

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. _____
2. Misc Petition No. _____
3- Contempt Petition No. 15/08 in O.A 308/06
4. Review Application No. _____

Applicant(S) Pikul Das

Respondants S. Singh

Advocate for the Applicant(S) Mr. M. Das

Advocate for the Respondant(S) CASE

Notes of the Registry	Date	Order of the Tribunal
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This Contempt petition has been filed by the petitioner praying for a direction to the Contemner, Ex. Engineer to implement the order dated 23-5-08 passed by this Honble Tribunal in O.A 308/06.

Laid before the Honble Court for further orders.

Section Officer

8/4/09

lm

Replaced by fresh Petition dated 8.4.09
Copies for respondents are kept in 'c' file.
8/4/09 (S.O.C.)

18.05.2009 On 3rd December 2008, the Applicant filed this Contempt Petition which has been numbered as C.P.No.15 of 2008.

2. On 8th April 2009, the Applicant has filed a Petition seeking permission to replace the Original Petition in C.P.No.15 of 2008. A copy of the said M.P.No.48 of 2009 is supplied to Mr.M.U.Ahmed, learned Addl.Standing Counsel for the Government of India, in Court to-day.

3. M.P.No.48 of 2009 is hereby allowed, permitting the Applicant to replace the entire Contempt Petition No.15 of 2008.

4. A copy of the newly replaced C.P.No.15 of 2008 is also supplied to Mr.M.U.Ahmed, learned Addl.Standing Counsel for the Union of India in Court to-day.

5. Issue notice to the opposite parties of C.P.No.15 of 2008; requiring them to file their reply by 01.07.2009.

(N.D.Dayal)
Member(A)

(M.R.Mohanty)
Vice-Chairman

8.5.2009

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Mr. M. Das,
Advocate for
the applicant
submit an
application in
the Court on
7.4.09 with
a prayer to
fix the C.P. No.
15/08 (OA 308/06)

on 18.5.2009,
copy of C.P. served to
Mr. M. Das.

C.P. No. 15 of 08 (O.A.308 of 2006)

01.07.2009 Mr. M. Das learned counsel
appearing for the Applicant is
present. On the prayer of Mr. M. U.
Ahmed learned Addl. Standing
Counsel representing the
Government of India, call this
matter on 01.09.2009.

Copies of Notice Sent
to Section for issuing
to the opposite parties
R-1 & 2 along with 15/08
by Regd. A.P. per

lm

(M.R.Mohanty)
Vice-Chairman

Issued, vide Memo
No. 25934/2594
Dated, 22.15.2009

19.5.09

12.6.09

Notice served on
R-1.

12/6/09

Reply not filed

31.6.09

Reply not filed

31.8.09

4.9.09

Reply has been
submitted by the
Respondents No 1 & 2,
through Mr. M. U. Ahmed,
Addl. C.S. Copy served
to 4/9/09 Reply filed on 15.10.09

Mr.M.Das, learned counsel for the
Applicant is present. Mr.M.U.Ahmed, learned
Addl. Standing counsel undertakes to file a
reply in this case in course of the day. He
says that a copy of the said reply has
already been served on Mr.M.Das, learned
counsel for the Applicant.

On the prayer of Mr.M.Das call this
matter on 16.10.2009.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

16.10.2009

Call this matter on 19.11.2009.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/lm/

19.11.2009

185222 Vdk
Memo No. 12849 &
12850
01-8-12-03

Alleging willful disobedience of the order and direction contained vide order dated 23.5.2008 in O.A.308/06 present C.P has been preferred. By the aforesaid order the matter had been remanded back to the respondents with the following observation.

"We remit the matter back to the Respondents with direction to examine the matter in the light of the aforesaid observations and review the order passed on 12.3.03 for restoring temporary status on the applicant. This case is accordingly disposed of."

Applicant engaged as casual labourer in the Central Water Commission was conferred with temporary status on 17.11.01. Vide order dated 12.3.2003 said status has been withdrawn. Thus he approached this Tribunal in aforesaid O.A challenging the said action of the respondents.

Sri Sanjay Kumar Singh, Executive Engineer, North Eastern Investigation Division No.1, Central Water Commission, Silchar has filed an affidavit tendering an unconditional apology for delay in carrying out the aforesaid direction. It was pointed out that on examination of the matter a detail and speaking order dated 4.8.09 (Annexure-IX) appended to the reply has been passed wherein it has been opined that order dated 12.3.03 cannot be rescinded. Mr M.Das, learned counsel for the applicant contents² that respondents are not justified at all to pass said order dated 4.8.09 and it is totally unsustainable in

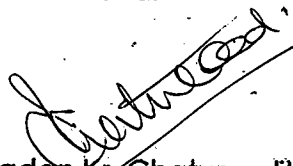
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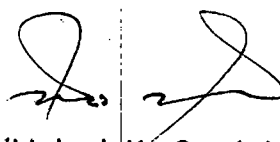
19.11.09

law for various reasons advanced in the written statement filed today.

Be that as it may, the scope of contempt jurisdiction is very limited namely to examine whether the direction of the Court have been complied with or not. On examination of the said aspect we are of the view that order dated 23.5.08 though has complied with belatedly. Considering the various aspects of the matter they have expressed their inability to rescind the order vide which the temporary status had been withdrawn. Validity of said order dated 4.8.09 cannot be tested within the limited scope of the contempt jurisdiction.

In this view of the matter we hold that there is no contempt made out against the respondents. Thus C.P is dismissed. Notices are discharged. However, liberty is granted to the applicants to take appropriate steps in accordance with the rules and law for challenging the O.M. dated 4.8.09, if so advised.


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

08 APR 2009

गुवाहाटी बेंच
Guwahati Bench

135
Pikul Das

22/2/09
Alonorajan Das
Advocate

Dist. Bar Association

**In the Central Administrative Tribunal,
Guwahati Bench, Guwahati.**

(An application under section 17 of the
Administrative Tribunal Act, 1985)

Title of the case:

C.P.No 15 of 2008.
In OA No 308/2006

IN THE MATTER of:

Sri Pikul Das, : Petitioner.

-VS-

Sri S.Choudhury & Ors: Contemnor/Respondents.

In the matter of

A petition under section
22 of the Administrative
Tribunal Act, 1985 ✓

And

IN THE MATTER of:

Sri Pikul Das, age 31 yrs.
S/O Sri Amulya Das, a permanent
resident of village-Bahadurpur, PO-
Larsingpar, PS Silchar, Cachar, PIN-
788002, Assam,

.....Petitioner

-Versus-

1. Shri S. Choudhury, Chief Engineer,
Central Water Commission,
Barik Point, Shillong, PIN -793001 ✓
2. Shri S.Singh, Executive Engineer,
North East Investigation Division-I,
C.W.C., Rongpur Part-I, PO-Silchar,
PIN-788009, Cachar, Assam ✓

.....Contemnors

Most respectfully states:

1. That, the contempt filed and registered
under C.P. No. 15/08 was filed not in
prescribed format under Section 17 of
Administrative Tribunal Act, 1985.

08 APR 2009

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

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2. That, the petition is pending before your Tribunal for admission.
3. That, the said C. P. Petition may please be treated as not pressed in substitution of the petition submitted herewith before Your Honour.

It is, therefore, in the premises, most fervently prayed for the justice sake that Your Honour be pleased to allow the petitioner to substitute the earlier petition by this
petition.

And

For the act of which Your humble petitioner as in duty bound I shall ever pray.

Verification

Sri Pikul Das, age 31 yrs.

S/O Sri Amulya Das, a permanent resident of village-Bahadurpur, PO-Larsingpar, PS Silchar, Cachar, PIN- 788002, Assam, do hereby verily state that the contents of the petition are true to the best of my knowledge and belief and in solemn affirmation whereof I sign this on this the 22nd day of Feb, 09.

Pikul Das.

22/2/09
Monoranjan Das

Advocate

Dist. Bar Association

Silchar, Pin-788001

Mobile-94351-73832

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

08 APR 2009

गुवाहाटी बेंच
Guwahati Bench

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**In the Central Administrative Tribunal,
Guwahati Bench ,Guwahati.**

An application under section 17 of the Administrative Tribunal Act, 1985

Title of the case:

C.P.No 15 of 2008.

In OA No 308/2006.

Shri Pikul Das, : Petitioner.

-VS-

**Shri S.Choudhury & Ors: Contemnors/
Respondents.**

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Filed by: *MS*

26/4/09
Monoranjan Das
Advocate

Dist. Bar Association

Silchar, Pin-788001

Pikul Das

Signature

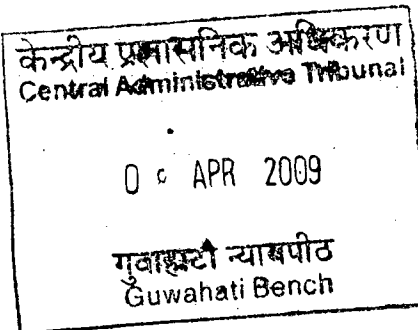
Filed no.

Mobile-94351-73832

For office Use

Registration No:

Signature
For Registrar.



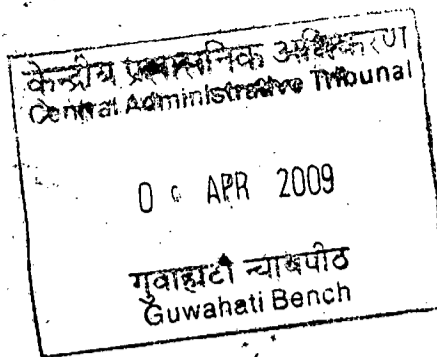
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DATE CHART:

Date	Events	Page Nos.
10.09.1993	DoPT Scheme issued vide OM No. 31016/2/90-Estt. (C)	8
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Pibul Des

MD
28.2.09
Monoranjan Das
Advocate
Dist. Bar Association
Silchar, Pin-788001
Mobile-94351-73832



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P-1

**In the Central Administrative Tribunal,
Guwahati Bench, Guwahati.**

(An application under section 17 of the
Administrative Tribunal Act, 1985)

Title of the case:

C.P.No 15 of 2008.
In OA No 308/2006

IN THE MATTER of:

Sri Pikul Das, : Petitioner.

-VS-

Sri S.Choudhury & Ors: Contemnors/Respondents.

IN THE MATTER of:

A petition under section 17 of the Administrative Tribunal Act, 1985, praying for initiation of a Contempt proceeding against the alleged contemnor for non-compliance of the judgment and order dated 23.05.2008 passed in OA No. 308 of 2006.

And

IN THE MATTER of:

Sri Pikul Das, age 31 yrs.

