as under:

(a) That the answering respondents, Indian Council of Agricultural Research, submitted a "Project Proposal" under the name of "Technology Mission for Integrated Horticulture Development in North East India-Mini Mission-I-Research". This project/ Scheme was a centrally sponsored Scheme. The Objectives of the Mini Mission-I were:

- i. Production of nucleus /basic seed and planting material of horticultural crops.
- ii. Standardization of improved production technologies for horticultural crops.

iii. Technology refinement and imparting of training to extension functionaries.

(b) That in the project proposal the programme Schedule was also drawn up and the duration of the Scheme/project was for 5 years starting from the year 2001-02, with the respondent No.5 included as one of the implementing authorities. The scheme/project is under the sponsorship of the Govt. of India, Ministry of Agriculture, Department of Agriculture & Co-operation. Though the tenure of the scheme, as indicated in the project proposal, was for a period of 5 years starting from 2001-02, which also happens to be the terminal year of the IXth Five Year Plan, the ICAR based on the sanction conveyed by the Govt. of India, Ministry of Agriculture, Department of Agriculture & Co-operation (Hort. Division) vide their letter No.40-02/2001-Hort-(iv) dated 10-05-2001, had approved the implementation of the said scheme initially for one year only during 2001-02. Subsequently, the Principal Investigator of the scheme, vide his letter No.NRCO (MM-I)/2002-03 dated 12.12.2002 had conveyed the approval of the ICAR [ICAR letter No.15(27)/99-IA-V dated 01.11.2002] for continuation during the Xth plan. Accordingly, the financial supported has been sanctioned by the sponsoring authority on year to year basis (financial year) and the last sanction has been accorded upto 31.3.2007. The project/scheme shall come to an end by 31.3.2007 and be closed, if not further extended by the sponsoring authority.

(c) By the said project proposal and the Office Memo dated 12.12.2002, the other terms and conditions including the staff (labourers) was laid down. There were 15 Nos. of labourers engaged at the rate of Rs.1,500/- per month. The applicants' names were sponsored by the Employment Exchange. The applicants have been called for interview along with other candidates sponsored by the employment exchange. In the call letters issued to them it was specifically stated that

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their engagement as labourer is temporary and having a consolidated pay of Rs.1,500/- per month. The applicants accepted the terms and conditions stipulated in the offer of assignment and reported for duty as labourers.

(d) That in the offer of appointment it has been clearly indicated among others conditions that:

(i) The offer is purely on temporary basis for a period upto 31st March, 2002 from the date of his/her joining the post and are liable to be terminated on completion of the term of engagement or on the date the sanction of the Scheme expires, whichever is earlier.

(ii) They will be paid a fixed fellowship of Rs.1,500/-per month without any allowance.

(iii) They will be under the administrative/technical control of the Co-Principal Investigator of the scheme,

(iv) They will not be entitled to any other benefits as are applicable to regular ICAR employees.

(v) The ICAR/CPCRC will have no responsibility for his/her absorption in the Institute against regular posts, after his/her termination from the scheme. The applicants accepted all the terms and conditions and accordingly they were engaged in the time bound scheme/project with effect from the dates as indicated in Annexure-C of the application.

(e) That accordingly, the applicants were engaged as the project workers against the said project for the limited purpose and for the stipulated time bound scheme. The very same applicants apprehending termination, approached this Hon'ble

Tribunal by filing an OA No.236/2003 raising the same issues that was raised in another fresh OA No. 308/2004 between the same parties in this same Tribunal. The respondents filed their written statements and contested the cases. The matter was heard by this Hon'ble Tribunal on 29.9.2004 at length, when the counsel of the applicant made a prayer to allow him to withdraw the application so that the applicant may make some representation to the authorities concerned instead of dismissal of their application. This Hon'ble Tribunal was pleased to consider the prayer and allowed the application to be withdrawn and accordingly dismissed the same.

(f) That the applicants once again approached this Hon'ble Tribunal by way of filing OA No. 308/2004 raising the same issue between the same parties as in OA 236/2003.

(g) That it is also pertinent to state here that the aforesaid project/scheme, which expired on 31.3.2006, has again been extended by another year with necessary financial support as provided earlier at the same rate/quantum. The scheme would expire and be closed by 31.3.2007 if not further extended.

5. That with regard to the statements made in para 1 and 2 the respondents reiterate the foregoing legal provisions with regard to payment of wages or for payment of wages and the appropriate authorities to hear such claim. In view of above settled legal provisions, the application itself is not maintainable and the same is liable to be dismissed.

