

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 1.G.8/1/2005

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SECTION OFFICER (Judl.)

Salma
31/1/17

PLA. N.O. 4
 (SEE RULE 42)
 CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH

ORDER SHEET

163/05

Original Application No.

Disc. Petition No.

Contempt Petition No.

Review Application No.

Ashim Roy

M.U.F. Roy

Applicant(s)

Respondents

Advocate(s) for the Applicant(s) P. Roy, R. Dutta, C. Shom

Advocate(s) for the Respondents

Case

Notes of the Registry	Date	Order of the Tribunal
The application is in form is filed C.P. for its U/T deposited. Regd. P. No. 200/134125 Dated 22.6.05	24.6.2005	Counsel for the applicant is absent. Post on 28.6.2005.
Alex Dy. Registrant 24.6.05	24.6.2005	Heard Mrs. R. Dutta, learned counsel for the applicant and also Mr. M.U. Ahmed learned Addl. C.G.S.C. for the respondents No. 1.
Steps taken.		Issue notice to the respondents No. 2 to 5 to show cause as to why this application shall not be admitted. Post on 26.7.2005. Written statement, if any, in the meantime.

Notice & order
sent to D/Section
for issuing to
resp. Nos 1,3,4 & 5
by regd. A/D post and
resp. No-2 received
by hand.

D/No = 1050 to
1059

DT = 17/05.

Notice duly served by
on resp. No. 5.

K. D. Baruah
Member

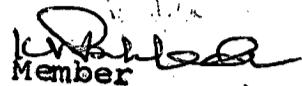
Mr. P. Roy, Mrs. R. Dutta and Mr. C. Shom, learned counsel for the applicant are absent. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents submits that the applicant had earlier approached this Tribunal and this case can be disposed of. Post on 01.08.2005.

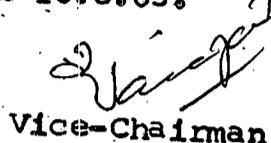
Vice-Chairman

1.8.05.

Since the question of jurisdiction is also involved. Post the matter along with other cases in which jurisdiction question is involved.

Post the matter on 10.8.05.


Member

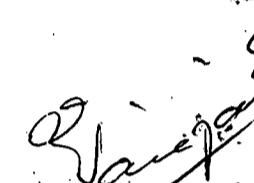

Vice-Chairman

lm

10.8.2005

Post this case on 16.8.2005 at
2.30 P.M.


Member


Vice-Chairman

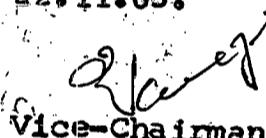
mb

16.8.05.

Mr. B.C.Pathak, learned counsel appearing on behalf of BSNL submits that he is not well and require time to fully recover. Therefore, all these matters has to be adjourned to another date.

Post the matter on 22.11.05.


Member


Vice-Chairman

lm

22.11.2005

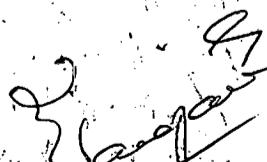
Post before the next Division Bench.

mb

2.1.2006

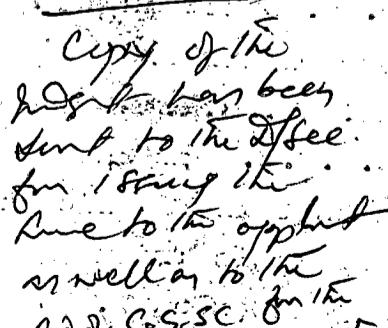
Heard learned counsel for the respondents. The application is disposed of in terms of the order passed in separate sheets.


Member


Vice-Chairman

mb

17.1.06


Copy of the judgment has been sent to the Office for issuing the same to the applicant as well as to the ADD. CS. & SC. for the reply. R. Dutt

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A. No. 163/2005

DATE OF DECISION: 02.01.2006.

Sri A. Roy

APPLICANT(S)

Mr. P. Roy

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Others

RESPONDENT(S)

Mr. A.K. Chaudhuri, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE Mr. N.D. DAYAL, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the judgment is to be circulated to the other Benches?

.....
Judgment delivered by Hon'ble Vice-Chairman.