S/O Sri Amulya Das, a permanent resident of village-Bahadurpur, PO-Larsingpar, PS Silchar, Cachar, PIN-788002, Assam,

.....Petitioner

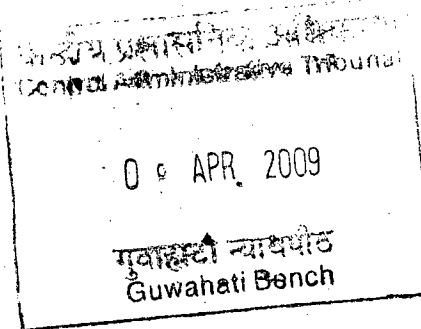
-Versus-

1. Shri S. Choudhury, Chief Engineer, Central Water Commission, Barik Point, Shillong, PIN -793001
2. Shri S.Singh, Executive Engineer, North East Investigation Division-I, C.W.C., Rongpur Part-I, PO-Silchar, PIN-788009, Cachar, Assam

.....Contemnors

M
26/2/09
Monoranjana Das
Advocate
Dist Bar Association

Pikul Das



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-2-

The humble petitioner above
named

Most respectfully Sweath:

1. The humble Petitioner had filed the Original Application No.308 of 2006 before this Hon'ble Central Administrative Tribunal, Guwahati Bench Guwahati for a direction from this Hon'ble Tribunal to the Respondents to confer Temporary Status to the Petitioner with other concomitant benefit within the frame work of the Central Water Commission. The Hon'ble C.A.T., on perusal of the records and hearing the counsels of parties, was pleased to pass order against the impugned unjustified order of the Respondents dated 12.03.2003 and in favour of the applicant. The Hon'ble Tribunal, therefore, concluded with the order which is as follows:

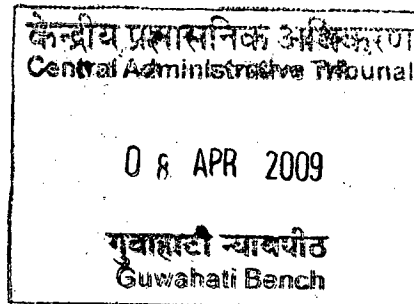
"In view of the foregoing discussion, we remit the matter back to Respondents with direction to examine the matter in the light of aforesaid observations and review the order passed on 12.03.2003 for restoring temporary status on the applicant. The case is accordingly disposed of."

Copy of the Judgment and order, dated 23.05.08, is enclosed herewith and marked as Annexure A-1


23/5/09
Monoranjan Das
Advocate

Dist. Bar Association
Silchar, Pin-788001
Mobile-94351-73832


Pibul Das




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2. The applicant vide his representation dated 13/08/1008 communicated the verdict of the Hon'ble Tribunal to the Respondents i.e. (I) The Chief Engineer, Central Water Commission, Barik Point, Shillong-793001 and (II) The Executive Engineer, NEID No. I, CWC, PO- Rongpur, Silchar-788009, District- Cachar, and also a reminder dated 21.10.08 was sent to the Respondent, the Executive Engineer, NEID No. I, PO- Rongpur, Cachar, through Advocate, Sri M. K. Bhattacharjee for consideration of the matter but the respondents did not reply, not to speak of taking cognizance of the Hon'ble Tribunal's order dated 23.5.2008.

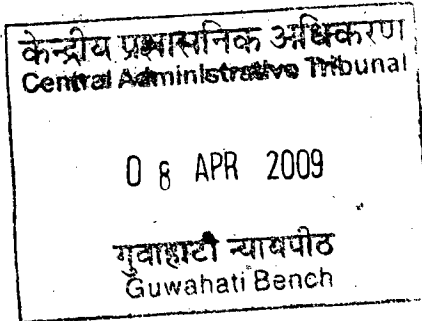
Both copies of the representations dated 13.08.2008 and 21.10.08 are enclosed herewith and marked as Annexure A-II.

3. The petitioner after waiting reasonably maximum time, finds no way out to redress his grievance but take recourse of this Tribunal, on the ground of willful and intentional delay on the part of the Respondent/contemnor, in reviewing the matter as directed by The Hon'ble Tribunal.


20/2/09,
Monoranjan Das
Advocate

Dist. Bar Association
Silchar District


R. K. Das



(4)

4. This Petition is made bonafide and for the cause of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the alleged contemnors for willful non-compliance of the judgment and order dated 23'05'2008 in O.A. No 308 of 2006 and be pleased to impose punishment upon the alleged contemnor in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Tribunal.

AND for this act of kindness, the petitioner as in duty bound, shall ever pray.

Pratul Das
Signature

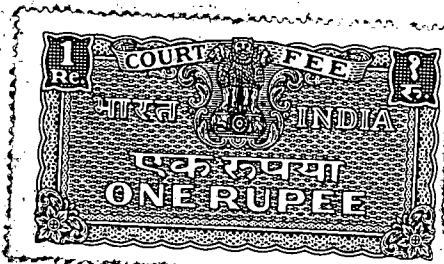
Filed by

MS

20/2/09
Advocate

Monoranjan Das
Advocate

Dist. Bar Association
Silchar, Pin-738001
Mobile-94351-73832



केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

04 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

-(5)-

AFFIDAVIT

I Sri Pikul Das, age 31 yrs.
S/O Sri Amulya Das, a permanent
resident of village-Bahadurpur, PO-
Larsingpar, PS Silchar, Cachar, PIN-
788002, Assam, occupation -Carpenter,
do hereby solemnly affirm and state
as follows:

1. That, I am the petitioner in the
above contempt petition as such I am
well acquainted with the facts and
circumstances of the case and also
competent to sign this affidavit.
2. That the statements made in para 1
to 4 are true to my knowledge and
belief and I have not suppressed any
material fact.
3. That, this affidavit is made for
the purpose of filing contempt
petition before this Hon'ble
Tribunal, Guwahati Bench, Guwahati
for non-compliance of the Hon'ble
tribunal's order dated 23.05.2008 in
O.A. No. 308/2006.

And in solemn
affirmation whereof, I sign this
Affidavit on this the 20th day of
February, 2009, being present

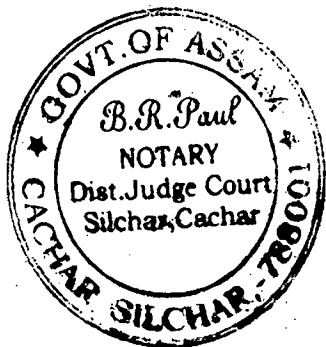
Pikul Das
Deponent

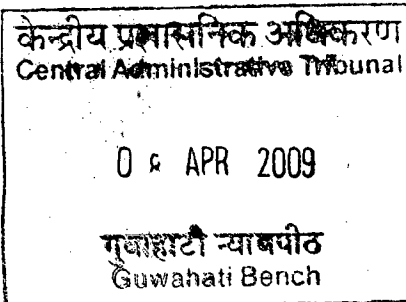
Identified by
Manoranjan Das
20/2/09
Advocate
**SOLENNY AFFIRMED & DECLARED
BEFORE ME ON IDENTIFICATION**

Sworn before me

B. R. PAUL
NOTARY

REGD No SLC-1 of 2007





(6)

Draft Charge

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati, for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of the order of the Hon'ble Tribunal dated 23.05.2008 passed in O.A. No. 308/2006 and further to impose punishment upon the illegal contemnor for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's order dated 23.5.2008 in O.A.No, 308/2006.

MS
20/2/09

Pekul Das

Monoranjan Das
Advocate
Dist. Bar Association
Silchar, Pin-788001
Mobile-94351-73832

-a/ Annexure A-I
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 308/2006.

Date of Order : This the 23rd Day of May, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Pikul Das,
S/o Shri Amulya Das,
Village Bahadurpur,
P.O. Larsingpur, PS-Silchar Sadar,
District Cachar, Assam

...Applicant

By Advocate Mr M. Das.

Versus -

1. Union of India,
represented by the Secretary to the Govt. of India,
Ministry of Water Resources, New Delhi.

The Chairman,
Central Water Commission,
New Delhi.

The Chief Engineer, NEIC, CWC,
Rehak Villa near Bank Point,
Temple Road, Lower Lachemiere,
Shillong-793001.

4. The Executive Engineer,
North Eastern Investigation Division No.1,
CWC, Rongpur Part-1,
Silchar-788009.

...Respondents

By Advocate Shri G. Baishya, Sr.C.G.S.C.

ORDER

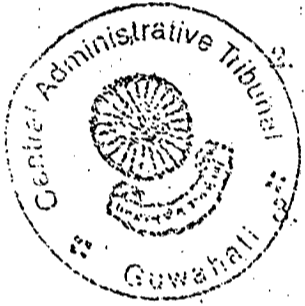
KHUSHIRAM, MEMBER

This applicant was engaged as a Casual labourer on
02.09.1992 in Central Water Commission and was conferred with

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

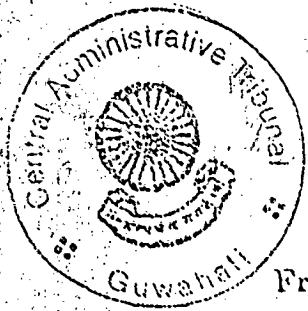
08 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench



temporary status on 17.11.2001. Temporary status granted to the Applicant was subsequently withdrawn vide order dated 12.03.2003. The applicant has assailed this order by filing this Original Application seeking the following reliefs.

- (a) A declaration to the Respondents, particularly Respondent No.4 to rescind his impugned order NEID-1/PF/ESTT-39/2003/1964-66 dated 12.03.2003.
- (b) An order setting aside the impugned wrong and redundant order dated 12.03.2003.
- (c) An order confirming and vindicating the correct order NEID-1/ESTT-39/2001/6309-14 dated 17.11.2001, declaring that the applicant be deemed to be in service with Temporary Status from 17.11.2001.
- (d) A direction for conferment of Temporary Status to the Applicant from the date of the original order dated 17.11.2001 with all concomitant benefits.
- (e) A direction to the Respondents to deal with the service matters with more promptitudes.

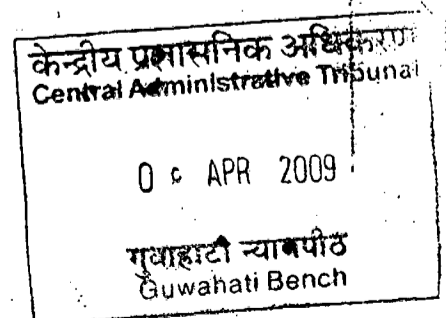
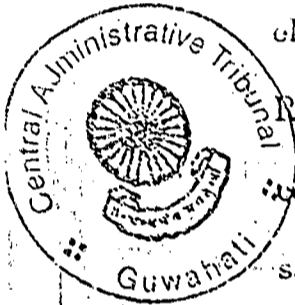


From the records it has been contended that the Applicant was engaged 02.09.1996 to 12.04.1997 in different spells under the scheme dated 10.06.1997 which was made applicable to CWC vide order dated 29.10.1998 (Annexure A-1 to the O.A) which interalia clarified that "purpose of grant of temporary status and regularization of such casual labourers and adhoc Khalasis in the workcharged establishment and Central Water Commission will be governed by the Deptt. of Personnel & Training Scheme issued vide their OM No.31016/2/90-Estt(C) dated 10th September, 1993. The order dated 12.03.2003 states that (i) those who are in employment on the work-charged establishment of CWC on the date of commencement of the Scheme i.e. 1.6.1997 and renders a minimum of 120 days of continuous service or (ii) those who were engaged any time during the preceding one year and have rendered a minimum of 120 days of continuous service in that year. This scheme is

[Handwritten signature]

made applicable to casual labourers mutatis mutandis as per MoWR letter No.23/198-Estt.1 dated 29.10.1998,

2. The Respondents have filed written statement disclosing that Applicant was engaged as a casual labourer under EE, NEID-1, CWC, Silchar in different spells during 02.09.1996 to 12.04.1997. The applicant had not served continuously during 02.09.1996 to 12.04.1997. The certificate issued in favour of the Applicant by Assistant Engineer, HQ, CWC, Silchar dated 21.06.1997 certifying that the Applicant worked in the Division as casual labourer during 02.09.1996 to 12.04.1997 was issued in good faith. It has also been stated that the scheme was applicable to those who are in service on 01.06.1997, the applicant had not served beyond 12.04.1997, therefore, he was not eligible for conferment of temporary status under the scheme. The Respondents have also clarified that the officer who issued the order of conferment of temporary status on the Applicant on 17.11.2001, the same officer Mr M. Lal himself initiated the process of review and withdrawal/modification of the order before his transfer. His successor Shri K.K.Jangid carried forward the review of the matter after getting clear cut instruction from Under Secretary, Estt.XII, CWC vide No.A-11019/2002-Estt.XII/1024 dated 19.8.2002 through SE, NEIC vide letter dated 13.9.2002. The Respondents followed proper procedure and issued show cause notice dated 10.01.2003 to the Applicant in consultation with senior officers and after filing the reply of the Applicant unconvincing, the temporary status was withdrawn vide order dated 12.03.2003. This action of the Respondents is not based on

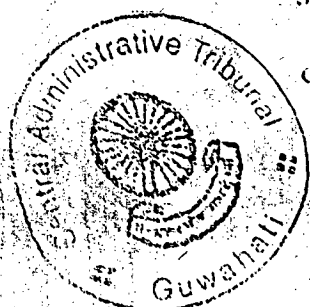


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jealousy or any other consideration. The error earlier committed has now since been rectified.