6. That with regard to the statements made in para 3 and 4.1, the answering respondents have no offer to comment.

7. That with regard to the statements made in para 4.2, 4.3, 4.4 and 4.5, the respondents state that the O.A. No.308/2004 was disposed of not on the merit of the case and as such no issue was resolved/decided by this Hon'ble Tribunal. The direction

given by the Hon'ble Tribunal was strictly complied with and the representation (Annexure F) was considered and disposed of vide Office Order dated 19.12.2005. The applicant has challenged the said order in two parts (i) by O.A. No.53/2006 and the other (ii) by O.A. No.78/2006. By the O.A. No.53/2006, the applicants have sought for payment of minimum wages of skilled labour; while by the O.A. No.78/2006, the applicants have sought for grant of temporary status and regularization in Group -D posts. The answering respondents have filed their written statements separately in the said O.A. No. 78/2006. As the relief sought for in the aforesaid two applications are different in nature, and not ancillary one to the other the matter needs to be heard separately. As the respondents have already raised the preliminary objection this O.A. be heard on the said preliminary issue at the first instance before going in to the detailed hearing on merit as a matter of law of procedure.

8. That with regard to the statements made in para 4.5, the answering respondents state that these are all matter of records hence nothing is admitted which are not supported by such records. In this regard, the respondents also respectfully state that such withdraw of application in O.A. No. 236/2003 and direction given in O.A. No. 308/2004 by this Hon'ble Tribunal to consider the representation did not created any right for the applicants except the direction for disposal of representation which has subsequently been done.
9. That with regard to the statements made in para 4.6, 4.7, 4.8, 4.9, 4.10 and 4.11, the respondents state that the competent authority considering all the aspects of facts and circumstances of the case and the relevant provisions of law disposed of the representation submitted by the applicants by issuing the speaking/reasoned orders dated 19.12.2005. In this connection it is also pertinent to state that the wage of the applicants were fixed and consolidated at Rs.1500/-

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p.m. The offer of the said consolidated monthly wage of Rs. 1500/- per month was offered to the applicants and the applicants accepted the same without any objection. As such there was no illegality in the payment of Rs.1500/- as consolidated monthly wage as a matter of contract. If the applicants were aggrieved by the payment of such consolidated monthly wage as stated above they could have raised the said issue immediately after 6.12.2001 when they accepted the said offer of consolidated wage. As they accepted the said wage and never raised any dispute before any labour Commission or Labour Court/ Tribunal relating to payment of minimum wages they cannot raise the same at such a belated stage which is hopelessly barred by law of limitation and also the principle of estoppel, waiver and acquiescence. The applicant cannot be allowed to approbate and reprobate at the same time. Moreover, the question of skilled labour or unskilled labour is concerned it is a matter of facts and factor that requires to be proved by the qualification and experience attributing to such skillfulness in the specified area of job. But there was no such job specification for the applicants requiring any such skillfulness/experience or training for the jobs entrusted to them in the project. Hence, nothing is admitted which are not in conformity with the requirements.

10. That the scheme of the project is directly related to research work under the supervision of various scientists and experts and the job to be carried out by the applicants are of ordinary manual in nature the applicants need not have any such skilled or expertise, technique or methodology or scientific education/training relating to their job. They need to extend only their manual help and assistance in order to carry out such research works by the experts scientifically. Hence, the claim of the applicants are baseless and without any legal support. Moreover, law is well settled in this regard.

11. That with regard to the statements made in para 4.12, 4.13, 4.14, 4.15, and 4.16, the respondents state that under the given facts and circumstances and the provisions of law, this application is not maintainable in this Hon'ble Tribunal for want of the jurisdiction and also for the facts that the respondents have not done anything wrong or illegal as alleged by the applicants. The applicants are labourers engaged in the project works with the limited fund to complete the project within the stipulated time. By the completion of the project the financial support extended by the sponsoring authority will also be stopped and the project will be shut down. When the project would come to closure, the engagement and payment thereof would also be stopped. This is the settled provisions of law. This project will come to an end by 31.3.2007.
12. That with regard to the statements made in para 5.1 to 5.8 of the application, the answering respondents state that the grounds attempted to show to support the statements made in the application are no grounds in the eye of law under the given facts and circumstances of the case and the relevant provisions of law. The application itself is liable to be dismissed as the law is well settled that the authority to determine and try the issues of minimum wage under the Minimum Wage Act, 1948 and the Payment of Wage Act, 1936 different than the Hon'ble Central Administration Tribunal. Under such circumstances, the grounds shown are untenable in law.
13. That with regard to the statements made in para 6 and 7, the respondents state that as stated above, the applicants have failed to avail the appropriate remedy under the specific law relating to payment of wages or short payment of wages as prescribed by law in this regard and if their claims are having any legal basis at all. Hence, the statements made in this paragraph are incorrect and contradictory to the