[Handwritten signature of Justice G. Sivaranjan]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 163/2005

Date of Order : This the 2nd day of January 2006.

The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.
The Hon'ble Mr. N.D. Dayal, Administrative Member.

Sri Ashim Roy
S/o Sri Atul Roy
Resident of Village Matizuri
P.O. - Tempur, Dist - Hailakandi
Assam.

... Applicant

By Advocates Mr. P. Roy, Mrs. R. Dutta, Mr. C. Shom

- Versus -

1. The Union of India - represented by the Secretary to the Government of India, Ministry of Communication, New Delhi.
2. The Chief General Manager (Telecom), B.S.N.L., Assam Telecom Circle, Ulubari, Guwahati - 7.
3. The General Manager, Telecom, B.S.N.L., Silchar, S.S.A., Silchar, Assam.
4. Member, Scrutinizing Committee, Divisional Engineer (P&A), O/o the G.M. Telecom BSNL, Silchar, Assam.
5. The Sub-Divisional Officer (T), Telecom, B.S.N.L., Hailakandi, Assam.

... Respondents

By Mr. A.K. Chaudhuri, Addl. C.G.S.C.

ORDER (ORAL)SIVARAJAN. J. (V.C.)

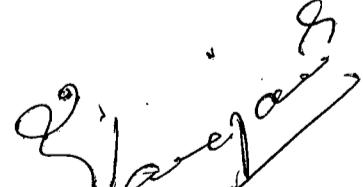
Counsel for the applicant is absent. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. is present on behalf of the respondents. Standing counsel has placed before us a decision of the Division Bench of the Hon'ble Gauhati High Court passed in W.P. (C) No. 1603/2004 and connected cases on 28.09.2005 where the Gauhati High Court has held that in the absence of a notification under Section 14(2) of the Administrative Tribunals Act 1985 this Tribunal has no jurisdiction to entertain applications seeking relief against the BSNL.

2. We have today disposed of similar matters declining jurisdiction. In the circumstances, even though the counsel for the applicant is absent, we dispose of this application holding that since no notification under Section 14(2) of the Administrative Tribunals Act 1985 has been issued, this application is not maintainable. However, this is without prejudice to the right of the applicant to approach the appropriate forum for relief.

Office will forward a copy of this order to the counsel for the applicant.



(N. D. DAYAL)
ADMINISTRATIVE MEMBER



(G. SIVARAJAN)
VICE CHAIRMAN

20 JUN 2001

Guwahati Bench

ASHIM ROY

BEFORE THE CENTRAL ADMINISTRATIVE
TRIBUNAL, GUWAHATI BENCH

O.A. NO. 163 /2005

ASHIM ROY
-VS-
UNION OF INDIA & ORS.

SYNOPSIS

SL. NO.	DATE	PARTICULARS	ANNEXU- RES	PAGE
1		List of Casual Labours engaged after 31.3.85 upto 22.5.88.	1	15
2	9.12.97	Casual labours (grant of temporary status and regularization.	2	16-17
3	22.12.97	Casual labours (grant of temporary status and regularization scheme) 1989 engaged after 30.3.89.	3	18-19
4	29.12.97	Approval of Casual labours for granting Temporary status posted under JTC (Phones).	4	20-21
5	29.6.98	Casual labours (Grant of Temporary status & regularization) 1998 engaged after 30.3.95.	5	22-23
6	2.7.98	Order passed by Vice Chairman, CAT in Case No.141/190.	6	24-25
7	26.9.2000	Grant of temporary status Mazdoor.	7	26
8	28.4.04	Order passed by Member (Admn.) CAT in case No. 89/3.	8	27-29

9	28.12.04	Order passed by General Manager, Silchar rejecting the grant of temporary status and other benefits under temporary status Mazdoor.	9	30
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G R O U N D S

The instant application is made against the order dated 28.12.2004 passed by the General Manager, Telecom, BSNL, Silchar rejecting the prayer for granting temporary status by setting aside the order dated 27.6.98, passed by the Telecom District Manager, Silchar communicated by order dated 29.6.98 by the Sub-Divisional Officer (T), telecom, Hailakandi whereby the earlier Order dated 9.12.97 of granting temporary status to the applicant was cancelled illegally. This application is also made for an appropriate direction to the respondents to regularize the services of the applicant and to allow him to work as a Temporary Status Mazdoor till such regularization is made effective, in the light of various guidelines issued by the respondents for regularization of the services of Group-D employees.