3. We have heard Mr M.Das, learned counsel appearing for the Applicant and Mr G.Baishya, learned Sr. Standing counsel appearing for the Respondent Department. The learned counsel for the Applicant has drawn attention to the different communications and the fact that the breaks shown by the Respondents (with a view to deprive the Applicant of the temporary status granted) were artificial, because no one was/is expected to work continuously for a period ranging 29 to 59 days and that, therefore, the Applicant is entitled to temporary status as was conferred earlier. Mr G.Baishya, learned Sr. Standing counsel appearing for the Respondents argued that since the Applicant has not fulfilled the conditions laid down in the scheme dated 01.06.1997 i.e. rendering a minimum 120 days of continuous service, the Applicant is not entitled to any relief and withdrawal of his temporary status is absolutely justified.

4. We have perused the materials placed on record and have considered the arguments advanced on behalf of the rival parties. We are of the view that technically the Applicant does not appear to have fulfilled the condition laid down in the scheme dated 01.06.1997 i.e. rendering a minimum 120 days of continuous service but it is not practical to accept that a person can work without any break for 120 days. The record of the Respondents also states that Applicant was engaged as under :

- | | | |
|----|--------------------------|---------|
| 1. | 02-09-1996 to 30-09-1996 | 29 days |
| 2. | 03-10-1996 to 30-11-1996 | 59 days |



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Annexure I

P-11

Central Administrative Tribunal

149 08 APR 2003

गुवाहाटी न्यायापीठ
Guwahati Bench

3. 02-12-1996 to 29-01-1997 59 days
4. 31-01-1997 to 01-03-1997 30 days
5. 01-04-1997 to 12-04-1997 12 days

The first break between 30.09.1996 to 3.10.1996 is said to be a Sunday and 2nd October a National holiday. Similarly breaks thereafter between 30.11.1996 to 02.12.1996 is only one day and between 29.01.1997 to 31.01.1997 is one day only and any casual labourer engaged at the work site is not expected to move out to avail of this break. Therefore, the breaks appear to be artificial and can not be utilized by Respondents to justify the order passed by them on 12.03.2003 withdrawing the Temporary Status of the Applicant.

5. In view of the foregoing discussions, we remit the matter back to the Respondents with direction to examine the matter in the light of the aforesaid observations and review the order passed on 12.03.2003 for restoring temporary status on the Applicant. This case is accordingly disposed of.



Sd/-
Manoranjan Mohanty
Vice Chairman
Sd/-
Khushiram
Member (A)

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/pg/

Section Officer (Judl)
Central Administrative Tribunal
Guwahati Bench
4.6.08

18/6

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

08 APR 2009

गुवाहाटी बेंच
Guwahati Bench

- 1) The Chief Engineer,
Central Water Commission,
Barik Point,
Shillong-793001
- 2) The Executive Engineer
CWC, HEID, No. 1, Songpur Part-I,
P.O. Songpur, Silchar-788009
Dist. Cachar.

Subject :- Prayer for implementation of the
Order dated 23-05-2008 of the CAT,
Guwahati Bench.

Reference - CA No. 308/06.

Sir,

Enclosed please find herewith a copy of the
judgement and order dated 23-05-2008 of the Hon'ble Central
Admn. Tribunal, Guwahati Bench which is self-explanatory.
The Hon'ble Tribunal has thrust the responsibility on the
Respondent Deptt. to deliver the goods by issuance of
necessary order for the extension of the temporary status to
me with all concomitant benefits. Since the ball is now in
your court, I earnestly pray that your honour would do the
needful in compliance with the direction of the Hon'ble
Tribunal.

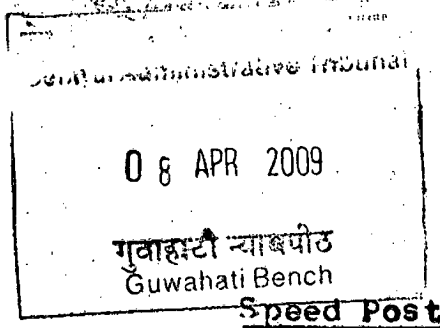
The favour of an early action is solicited.

Yours faithfully,

Enclo : As above.

Dated : 13/08/2008.

Sd/-
(Pikul Das)
S/O. Shri Amulya Das,
Vill. Bahadurpur,
P.O. Larsingpar,
Dist. Cachar.



15
Annexure A - II

21/10/2008.

To

Mr. S. Singh
Executive Engineer,
C.W.C. NED No. 1, Rongpur Part-I,
P.O. Rongpur, Silchar-788009.
Dist. Cachar, Assam.

Sub :- O.A. No. 308/06 in the Court of Central Admn.
Tribunal, Guwahati Bench in respect of
Shri Pikul Das claiming temporary status.

Dear Sir,

I am one of the appointed Advocate in the above case in the C.A.T. The learned court issued judgement in favour of the applicant on 23-05-08 but remitted the same to the Respondents for issue of formal order. My client Shri Pikul Das addressed you on 13-08-08 by enclosing a copy of the Tribunal's judgement. But you are still silent for unknown reasons. If you are not able to implement the contents of the judgement, you should intimate the same with cogent grounds ~~without~~ without sleeping over the matter.

Please therefore make immediate response so that the applicant may take further legal steps.

Yours faithfully,

501 -
(Manindra Kr. Bhattacharjee)
Advocate.

610
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ
8/9/09

Filed by
The Respondents through
Main Adm. Secy
Addl. C. Secy
01/9/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

C.P.No. 15/2008
(Arising out of O.A No.308/2006)

Sh. Pikul Das

..... Petitioner

-Versus-

Shri Suhas Kumar Chaudhury & others

..... Respondents/Contemnors

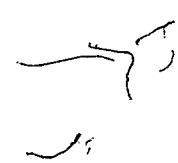
Reply/compliance Report on behalf of the Respondents No.1 to 2.

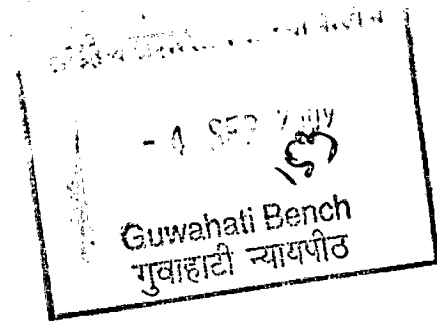
I, Shri Sanjay Kumar Singh, Executive Engineer, North Eastern Investigation Division No.-I, Central Water Commission, Rongpur Part-I, Silchar-9 alleged contemnor No.2 and on behalf of other alleged contemnor do hereby solemnly affirm and declare as under:

- Copy received
M. S. M.
1/9/09
1. That I am respondent No.2 in the above contempt application and as such well acquainted with the facts and circumstances of the case. I have read the copy of the contempt application filed by the petitioner and have understood the contents made therein (herein-after referred to as the said contempt application). The respondents have not willfully flouted the order dated 23/5/08 passed in O.A.No.308/06 by this Hon'ble Tribunal as alleged by the petitioner.



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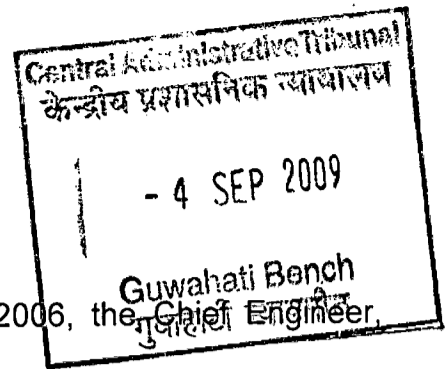




That there is no any willful or deliberate and reckless disobedience of the aforesaid order by the respondents. The respondents have highest regards for this Honorable Tribunal and hence there is no question of showing any contempt to the orders of this Honorable Tribunal. However, the respondent tender unconditional and unqualified apology for any lapse or delay in compliance of the order of this Honorable Tribunal.

2. That the deponent is filing reply on behalf of self and other respondent in the above contempt application. It is also to submit that the deponent appeared before this Hon'ble Tribunal on 1st July, 2009 i.e. the first day fixed for hearing by the Hon'ble Tribunal.
3. That the deponent as well as the Union of India has the highest regard for the Majesty and authority of the Hon'ble Tribunal and he respectfully submit that there is no violation, much less that the willful and intentional disobedience and violation to the direction and order passed on 23-05-2008 by this Hon,ble Tribunal in O.A. No.308/2006. A perusal of the said judgement/order would show that the direction passed by the Hon'ble Tribunal is 'to examine the matter in the light of aforesaid observations and review the order passed on 12-03-2003 for restoring temporary status on the Applicant'.

Contd.....P/3

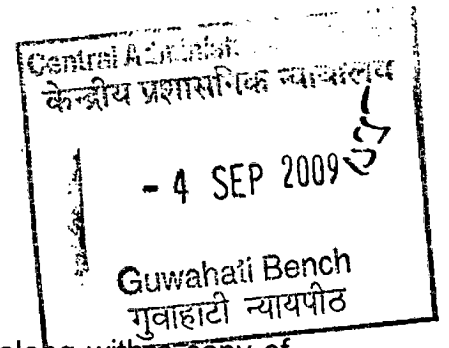


4. It is to submit that in original O.A. No.308/2006, the Chief Engineer, B&BBO, CWC, Shillong and the Executive Engineer, NEID-I, CWC, Silchar were the respondents in their official capacity among others and when the case was started in the year 2006, the incumbency of the Chief Engineer, B&BBO, CWC, Shillong and the Executive Engineer, NEID-I, CWC, Silchar were different. In the case of Executive Engineer, NEID-I, CWC, Silchar the incumbent was different at the time of issue of the judgement dated 23-05-08 also.

5. It is to submit that the office of the deponent received the copy of judgment dated 23.05.2008 in OA No.308/2006 passed by the Hon'ble Tribunal on 27.6.2008 (Annexure-I). Thereafter, legal opinion from Sr. CGSC, CAT, Guwahati was solicited on 19.07.2008 regarding implementation of the order of the Hon'ble tribunal. The office of the deponent received legal opinion on 22.07.2008 (Annexure-II) in which it was suggested to issue the speaking order considering the case of Shri Pikul Das with the scheme and circulars.