provisions of law. The declaration made in para 7 is also misleading, as the applicants have suppressed the material fact of the O.A. No. 236/2003 and 308/2004 that were filed in this Hon'ble Tribunal prior to the instant application. Hence, the instant application is also liable to be dismissed for suppression of material fact.

14. That with regard to the statement made in paragraph 8, 8.1, 8.2, 8.3, and 9.1 of the application the respondents state that under the facts and circumstances of the case and the provisions of law, the application is not maintainable for want of jurisdiction and the applicants are not entitled to any relief whatsoever as prayed for. The application is liable to dismiss being not maintainable and devoid of any merit.

In the premises aforesaid it is therefore respectfully prayed that this Hon'ble Tribunal would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records would also be pleased to dismiss the application with cost.

VERIFICATION

I, Shri. A. K. Ray, at present working as Co. Principal Investigator (CMMI) in the office of the CPCR/ C&D, Kahikuchi, Guwahati - 17, who is taking steps in the case and being competent and duly authorized, do hereby solemnly affirm and state that the statements made in para 3, 5, 6, 10, 11, 12 and 13 are true to my knowledge and belief, those made in para 4, 7, 8 and 9 being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 11 th day of July, 2006 at Guwahati.



DEPONENT

**Co-Principal Investigator (Minimission-5)
CPCR 1, Kahikuchi
Guwahati - 781017**

DISTRICT:

VAKALATNAMA
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

OA NO. 53 of 2006 &
O.A NO.....78.....OF 2006...

SRI SONABOR DAS & ors

APPLICANTS
PETITIONER

VERSUS

UNION OF INDIA & ors

RESPONDENTS
OPPOSITE PARTY

Know all men by these presents that the above named RESPONDENTS do hereby nominate, constitute and appoint Sri/ Smti B. C. PATHAK, B. PATHAK Advocate and as such of the undermentioned Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocates to appear and act for me/us in the matter noted above and in connection therewith 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 acts to be done by the said Advocates as mine/ours for all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

In Witness Whereof I/We hereunto set my/our hand on this 7th Day of July, 2006

A K CHOUDHURI
BHUBANESWAR KALITA
CHINMOY CHOWDHURY
MANORANJAN DAS
B.C. PATHAK
NISHITENDU CHOUDHURY
BOLIN SARMA
MANIK CHANDA
S C KEYAL

H K MAHANTA
DR. (MRS) M PATHAK
NIRAN BARAH
DINAMANI SARMA
DILIP BARUA
P. J SAIKIA
JOY DAS
DIPENJYOTI DUTTA
SUNIT SAIKIA

B. PATHAK
DEEPAK BORA
NEELAKHI GOSWAMI
JULI GOGOI
AMVALIKA MEDHI
JAVED ALI HASAN
GUNAJIT BAISHYA

Received from the executant,
satisfied and accepted

Mr/Ms.....
Will lead me/us in the case

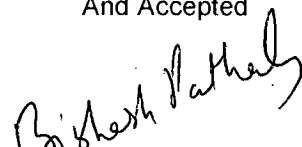
And Accepted


Advocate

Advocate

And Accepted

Advocate


Advocate

And Accepted

Advocate

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Principal Investigator (Administration)
C P R 1, Kabilash
Guwahati - 781017

NOTICE

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Date: 17.7.2006

From:
BC Pathak, Advocate
Gusahati.

To,
Sri. A. Ahmed.
Advocate, CAT,
Gusahati - 5

Sir,

Please find enclosed herewith a
copy of the written statements filed in the
OA NO. 53/06.

Please acknowledge the receipt.

Yours sincerely
Pathak

Advocate
for the Respondents.

Received the copy

Advocate
for the Applicants.

I hereby undertake to
serve a copy of the WS to
the applicant's advocate
who could be found today
in the court.

Pathak
Advocate
17/7/06