FILED BY:

Reetija Datta

(ADVOCATE)

3
BEFORE THE CENTRAL ADMINISTRATIVE
TRIBUNAL, GUWAHATI BENCH

O.A. NO. 163 /2005

BETWEEN:

Sri Ashim Roy,
S/o Sri Atul Roy,
Resident of Village Matizuri,
P.O. Tempur, Dist-Hailakandi,
Assam.

---- APPELLANT

-AND-

1. The Union of India - represented by the Secretary to the Govt. of India, Ministry of Communication, New Delhi.
2. The Chief General Manager (Telecom), B.S.N.L., Assam Telecom Circle, Guwahati-7.
3. The General Manager, Telecom, B.S.N.L., Silchar S.S.A., Silchar, Assam.
4. Member, Scrutinizing Committee, Divisional Engineer(P&A), O/o the G.M. Telecom, BSNL, Silchar, Assam.
5. The Sub-Divisional Officer(T), Telecom, B.S.N.L., Hailakandi, Assam.

----RESPONDENTS

Ashim Roy
Dated this 22nd August 2005
through Recd by
Atul Roy
22-08-05

DETAILS OF THE APPLICATION

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

The instant application is made against the order dated 28.12.2004 passed by the General Manager, Telecom, BSNL, Silchar rejecting the prayer for granting temporary status by setting aside the order dated 27.6.98, passed by the Telecom District Manager, Silchar communicated by order dated 29.6.98 by the Sub-Divisional Officer (T), telecom, Hailakandi whereby the earlier Order dated 9.12.97 of granting temporary status to the applicant was cancelled illegally. This application is also made for an appropriate direction to the respondents to regularize the services of the applicant and to allow him to work as a Temporary Status Mazdoor till such regularization is made effective., in the light of various guidelines issued by the respondents for regularization of the services of Group-D employees.

2. JURISDICTION :

The applicant further declare that the subject mater of the instant case is within the jurisdiction of this Hon'ble Tribunal.

Ashim Ray

3. LIMITATION :

The applicant declares that the instant application has been filed within the period of limitation.

4. FACTS OF THE CASE :

4(a). That the applicant is a citizen of India and permanent resident of Assam and as such he is entitled to all the rights protections and privileges as guaranteed by the Constitution of India and the laws framed there-under.

4(b). That the applicant was a Casual Labourer engaged in the Department of Telecommunication on 1.4.88 and was working as such till he was granted temporary status on 9.12.97 and thereafter he was working as Temporary Status Mazdoor under the respondents at Jalalpur Telephone Exchange under Hailakandi Sub-Division, District-Hailakandi, Assam till he was terminated illegally.

4(c). That the Govt. of India, Ministry of Communication has prepared a Scheme under the name and style "Casual Labourer(grant of temporary status and regularization) scheme" 1989 and as per the said scheme certain benefits have been granted to the Casual Workers such as conferment of temporary status, wages and daily rate with reference to the minimum pay Scale for regular Grade-D officials

Ashim Roy

including DA and HRA etc. and for regularization and absorption as regular Grade-D Cadre.

4 (d). That since the applicant fulfills the eligibility criteria laid down in the aforesaid scheme since he was engaged on 1.4.88 and was continuing and so the Sub-Divisional Officer (T), Department of Telecom, Hailakandi recommended the name of the applicant along with others for grant of temporary status and submitted the particulars of the applicant along with the other relevant service records including total No. of Working days etc.

A copy of the aforesaid recommendation along with the service particulars of the applicant is annexed herewith and marked as ANNEXURE-1. (Page- 15)

4 (e). That after the aforesaid recommendation and the names of the applicant and others were forwarded to the D.P.C. for consideration of their cases for granting temporary status as per the scheme and the D.P.C. found them eligible for granting temporary status. To that effect the respondents issued order on 9.12.97 and 22.12.97 whereby temporary status was conferred upon the applicant along with others.

Copies of the orders dated 9.12.97 and 22.12.97 are annexed herewith *A. K. Roy*

and marked as ANNEXURES-2 & 3
respectively. (Page-16,18).