6. It is to submit that while the speaking order was under formulation the incumbent responsible to issue the speaking order was transferred on 25.7.2008 (Annexure-III) and this deponent as new incumbent assumed the charge on 18.9.2008 (Annexure-IV). In the mean time, this office of

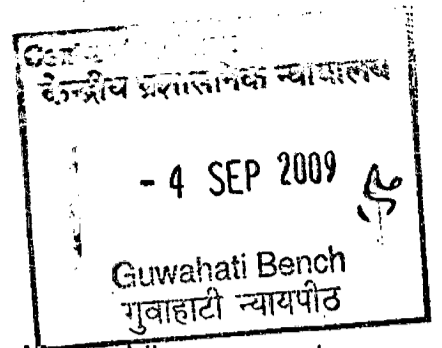
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deponent received representation of Shri Pikul Das along with a copy of judgment on 19.8.2008 and subsequently from his advocate Shri M.K.Bhattacharjee in the matter of same case on 23.10.2008. Both the representations were reviewed/studied by the deponent and sent to the Superintending Engineer, NEIC, CWC, Shillong soliciting guidance vide letter No.NEID-I/GC-50/2008/7126 dated 15.12.2008 (Annexure-V). Guidance from the Superintending Engineer, NEIC, Shillong i.e. cadre controlling authority in the case of Work-charged employees received on 01.01.09 (Annexure-VI) for examination/review of the case in the light of procedure/rules/provisions of the scheme.

7. It is to submit that the office of deponent is self sustaining office and salary of work-charged employees is paid by money/fund provided by clients against timely completion of their satisfactory work. Since survey and investigation work can only be performed during non-monsoon period i.e. October-March, it becomes obligatory to achieve target for a particular year during non-monsoon period only. In spite of time constraints, the deponent studied the case according to rules/provisions of the scheme and direction of the Hon'ble Tribunal. The deponent constituted a Committee on 28.01.2009 (Annexure-VII) under the Chairmanship of the deponent along with two other members to examine the case in the light of order passed by Hon'ble Tribunal. The committee

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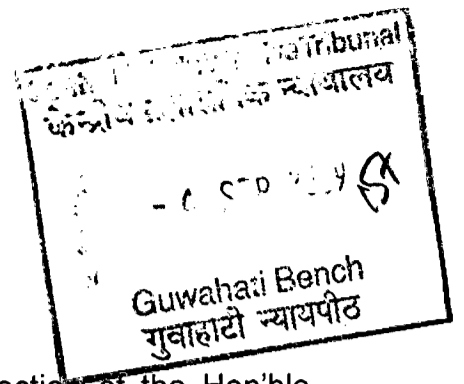


had to submit its report by the end of July 2009. Meanwhile proposed meeting on 20.3.2009, 15.4.2009 & 16.6.2009 were adjourned due to unavoidable circumstances. In the meantime the office of the deponent received Notice on 5.6.2009 from Dy. Registrar, CAT, Guwahati Bench regarding contempt petition no.15/2008 in OA no.308/2006 required to appear in person or through a duly authorized advocate on 1st day of July, 2009. Subsequently, the deponent along with advocate appeared before the Hon'ble Tribunal. The Committee constituted to look into the matter was finally assimilated on 16.7.2009 and individually & conjointly deliberated upon. The minutes of the meeting is enclosed as Annexure-VIII for ready reference.

8. It is to submit that after deliverance of the committee constituted to look in to the case, the deponent prepared the draft speaking order to be issued in compliance to judgement dt.23-05-08 in OA no.308/2008 and sent to the higher authorities for vetting on 17.7.2009. Duly vetted speaking order by the department has been issued to the applicant vide No.NEID-I/CC/P.Das/2009/2587-90 dated 04-08-2009 (Annexure-IX).

9. It is to submit that the speaking order issued to the applicant was prepared with due care in the light of observations and direction of the Hon'ble Tribunal and according to rules / provisions / procedures of the

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scheme to grant temporary status. Moreover, direction of the Hon'ble Tribunal to examine the matter and review the order passed on 12.3.2003 has been considered and implemented by the respondents, thereby, fully complied with the order dated 23.5.2008.

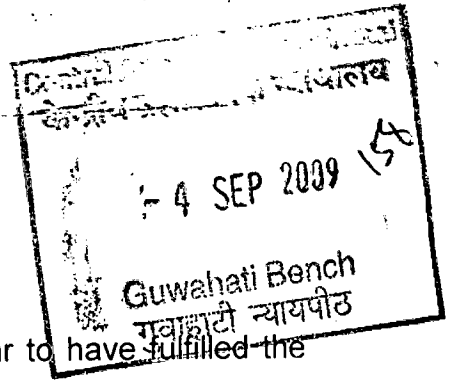
REPLY ON MERIT

Para-1: In reply to Para No.1 the deponent respectfully submit that after following due procedure; vide this office order No.NEID-I/ PF-ESTT-39/2003/1764-66 dt. 12-03-03 (Annexure-X), temporary status inadvertently conferred on Shri Pikul Das, Ex-Casual Labourer; issued overlooking the provisions of the Scheme for grant of Temporary status and regularization of Seasonal Khalasis formulated vide Ministry of Water Resources letter No.8/3/95-Estt.I (Vol.II) dated 20.6.1997 (Annexure-XI) made applicable to casual labourers, mutatis mutandis, as per Ministry of Water Resources Letter No.23/1/98-Estt.I dated 29.10.1998 (Annexure-XII); was repealed/withdrawn.

Subsequently, Shri Pikul Das contested the matter vide OA No.308/2006 before Hon'ble Central Administrative Tribunal, Guwahati which culminated into the pronouncement dt. 23-05-08. The operative paras of the judgement are reproduced verbatim as under:

"We have perused the materials placed on record and have considered the arguments advanced on behalf of the rival parties. We are of the

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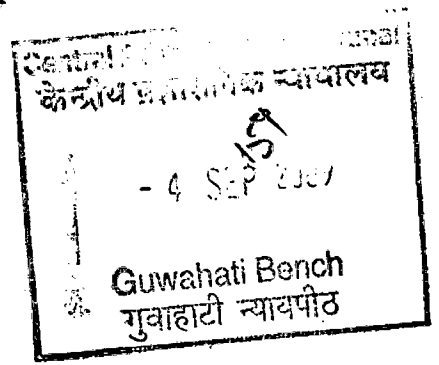


view that technically the Applicant does not appear to have fulfilled the condition laid down in the scheme dated 1.6.1997 i.e. rendering a minimum 120 days of continuous service but it is not practical to accept that a person can work without any break for 120 days? The record of the Respondents also states that Applicant was engaged as under:

(i) 02.09.1996 to 30.09.1996	-	29 days
(ii) 03.10.1996 to 30.11.1996	-	59 days
(iii) 02.12.1996 to 29.01.1997	-	59 days
(iv) 31.01.1997 to 01.03.1997	-	30 days
(v) 01.04.1997 to 12.04.1997	-	12 days

The first break between 30.09.1996 to 03-10-1996 is said to be a Sunday and 2nd October a National holiday. Similarly breaks thereafter between 30.11.1996 to 02.12.1996 is only one day and between 29.1.1997 to 31.1.1997 is one day only and any casual labourer engaged at the work site is not expected to move out to avail of this break. Therefore, the breaks appear to be artificial and cannot be utilized by respondents to justify the order passed by them on 12.3.03 withdrawing the Temporary Status of the Applicant.

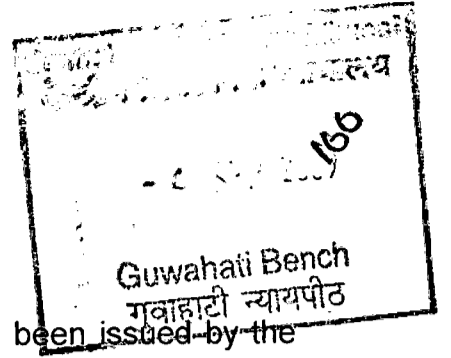
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In view of the foregoing discussions, we remit the matter back to the respondents with direction *to examine the matter in the light of the aforesaid observations and review the order passed on 12.03.2003 for restoring Temporary Status on the Applicant.* This case is accordingly disposed of."

Para-2: In reply to Para-2, it is stated that it is wrong and denied that no action was taken on the representation dated 13-08-2008 of the applicant and subsequent letter dated 21-10-2008 of his advocate. Infact both the representation were reviewed/studied by the deponent and sent to the Superintending Engineer, NEIC, CWC, Shillong soliciting guidance vide letter No.NEID-I/GC-50/2008/7126 dated 15-12-2008. Guidance from the Superintending Engineer, NEIC i.e. cadre controlling authority in the case of Work-Charged employees received on 01-01-09 for examination/review of the case in the light of procedure/rules/provisions of the scheme. The deponent studied the case according to rules/provisions of the scheme and direction of the Hon'ble Tribunal. The deponent constituted a committee on 28-01-2009 under the chairmanship of the deponent alongwith two other members to examine the case in the light of the Order passed by the Hon'ble Tribunal. The committee had to submit its report by the end of July, 2009. The committee finally assimilated on 16-07-09. After the

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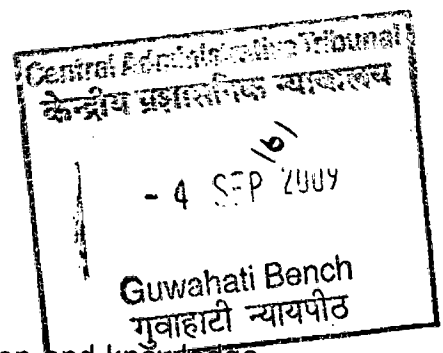
deliverance of the committee Speaking Order has been issued by the deponent vide No.NEID-I/CC/P.Das/2009/2587-90 dated 04-08-2009 after complying the formalities i.e. vetting by the higher authorities.

Para-3: In reply to Para No.3, it is stated that the deponent as well as the Union of India has the highest regard to direction of the Hon'ble Tribunal and there is no willful or intentional delay on the part of the Respondents. As per direction of the Hon'ble Tribunal, the deponent reviewed the matter in consultation with higher authorities of the department and finally issued Speaking Order addressed to the applicant vide No.NEID-I/CC/P.Das/2009/2587-90 dated 04-08-2009.

Para-4: The respondent acted upon the direction of the Hon'ble CAT in O.A. No.308 of 2006 and as per the direction of the Hon'ble CAT. The order passed on 12-03-2003 was in the state of review and finally after the completion of the process, the position has been intimated to the applicant vide O.M. No. NEID-I/CC/P.Das/2009/2587-90 dated 04-08-09 issued by the deponent; hence no contempt has been made. Therefore, the contempt petition No.15 of 2008 is liable to be dismissed with cost. That this petition is made bonafide and for ends to justice.

In view of the submission made herein above the alleged contemnors/respondents respectfully prays that, the present contempt proceedings be dismissed by discharging notice.

Contd.....P/10



The statements made above are true to my information and knowledge

and I have not suppressed any fact.

And I sign this affidavit on this... 28th day of... August... 2009.

Identified by

M. V. Ahmed

Advocate

[Signature]

Deponent

Solemnly affirmed and declared by the deponent Shri Sanjay Kumar

Singh, being identified by ... M. V. Ahmed before me on this

... 28th day of ... August ... 2009.

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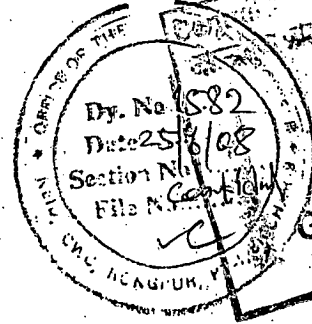
Annexure-I

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH; GUWAHATI

Resp No 4

ATCH NO. CAT/GHY/JUDL 2821 DATED GUWAHATI 16-6-08

ORIGINAL APPLICATION NO. 308 /200 6
MISC PETITION NO. /200
CONTEMPT PETITION NO. /200
REVIEW APPLICATION NO. /200



4 SEP 2009
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

Shri Pikul Das APPLICANT(S)

-VERSUS-

U.O.I. vops. RESPONDENT(S)

To,
The Executive Engineer,
North Eastern Investigation Division No.1.
CWE, Rongpur Part I
Silchar - 788009.

Please find herewith a copy of Judgment/ Final order dated 23.5.08
passed by the Bench of this Hon'ble Tribunal comprising of Hon'ble Shri M.R. Mohanty
Vice-chairman and Hon'ble Shri Khushiram Member (Admn) in the above noted

Case for information and necessary action, if any.

Please acknowledge the receipt of the same.

Encl:- As above.
(Copy of original Application in O.A.No. /200)

Copy to
Shri

BY ORDER

SECTION OFFICER (J)
25/3/6

Memo. No. dated...
Copy for information to:-

1. Mr. Mrs. Ms. Advocate General High Court.
2. Mr. Mrs. Ms. Sr. CGSCA
3. Mr. Mrs. Dr. Rly. Standing Counsel/
Govt. Advocate
Meghalaya
Nagaland

27/8/08
Put up to EE
after coming
from leave
25/8/08

- 12 -

13
16-4 SEP 2008
Guwahati Bench
গুৱাহাটী ন্যায্যপীঠ

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 308/2006.

Date of Order : This the 23rd Day of May, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Pikul Das,
S/o Shri Amulya Das,
Village Bahadurpur,
P.O. Larsingpar, PS-Silchar Sadar,
District Cachar, Assam

Applicant

By Advocate Mr M. Das.

Versus -

1. Union of India,
represented by the Secretary to the Govt. of India,
Ministry of Water Resources, New Delhi.
2. The Chairman,
Central Water Commission,
New Delhi.
3. The Chief Engineer, NEIC, CWC,
Rehak Villa near Bank Point,
Temple Road, Lower Lacherniere,
Shillong-793001.
4. The Executive Engineer,
North Eastern Investigation Division No.1,
CWC, Rongpur Part-1,
Silchar-788009.

Respondents

By Advocate Shri G. Baishya, Sr.C.G.S.C.

ORDER

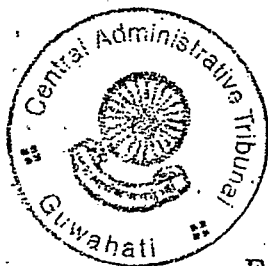
KHUSHIRAM (MEMBER-A)

The applicant was engaged as a Casual labourer on
02.09.1996 in Central Water Commission and was conferred with

R

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2
temporary status on 17.11.2001. Temporary status granted to the Applicant was subsequently withdrawn vide order dated 12.03.2003. The applicant has assailed this order by filing this Original Application seeking the following reliefs.

- (a) A declaration to the Respondents, particularly Respondent No.4 to rescind his impugned order NEID-1/PF/ESTT-39/2003/1964-66 dated 12.03.2003.
- (b) An order setting aside the impugned wrong and redundant order dated 12.03.2003.
- (c) An order confirming and vindicating the correct order NEID-1/ESTT.39/2001/6809-14 dated 17.11.2001, declaring that the applicant be deemed to be in service with Temporary Status from 17.11.2001.
- (d) A direction for conferment of Temporary Status to the Applicant from the date of the original order dated 17.11.2001 with all concomitant benefits.
- (e) A direction to the Respondents to deal with the service matters with more promptitudes.

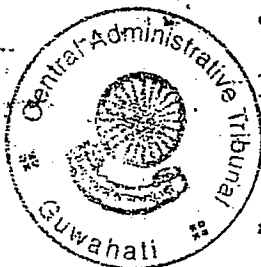


From the records it has been contended that the Applicant was engaged 02.09.1996 to 12.04.1997 in different spells under the scheme dated 101.06.1997 which was made applicable to CWC vide order dated 29.10.1998 (Annexure A4 to the O.A) which interalia clarified that "purpose of grant of temporary status and regularization of such casual labourers and adhoc Khalasis in the workcharged establishment and Central Water Commission will be governed by the Deptt. of Personnel & Training Scheme issued vide their OM No.31016/2/90-Estt(C) dated 10th September, 1993. The order dated 12.03.2003 states that (i) those who are in employment on the work-charged establishment of CWC on the date of commencement of the Scheme i.e. 1.6.1997 and renders a minimum of 120 days of continuous service or (ii) those who were engaged any time during the preceding one year and have rendered a minimum of 120 days of continuous service in that year. This scheme is

[Handwritten signature]

made applicable to casual labourers mutatis mutandis as per MoWR letter No.23/1/98-Estt.1 dated 29.10.1998,

2. The Respondents have filed written statement disclosing that Applicant was engaged as a casual labourer under CWC, Silchar in different spells during 02.09.1996 to 12.04.1997. The applicant had not served continuously during 02.09.1996 to 12.04.1997. The certificate issued in favour of the Applicant by Assistant Engineer, HQ, CWC, Silchar dated 21.06.1997 certifying that the Applicant worked in the Division as casual labourer during 02.09.1996 to 12.04.1997 was issued in good faith. It has also been stated that the scheme was applicable to those who are in service on 01.06.1997, the applicant had not served beyond 12.04.1997, therefore, he was not eligible for conferment of temporary status under the scheme. The Respondents have also clarified that the officer who issued the order of conferment of temporary status on the Applicant on 17.11.2001, the same officer Mr M. Lal himself initiated the process of review and withdrawal/modification of the order before his transfer. His successor Shri K.K.Jangid carried forward the review of the matter after getting clear cut instruction from Under Secretary, Estt.XII, CWC vide No.A-11019/2002-Estt.XII/1024 dated 19.8.2002 through SE, NEIC vide letter dated 13.9.2002. The Respondents followed proper procedure and issued show cause notice dated 10.01.2003 to the Applicant in consultation with senior officers and after filing the reply of the Applicant unconvincing, the temporary status was withdrawn vide order dated 12.03.2003. This action of the Respondents is not based on



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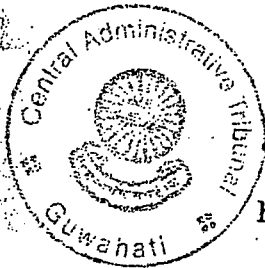
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jealousy or any other consideration. The error earlier committed has now since been rectified.

3. We have heard Mr M.Das, learned counsel appearing for the Applicant and Mr G.Baishya, learned Sr. Standing counsel appearing for the Respondent Department. The learned counsel for the Applicant has drawn attention to the different communications and the fact that the breaks shown by the Respondents (with a view to deprive the Applicant of the temporary status granted) were artificial; because no one was/is expected to work continuously for a period ranging 29 to 59 days and that, therefore, the Applicant is entitled to temporary status as was conferred earlier. Mr G.Baishya, learned Sr. Standing counsel appearing for the Respondents argued that since the Applicant has not fulfilled the conditions laid down in the scheme dated 01.06.1997 i.e. rendering a minimum 120 days of continuous service, the Applicant is not entitled to any relief and withdrawal of his temporary status is absolutely justified.

4. We have perused the materials placed on record and have considered the arguments advanced on behalf of the rival parties. We are of the view that technically the Applicant does not appear to have fulfilled the condition laid down in the scheme dated 01.06.1997 i.e. rendering a minimum 120 days of continuous service but it is not practical to accept that a person can work without any break for 120 days ? The record of the Respondents also states that Applicant was engaged as under :

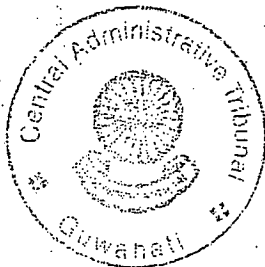
- | | | |
|----|--------------------------|---------|
| 1. | 02-09-1996 to 30-09-1996 | 29 days |
| 2. | 03-10-1996 to 30-11-1996 | 59 days |
- [Signature]*



3.	02-12-1996 to 29-01-1997	59 days
4.	31-01-1997 to 01-03-1997	30 days
5.	01-04-1997 to 12-04-1997	12 days

The first break between 30.09.1996 to 3.10.1996 is said to be a Sunday and 2nd October a National holiday. Similarly breaks thereafter between 30.11.1996 to 02.12.1996 is only one day and between 29.01.1997 to 31.01.1997 is one day only and any casual labourer engaged at the work site is not expected to move out to avail of this break. Therefore, the breaks appear to be artificial and can not be utilized by Respondents to justify the order passed by them on 12.03.2003 withdrawing the Temporary Status of the Applicant.

5. In view of the foregoing discussions, we remit the matter back to the Respondents with direction to examine the matter in the light of the aforesaid observations and review the order passed on 12.03.2003 for restoring temporary status on the Applicant. This case is accordingly disposed of.



Sd/-
Manoranjan Mohanty
Vice Chairman
Sd/-
Khushiram
Member (A)

TRUE COPY
प्रतिलिपि
अनुमान अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati-5

/pg/

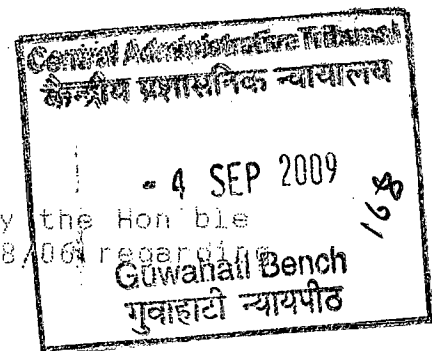
13/6

Annex - II 269

- 17 -

ANNEXURE - II
Date 20.7.08

To,
The Executive Engineer,
Central Water Commission,
North Eastern Investigation Divn.1
Jalukbari, Rangpur Part-I,
Silchar-9, Cachar, Assam.



Sub: Legal opinion on the order passed by the Hon'ble
CAT Guwahati in respect of OA No.308/06 regarding
temporary Status to Shri Pikul Das.

Ref: Your letter dtd. 19.7.2008 No. Nil.

Sir,

With reference to the subject cited above I
have the honour to inform you that I have conducted the
above case before the Hon'ble Tribunal. I have perused the
order dtd. 23.5.2008 passed by the Hon'ble Tribunal in
OA No.308/06.

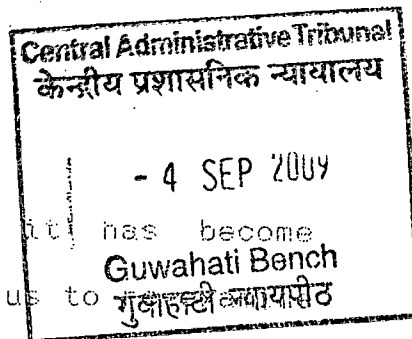
The Tribunal while disposing the case of the
applicant discussed the fact of the case regarding the
engagement of the applicant in different spell of time
during 2.9.1996 to 12.4.1997. It is matter of record
that the applicant did not serve the Deptt. continuous-
ly. It is also matter of record that the applicant was
not in engagement on 1.6.1997 when the scheme had become
applicable to the casual workers who had served conti-
nuously 120 days as on 1.6.1997. After discussing the
merit of the case the Hon'ble Tribunal remit the matter
to the respondent with direction to examine the matter
in the light of the scheme of temporary statue and
circular holding the field.

G. P. Singh

R. Chakraborty

22/8/08

- 18 - 169 - 270



From the above discussion it has become crystal clear the Tribunal has directed us to the case of the applicant and pass a speaking order on that. Thereafter I opined that a speaking order may be passed considering the case of the applicant with the scheme and the circulars. I further opined that this is not a fit case for filing an appeal in the High court as the case of the applicant was remitted back to us for reconsideration, examination and review.

Thanking you,

Yours truly

A handwritten signature in black ink, appearing to read "Gautam Baishya".

Mr. Gautam Baishya

Sr. C.G.S.C., CAT

Gautam Baishya
Sr. Central Government Standing Counsel
Central Administrative Tribunal
GUWAHATI-781 005

Tel.No.0364-2220644-2220668-2220617

Tel.Fax:0364-2220644

No. 1/4(A)/2006-BBB/ 2907/19

Government of India

Central Water Commission

Office of the Chief Engineer

Brahmaputra & Barak Basin Organization

Guwahati Bench

গুৱাহাটী ন্যায্যপীঠ

*Rebekka Villa, Near Bark Point,
Temple Road, Lower Lachumiere
Shillong - 793 001 (Meghalaya)

Dated: 23-07-2008

OFFICE ORDER

Consequent upon his transfer from NEID-I, CWC, Silchar to WP&P, CWC, New Delhi vide CWC's Office Order No. A-32013/1/2007-E.II dated 22.04.2008, Shri V. D. Roy, Executive Engineer, NEID-I, CWC, Silchar stands relieved of his duties w.e.f. 25.07.2008 A.N. with the Direction to report for duty in WP&P, CWC, New Delhi.

Shri A. K. Chakraborty, Executive Engineer, Meghna Division, CWC, Silchar is hereby directed to take over the charge of the post of Executive Engineer, NEID-I, CWC, Silchar w.e.f. 25.07.2008 A.N. In addition to his own duties until further order. He will, however, not be entitled for any extra remuneration for holding the additional charge.

This Issues with the approval of the Chief Engineer (B&BBO), CWC, Shillong.

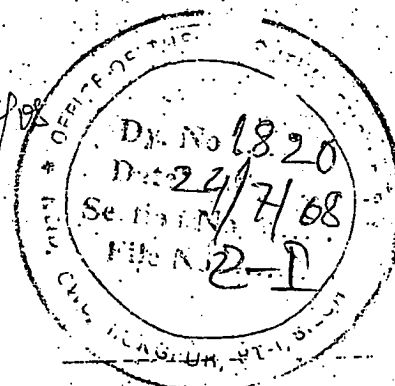
(SHER SINGH)

SuperIntending Engineer (Coord)

Copy to:-

1. The Secretary, CWC, New Delhi.
2. The Director, RMCD, CWC, New Delhi
3. The Director, WP&P, CWC, New Delhi
4. The SuperIntending Engineer, NEIC, CWC, Shillong.
5. The SuperIntending Engineer, Meghna Circle, CWC, Silchar.
6. The Pay & Accounts Officer, CWC, New Delhi
7. The Under Secretary, Estt.II, CWC, New Delhi
8. The Executive Engineer, NEID-I, CWC, Silchar.
9. The Executive Engineer, MD, CWC, Silchar.
10. The Section Officer, Accounts-III, CWC, New Delhi
11. Person concerned - (2).
12. File No.1/4(E)/2008-BBB
13. Officer order file.

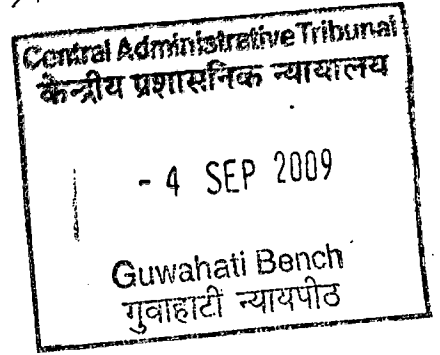
E-1



- 20 -

Annex-IV
ANNEXURE-IV

NO. NEID-I/PF-257/2008/4556-2/
Government of India
Central Water Commission,
North Eastern Inv. Division No.I,
Jalbikashpur, Rongpur Part-I,
Silchar-9, the September 18th 2008



To

The Superintending Engineer,
North Eastern Inv.Circle
Central Water Commission,
Shillong-14.

Sub : Taking over of Charge

Ref: Office Order No.A-22012/1/2008-E.II/2675 dated 28-07-2008 of
CWC, New Delhi..

Sir,

With reference to the letters cited above, it is to inform that I have taken over the charge of Office of the Executive Engineer, NEID-I, CWC, Silchar-9 from Shri A.K. Chakraborty, Executive Engineer. Necessary GFR-33 assuming the charge is sent herewith in triplicate alongwith handing over note for further necessary action please.

Yours faithfully,

15/9/08

[Sanjay Kumar Singh]
Executive Engineer

1. PPS to Chairman, CWC, Sewa Bhawan, R.K.Puram, New Delhi-110606
2. PPS to Member (RM), CWC, Sewa Bhawan, R.K.Puram, New Delhi-110606
3. The Chief Engineer, B&BBO, CWC, Shillong.
4. The Superintending Engineer, Meghna Circle, CWC, Silchar.
5. The Pay & Accounts Officer, CWC, Sewa Bhawan, R.K. Puram, New Delhi.
6. Under Secretary, Estt-II, CWC, Sewa Bhawan, R.K.Puram, New Delhi.
7. The Executive Engineer, Meghna Division, CWC, Silchar.
8. Shri A.K.Chakraborty, Executive Engineer, NEID-I, CWC, Silchar with a copy of GFR-33.
9. The Section Officer, Accounts-III, CWC, Sewa Bhawan, R.K.Puram, New Delhi-110606.
10. The Assistant Engineer (HQ), NEID-I.
11. The Assistant Engineer, NEISD-II, CWC, Trangblang, Meghalaya.
12. The Assistant Engineer, NEISD-V, CWC, Biate, Mizoram.
13. Accounts Branch, NEID-I.
14. Bill clerk.
15. Estt-2.

- 21 - 12/

No. NEID-I/GC-50/2008/ 7/26

Government of India

Central Water Commission,

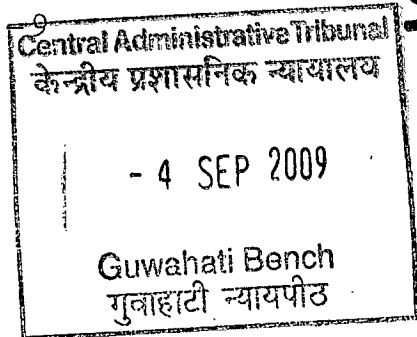
North Eastern Inv. Division No.I,

Jalbikashpur, Rongpur Part-I, Silchar

Dated the December 15/16 2008

Annex - V

ANNEXURE -



To

The Superintending Engineer,
North Eastern Inv. Circle, CWC,
"Rebeka Ville", Near Barik Point,
Temple Road, Lower Lachumere,
Shillong-1.

Sub: O.A.No.308/2006 filed by Shri Pikul Das Vs UoI & others in the Hon'ble CAT, Guwahati Bench, Guwahati - Follow up action on Judgment dated 23-05-2008.

Ref: No.NEIC/2013/CAT/G(3)/2006/969-71 dated 18-07-08.

Sir,

Please refer to letter cited above wherein a copy of the letter No.C-18014/7/2007-Estt.XII/605 dated 10-07-08 was enclosed and it was desired therein to examine/review the issues involved in the case and to intimate the applicant about the decision through a detailed speaking order.

In this regard it is to intimate that Shri Pikul Das has submitted a representation dated 13-08-08 addressed to the CE, B&BBO,CWC, Shillong and the undersigned requesting for implementation of the order dated 23-05-08, of the Hon'ble CAT, Guwahati Bench. This office has also received a letter dated 21-10-08 from Shri Manindra Kr. Bhattacharjee, Advocate on the subject mentioned above.

The copy of representation dated 13-08-08 of Shri Pikul Das and letter dated 21-10-08 of Shri Manindra Kr. Bhattacharjee, Advocate are enclosed herewith for future guidance in this regard please.

Encl: As above.

Yours faithfully,

[Sanjay Kumar Singh]
Executive Engineer

22 - 173
Confidential

Tel. No.0364-2220706, 2220720
Fax:0364-2506001

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
NORTH EASTERN INV. CIRCLE
SHILLONG

ANNEXURE-VI

"Rebekah" Guwahati Bench
Temple Road, Lower Lachumiere, Shillong-01
E-mail: seneic@sancharnet.in

Sub :- O.A. No.308/2006 filed by Shri Pikul Das v/s Union of India & Others in 2009
the Hon'ble CAT, Guwahati Bench, Guwahati - follow up action on
Judgment dated 23.05.2008.

Ref :- Letter No.NEID-I/GC-50/2008/7126 dated 15.12.2008.

Guwahati Bench
গুৱাহাটী ন্যাযপীঠ

The case of Shri Pikul Das may be examined/reviewed properly in the light of procedure/rules/provisions of scheme applicable in compliance of the observations/directions given by the Hon'ble Tribunal. In case any legal advice is felt required, the opinion from Central Govt. Standing Counsel, Central Administrative Tribunal Guwahati Bench, Guwahati may be taken to ensure that the matter is disposed off without any further delay.

[Signature]

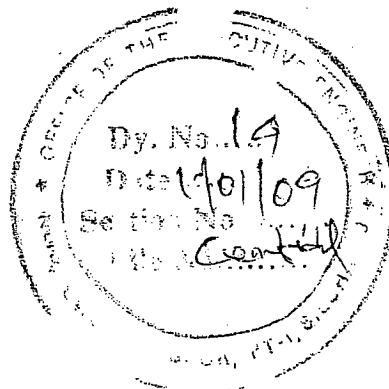
(P. M. Scott)
Superintending Engineer

✓ Executive Engineer, NEID-I, CWC, Silchar.

No.NEIC/2013/CAT/C/3/2006/ 2399.

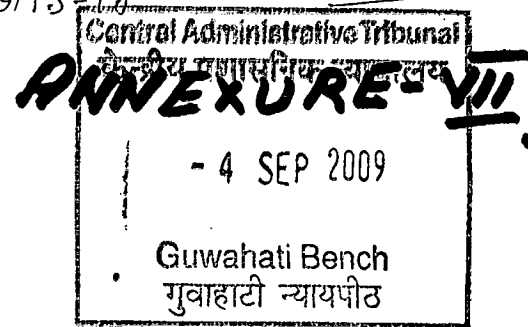
Dated 30/12/2008

Pl. constitute to
a committee to
look into
Sh. N. B. Bhattacharya, UDC
(Cont. Cases)
14/01/09



23 - 137
No. NEID-I/Conf/CC/P.Das/2009/15-17
Government of India
Central Water Commission
North Eastern Inv. Division No. I
Rongpur Part-I, Silchar-788009
Dated 28.11.2009

Annex - VI




OFFICE ORDER

In pursuance of the Judgement given by Hon'ble CAT Guwahati Bench, Guwahati in O.A. No.308/2006 a committee with the following officers is hereby constituted to examine the case of Shri Pikul Das in the light of judgement dated 23-05-2008 of the Hon'ble CAT.

- | | | | |
|----|---|---|------------------|
| 1. | Executive Engineer, NEID-I, Silchar | - | Chairman |
| 2. | Assistant Engineer (HQ), NEID-I, Silchar | - | Member |
| 3. | Shri N.B. Bhattacharjee, UDC, NEID-I, CWC, Silchar. | - | Member/Secretary |

Agenda of the Committee
Committee will


1. examine the case of Shri Pikul Das in the light of judgement dated 23/5/2008 in O.A. No.308/2006 of the Hon'ble CAT, Guwahati.
2. shall submit its report by end of July 2009.


[S.K. Singh]
Executive Engineer

Copy forwarded for information to:

1. The Superintending Engineer, NEIC, CWC, Shillong w.r.t letter No. NEIC/2013/CAT/C/3/2006/2399 dt. 30-12-2008.
2. The AE(HQ), NEID-I, CWC, Silchar.
3. Shri N.B. Bhattacharjee, UDC, NEID-I, CWC, Silchar.

Recd.
28.11.09

Received

28.11.09
AEHQ

Minutes of the Meeting of the Committee constituted to examine the case of Shri Pikul Das in the light of Judgement dated 23-05-08 in O.A. No.308/2006 of the Hon'ble CAT, Guwahati held on 16-07-2009.

Annex-VIII

The meeting of the committee constituted to examine the case of Shri Pikul Das in the light of Judgement dated 23-05-08 in O.A.No.308/2006 held at NEID-I, CWC, Silchar on 16-07-2009 under the chairmanship of Shri S.K.Singh, Executive Engineer, Shri M. Ravi, Assistant Engineer and Shri N.B.Bhattacharjee, U.D.Clerk.

After welcome address by the Chairman, Shri N.B.Bhattacharjee, U.D.Clerk & Member Secretary of the Committee gave brief account of the issue involved in the order of the Hon'ble CAT, Guwahati in respect of O.A.No.308/2006. The following records/orders/circulars have been reviewed/re-examined by the committee.

1. Procedure/rules/provision of the scheme for grant of temporary status and regularization of seasonal khalasis formulated vide Ministry of Water Resources Letter No.8/3/95-Estt.(Vol.II) dated 20.06.1997.
2. Orders/procedures related to conferment of temporary status to the applicant.
3. Procedures/orders to withdraw temporary status of the applicant.
4. Judgement of the Hon'ble CAT, Guwahati in respect of OA No. 308/2006 dated 23-05-2008.

The committee observed following points in light of observation/direction given by the judgement of hon'ble CAT, Guwahati and rules/provision/ procedures of the scheme under consideration.

- (i) Practicability of 120 days of continuous service.
This committee has inquired from the other offices of this organization regarding cases conferring temporary status under the said scheme. It has been found that casual labourers/seasonal khalasis, who have been conferred temporary status under the said scheme were practically and constructively engaged for continuous 120 days of service.
- (ii) Artificial breaks in the required service for eligibility
This committee has also observed that the period of engagement of the applicant for required eligibility criteria was prior to the commencement of the scheme. It was also no where contended by the applicant about any type of sinister animus on the part of then officers putting him on artificial breaks.
- (iii) Possibility of treating breaks as continuous
This committee has also observed all the orders /circulars/correspondences regarding relaxation of required continuity in 120 days of service under the scheme but could not found anything justifying breaks as continuous.

Finally the committee after extending careful consideration to the case and following Rules/provisions of the schemes for grant of Temporary Status in W/C Establishment of CWC and Judgement of Hon'ble CAT, Guwahati recommended to hang on this office order dated 12.03.2003.

M. Ravi
16.7.09
[M. Ravi]
Assistant Engineer

[S.K.Singh]
Executive Engineer

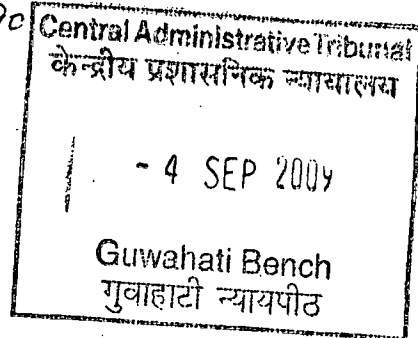
[N.B. Bhattacharjee]
UDC

ANNEXURE-IX.

By Registered Post

Annex-IX

No.NEID-I/CC/P.Das/2009/ 2587-90
Government of India
Central Water Commission
North Eastern Investigation Division No. I
Rongpur Part-I, Silchar
Dist:Cachar, Assam: Pin-788009
Dated the August. 14th 2009



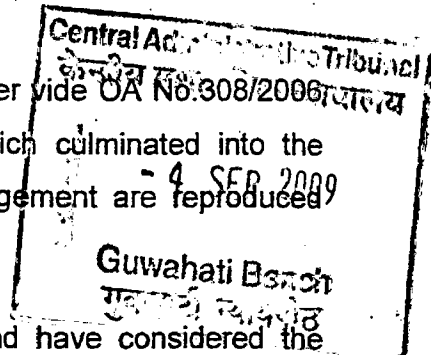
OFFICE MEMORANDUM

Sub: Implementation of the Hon'ble Central Administrative Tribunal, Guwahati order dated 23-05-08 in O.A. No.308/2006 filed by Shri Pikul Das Vs Union of India.

Where as, vide this office letter No.NEID-I/ESTT-39/2001/6809-14 dt. 17-11-2001, Shri Pikul Das, overlooking the provision of the scheme for grant of temporary status and regularization of seasonal khalasis formulated vide Ministry of Water Resources Letter No.8/3/95-Estt.I(Vol.II) dated 20.06.1997 made applicable to casual labourers, mutatis mutandis, as per Ministry of Water Resources Letter No.23/1/98-Estt.I dated 29.10.1998 was granted temporary status. Central Water Commission (HQ), New Delhi vide letter No. A11019/1/2002-Estt-XII/74-76 dt. 22.01.2002 had advised the Chief Engineer, B&BBO, CWC, Shillong to have the matter reviewed at the earliest and withdraw/modify the office order dated 17.11.2001 to get it rectified. This office was further directed by the SE, NEIC, CWC, Shillong i.e. cadre controlling authority in this case vide letter No. NEIC/2053/Vol-II/97/3899-3900 dt. 13.09.2002 to regularize the case. Accordingly, the case was reviewed and office records relevant to the case viz. Fixed Charges Register and wages bill etc. were ferreted out to find that his service from 02.09.1996 to 12.04.1997 were not continuous and not fulfilling the eligibility criteria i.e. "Temporary Status will be conferred on all those seasonal Khalasis engaged on work charged establishment of the Central Water Commission on the date of commencement of the scheme or any time during the preceding one year and have rendered a *minimum of 120 days of continuous service* preceding such date". Subsequently, O.M No.NEID-I/PF/ESTT-39/2003/291 dt. 10-01-2003 was issued to Sh. Pikul Das asking him to show cause as to why the erroneous order conferring temporary status to him should not be withdrawn. In the reply, Sh. Pikul Das contended that he has completed 120 days continuous service for the period. Having considered the reply and in the light of the facts available in the records, after following due procedure; vide this office order No.NEID-I/ PF/ESTT-39/2003/1964-66 dt. 12-03-03, temporary status inadvertently conferred on Shri Pikul Das, Ex-Casual Labourer; issued overlooking the provisions of the Scheme was repealed/withdrawn.

Contd....P/2

Subsequently, Shri Pikul Das contested the matter vide OA No. 308/2006 before Hon'ble Central Administrative Tribunal, Guwahati which culminated into the pronouncement dt. 23-05-08. The operative paras of the judgement are reproduced verbatim as under:



"We have perused the materials placed on record and have considered the arguments advanced on behalf of the rival parties. We are of the view that technically the Applicant does not appear to have fulfilled the condition laid down in the scheme dated 1.6.1997 i.e. rendering a minimum 120 days of continuous service but it is not practical to accept that a person can work without any break for 120 days? The record of the Respondents also states that Applicant was engaged as under:

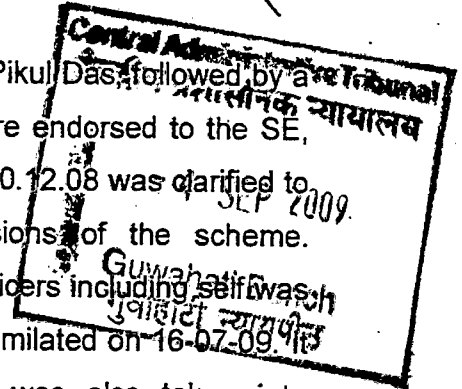
(i) 02.09.1996 to 30.09.1996	-	29 days
(ii) 03.10.1996 to 30.11.1996	-	59 days
(iii) 02.12.1996 to 29.01.1997	-	59 days
(iv) 31.01.1997 to 01.03.1997	-	30 days
(v) 01.04.1997 to 12.04.1997	-	12 days

The first break between 30.09.1996 to 03-10-1996 is said to be a Sunday and 2nd October a National holiday. Similarly breaks thereafter between 30.11.1996 to 02.12.1996 is only one day and between 29.1.1997 to 31.1.1997 is one day only and any casual labourer engaged at the work site is not expected to move out to avail of this break. Therefore, the breaks appear to be artificial and cannot be utilized by respondents to justify the order passed by them on 12.3.03 withdrawing the Temporary Status of the Applicant.

In view of the foregoing discussions, we remit the matter back to the respondents with direction to *examine the matter in the light of the aforesaid observations and review the order passed on 12.03.2003 for restoring Temporary Status on the Applicant.* This case is accordingly disposed of."

The judgment was received on 27.06.08. Subsequently, enclosing letter dt. 10-07-08 from the E XII, CWC, New Delhi, the SE, NEIC, CWC, Shillong vide its letter dt. 18.07.08 had desired to examine/review the issues involved properly in light of procedures /rules/ provisions of the scheme in compliance of the observations/directions given by the Tribunal.

A representation was received on 19.08.08 from Shri Pikul Das, followed by a letter dt. 21.10.08 from his advocate in the matter. These were endorsed to the SE, NEIC, CWC, Shillong for seeking guidance which vide letter dt. 30.12.08 was clarified to examine/review the case in light of procedures/rules/provisions of the scheme. Subsequently, on 28.01.09 a Committee comprising of total 3 Officers including self was constituted to delve upon the matter. The Committee finally assimilated on 16-07-09 individually & conjointly deliberated and the finding thereof was also taken into consideration.



Now reverting back to the Ordain vis-à-vis subliminal & overt directions of the Hon'ble CAT, the kernel points are the practicability of continuity, artificiality of the breaks in the service & also possibility of its extenuation without jettisoning essence of the scheme vis-à-vis the eligibility criteria.


For sussing out practicability of continuity, some of the cases so far conferred the temporary status in other offices of this organization involving similar nature of work were enquired to ascertain whether the touchstone of eligibility of continuous 120 day of service was *at all practicable & scrupulously* followed. The findings thereof have not been found encouraging in so far as extending any benefit to the instant case is concerned. The cases enquired were found to be punctiliously/religiously founded upon the minimum of required continuous 120 days of service and in these cases the beneficiaries were found practically having toiled continually for the duration.

It is also to mention the fact that the crucial factum of the case is prior to the Scheme & thereby begets no room for any kind of sinister animus on the part of the then officers in marring prospects of temporary Status on Shri Pikul Das & differentially putting him on artificial breaks; as also no-where contended by Shri Pikul Das.

Further, the possibility of extenuation of the breaks, without jettisoning essence of the scheme was re-explored. Again the tenets/provisions of the Schemes were closely gone through to find out, somehow, a sort of leeway, anywhere mentioned, even the annexure, puncturing the requirement of the crucial continuity, to bypass and grant benefit to Shri Pikul Das restoring the temporary status conferred on him. But the force emanating out of the barrels of the eligibility provisions of the Scheme doesn't extend any relaxation to the required continuity under any circumstances. The catchword, as the undersigned could comprehend by dint of his little wisdom, is the continuous service without interruption of even single day. Continuity is an indispensable eligibility criteria.

28 - 139-280

In the above circumspect and in obedience to the fiat of the Hon'ble Central Administrative Tribunal, Guwahati, while reviewing this office order dt. 12.03.2003, the undersigned find no chink anywhere to penetrate through for extending restoration of temporary status to Shri Pikul Das & with heavy heart, the undersigned is unable to rescind this office order dated 12.03.2003 but hang on this.


04/08/2009
[S.K. Singh]

Executive Engineer

To

Shri Pikul Das,
S/O Shri Amulya Das
Village: Bahadurpur
P.O. Larsingpar
Dist-Cachar, Assam
Pin-788002.

Copy to:

1. The Chief Engineer, B&BBO, CWC, Shillong.
2. The Superintending Engineer, NEIC, CWC, Shillong.
3. The Under Secretary, Estt.XII, CWC, Sewa Bhawan, R.K.Puram, New Delhi-110606.

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29-
ANNEXURE - X

4 SEP 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

S.No. 41 (1)

Annex - X

BY REGISTERED A/D

PHONE :: 03842-223939

FAX :: 03842-223937

Government of India
Central Water Commission,
North Eastern Inv. Division No.1,
Jalbikashpur, Silchar - 9

No. NEID-I/PF-Estt-39/2003/

1764-66

Dated: 12-03-03

OFFICE ORDER

WHEREAS the Ministry of Water Resources, New Delhi has formulated a Scheme for grant of Temporary Status to facilitate the Seasonal Khalasis of Central Water Commission. The application of the Scheme for grant of Temporary status and regularisation of Seasonal Khalasis formulated vide Ministry of Water Resources letter No. 8/3/95-Estt. (Vol.II) dated 20-6-1997 are governed by two conditions. (The Scheme will be applicable to (1) those who are in employment on the work-charged establishment of CWC on the date of commencement of the Scheme i.e. 1-6-1997 and renders a minimum of 120 days of continuous service or (2) those who were engaged any time during the preceding one year and have rendered a minimum of 120 days of continuous service in that year. The Scheme is made applicable to Casual Labourers, *mutatis mutandis* as per MoWR letter No. 23/1/98-Estt.I dated 29-10-1998.)

WHEREAS this office vide Office Order No. NEID-I/Estt-39/2001/6809-14 dated 17-11-2001 conferred temporary status on Shri Pikul Das, S/o Shri Amulā Das, Ex-Casual Labourer was inadvertently issued overlooking the provisions of the Scheme. As a matter of fact Shri Pikul Das is not eligible for conferment of Temporary Status.

(Vide Office Memorandum No. NEID-I/Estt-39/2003/291 dated 10-01-03 Shri Pikul Das, Ex-Casual Labourer was afforded an opportunity to show cause as to why the erroneous order No. NEID-I/Estt-39/2001/6809-14 dated 17-11-2001 conferring temporary status on him should not be withdrawn.

The explanations tendered by Shri Pikul Das has been considered. Shri Pikul Das has contended that he has completed 120 days continuous service for the period from 2-9-96 to 12-4-97. In this connection, the periods of engagement of Shri Pikul Das as Casual Labourer has been examined de-novo and found to be as recorded below.

1.	02-09-1996 to 30-09-1996	29 days
2.	03-10-1996 to 30-11-1996	59 days
3.	02-12-1996 to 29-01-1997	59 days
4.	31-01-1997 to 01-03-1997	30 days
5.	01-04-1997 to 12-04-1997	12 days

He was not engaged as Casual Labourer after 12-04-1997 and hence he does not satisfy the 1st condition of the Scheme. It is evident from the periods mentioned above that the 2nd condition of 120 days of continuous employment any time during the preceding year is also not fulfilled. As such Shri Pikul Das does not fulfil any of the two conditions envisaged in the Ministry of Water Resources letter No. 8/3/95-Estt. (Vol.II) dated

252
181
(71) 30
-2-
20-6-1997 No. 23/1/98-Estt.I dated 29-10-1998 to qualify for Temporary Status. Thus the order No. NEID-39/2001/6809-14 dated 17-11-2001 conferring Temporary Status on Shri Pikul Das, S/o Shri Arnulye Das was erroneous, and therefore, now hereby withdrawn.

To
Shri Pikul Das, S/o Shri Arnulye Das,
Ex Casual Labourer,
Vill. Badhurpur,
P.O. Larsinghpur,
Silchar, Dist. Cachar 788 005

[K.K. Jangid]
Executive Engineer
12/3

Copy to the following in continuation to this office letter No. NEID-I/Estt-39/2003/06-07 dated 10-01-03 for information along with a copy of the explanation tendered by Shri Pikul Das, S/o Shri Arnulye Das, Ex Casual Labourer.

1. The Superintending Engineer, NEIC, CWC, Shillong.
2. The Under Secretary, Estt. XII, CWC, New Delhi.

Received copy.

14-3-03

ANNEXURE-XI-283

31

No. 8/3/95-Estt. I (Vol. II)
Government of India
Ministry of Water Resources

Annex-XI
- 1 SEP 1997
Enc
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ
182

Shram Shakti Bhawan,
New Delhi-110 001.

Dated, the 20th June, 1997.

To
The Chairman,
Central Water Commission,
Sewa Bhawan,
R.K. Puram,
New Delhi-110 066.

Sub: Scheme for grant of temporary status and regularisation of seasonal khalasis in the work-charged establishment of Central Water Commission.

Sir,
Central Water Commission are required to engage the services of seasonal khalasis during the monsoon season from time to time. Such seasonal khalasis were being regularised in the work-charged establishment of Central Water Commission as per instructions contained in CWC's circular No. 6/37/75-Estt. XII (Vol. II), dated 22.6.1988. This has been further reviewed in the light of the Judgement of the Calcutta Bench of the Central Administrative Tribunal dated 19.12.1994 in the matter of Shri Nand Kishore Roy & Ors. Vs Union of India & Ors. and Judgement of the Guwahati Bench of the Central Administrative Tribunal dated 15.10.1996 in the matter of Shri H.R. Nath & Ors. Vs Union of India & Ors. and a decision has been taken by the Government to implement a scheme for grant of temporary status and regularisation of seasonal khalasis working in the work-charged establishment of Central Water Commission who are presently employed and have rendered a minimum of 120 days continuous service in Central Water Commission or such persons who were engaged anytime during the preceding one year and have rendered a minimum of 120 days of continuous service in that year. A copy of the scheme is enclosed.

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183
You are requested to bring the scheme to the notice of all appointing authorities under Central Water Commission and ensure immediate action for implementation of the provisions of the scheme by all concerned.

Kindly acknowledge receipt of this letter.

Yours faithfully,

Sd/-

(S.B. Basu)
Director (Estt.)
Tel. No. 371 6747.

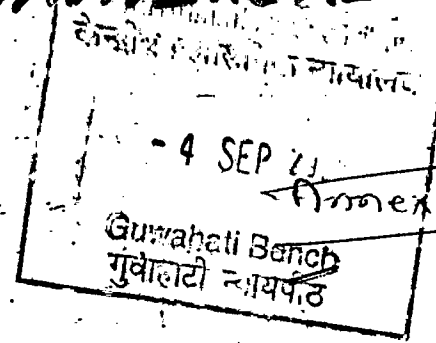
Encl: As- above
Copy alongwith a copy of the scheme to :

1. Cabinet Secretariat, (Shri D.M.M. Rao, Deputy Secretary), Rashtrapathi Bhawan, New Delhi with reference to his letter No. 26/CM/97(i) dated 20th May, 1997.
2. Ministry of Personnel, Public Grievances and Pensions, Deptt. of Personnel & Training (Shri Harinder Singh, Joint Secretary), North Block, New Delhi.
3. Ministry of Law & Justice, Deptt. of Legal Affairs (Shri D.P. Sharma, JS & LA), Shastri Bhawan, New Delhi.
4. Ministry of Finance, Deptt. of Expenditure (Shri Shyam Sunder, Under Secretary), North Block, New Delhi.
5. Ministry of Urban Affairs & Employment, Deptt. of Urban Development, (Shri Y.P. Singh, Director (Works)), Nirman Bhawan, New Delhi.
6. Shri M.S. Menon, Chief Engineer (HRM), Central Water Commission, Sewa Bhawan, New Delhi, for information and immediate necessary action.

Sd/-

(S.B. Basu)
Director (Estt.)
Tel. No. 371 6747.

33 -



No. 23/1/98-Estt. I
Government of India
Ministry of Water Resources

New Delhi, the 29th Oct., 1998

To

The Chairman,
Central Water Commission,
Sewa Bhawan, R.K. Puram,
New Delhi - 110 066.

Sub : Grant of temporary status and regularisation of casual labourers and adhoc Khalasis engaged in the Workcharged establishment of Central Water Commission - regarding.

Sir,

Vide this Ministry's letter number 8/3/95-Estt. I (Vol. II) dated 20.6.97 a scheme for grant of temporary status and regularisation of Seasonal Khalasis (numbering 2234) in the workcharged establishment of Central Water Commission was introduced with effect from 1.6.1997. The casual labourers, (numbering 88) and adhoc Khalasis (numbering 43) engaged by the various divisions of Central Water Commission in its workcharged establishment were kept outside this scheme. Instead, through this Ministry's letter number 8/3/95-Estt. I (Vol. II) dated 3rd July, 1997 and dated 17th October, 1997, it was clarified that for the purpose of grant of temporary status and regularisation of such casual labourers and adhoc Khalasis in the workcharged establishment of Central Water Commission will be governed by the Deptt. of Personnel & Training Scheme issued vide their OM NO. 51815/2/90-Estt (C) dated 10th September, 1993.

The matter has been reviewed in the light of the order dated 10.2.1994 passed by the Central Administrative Tribunal (Principal Bench), New Delhi in O.A. No. 223/92 in the matter of Shri Vinod Kumar & Ors. Vs Union of India & Ors. and other related O.A. NO. 884/92, 1601/92, 2246/92 and 2418/92 and in consultation with the Deptt. of Personnel & Training and it has been decided to extend the Scheme for grant of temporary status and regularisation of Seasonal Khalasis in the workcharged establishment of Central Water Commission 1997 to the casual labourers and adhoc Khalasis engaged in the workcharged establishment of Central Water Commission retrospectively with effect from 1.6.1997, mutatis mutandis.

For the purpose of the said scheme the casual labourer and adhoc Khalasis will be the ones as defined below :

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1. Casual Labourer generally unskilled persons engaged in the non-monetary period for providing additional assistance in survey drilling for works etc. for investigation of project. They are paid the minimum wages as prescribed by Ministry of Labour. A total of (88) persons are employed under this category in the workcharged establishment of the CWC.

2. Adhoc Khalasi Adhoc Khalasis are generally skilled/semi-skilled persons employed in the workcharged establishment for specific periods depending upon the exigency of the work and for specific works only. They are paid at the minimum of the scale of pay in the lowest grade in the workcharged establishment. A total of (43) persons are employed under category in the workcharged establishment of the CWC.

This supersedes this Ministry's letters NO. 8/3/95-Estt. I (Vol. II) dated 3.7.97 and 17.10.1997.

Central Water Commission are requested to ensure that the strength of casual labourers and adhoc Khalasis is (frozen) at the present strength as mentioned above and no fresh recruitment shall be made of any casual/adhoc or seasonal employees on regularisation of any casual labour. Adhoc Khalasi and seasonal Khalasi shall be complete ban on appointment of fresh casual labourers, adhoc Khalasis and Seasonal Khalasis. Any violation of these instructions will be viewed very seriously. Further CWC may also ensure that engagement of adhoc Khalasis and casual employees in spite of grant of temporary status may be resorted to only for the period essentially required for completion of specific work.

It is requested that above provisions regarding extending the benefits of the scheme to casual labourers and adhoc khalasis working in the workcharged establishment of Central Water Commission may please be brought to the notice of all appointing authorities and ensure immediate action for implementation by all concerned may also please be ensured.

Yours faithfully,

Sd/-
(A. K. BARUA)
Under Secretary to the
Government of India,
Tel. 3716928