4(f). That after granting temporary status by aforesaid order dated 9.12.97 and 22.12.97 the applicant was posted at Jalalpur Telephone Exchange where he joined on 22.12.97, which was approved by T.D.M., Silchar and was communicated to the applicant on 29.12.97.

A copy of this letter dated 29.12.97 is annexed herewith and marked as ANNEXURE-4. (Page-20).

4(g). That after the aforesaid orders the applicant had been working sincerely and honestly at his place of posting and was getting his pay and allowances. He was also with a bona-fide belief and expectation that his service would be regularized in due course but instead of regularizing the service of the applicant, the respondent No.3 all of a sudden have issued an order on 27.6.98 communicated by Respondent No.5 by his order dated 29.6.98 to the applicant by which the earlier order of conferring temporary status was cancelled. By this order the respondents have terminated the service of the applicant w.e.f. 29.6.98.

A copy of this order dated 29.6.98 is annexed herewith and marked as ANNEXURE-5 (Page-22).

Ashim Roy

4(h). That the applicant immediately made several requests to the authority concerned but when nothing has been done in the matter he was constrained to approach through his Union, this Hon'ble Tribunal by way of filing an appeal being No. O.A.141/98. The appeal was admitted on 2.7.98 and the respondents were directed not to disengage him and others and to allow him to continue in his service by order dated 2.7.98 passed in O.A. No. 141 of 1998.

A copy of this order dated 2.7.98 is annexed herewith and marked as ANNEXURE-6 (Page- 24).

4(i). That thereafter the respondents entered their appearance and filed their written statements denying all the claims of the Union. But it is pertinent to mention that the respondents admitted the position that the scheme is applicable to the Casual Employees who were engaged before the Scheme came into effect. However, this Hon'ble Tribunal disposed of the appeal by its Judgement and order dated 31.8.99 directing the respondents to scrutinize and examine the case of the applicant and others and to pass reasoned order of each case and till disposal of the representation the interim order passed would remain in force. The operative portion of the Judgement is quoted below :

Ashim Roy

"8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representation."

4(j). That the applicant then filed a representation stating his case and praying for revoking the cancellation order of conferring Temporary Status but on 26.9.2000 the applicant was informed by the Respondent No.3 that the scrutinizing Committee after examination of records submitted its report that the applicant did not fulfill the minimum eligibility criteria i.e. he did not complete 240 days in any calendar year proceeding 1.8.98 and he was not in engagement on 1.8.98 and as such he can not be granted temporary status Mazdoor and hence his prayer rejected.

A copy of this order dated 26.9.2000 is annexed herewith as

ANNEXURE-7 pg 26

Ashim Roy

4(k). That against the said order dated 26.9.2000 the appellant filed an appeal before the Tribunal being numbered as O.A. 89/2003 contested the case by filing affidavit in opposition stating in paras 4 & 8 specifically that the appellant worked only 6 days in the year 1991 and 22 days in 1995 and he was not in engagement on 1.8.98 as such the Hon'ble Tribunal disposed of the appeal with a direction to re-examine the mater once again and to give a clear finding whether applicant was engaged from 29.6.98 when his engagement was withdrawn to the date of disposal of his representation on 26.9.2000 by order dt.

28.4.04 passed in O.A.89/2003.

A copy of the judgement is annexed as ANNEXURE-8 (Page- 27).

4(l). That thereafter the appellant filed a representation to the respondents as per order of the Tribunal and thereafter the respondents most illegally without applying its mind properly, mechanically passed an order on 28.12.2004 rejecting the claim of the appellant.

A copy of the said impugned order dt. 28.12.04 is annexed herewith as
ANNEXURE-9. pg3c

Ashim Roy

4 (m). That the appellant begs to state that no doubt the appellant was disengaged by the respondents w.e.f. 29.6.98 but the Hon'ble Tribunal by order dt. 2.7.98 vide ANNEXURE-6 directed that the appellant shall not be disengaged and that they shall be allowed to continue in their service which means that they are in engagement and in service till 26.9.2000 i.e. the date of disposal of their representation. As such the finding of the respondents that status-quo as regards their disengagement is maintained is perverse and non-application of mind.

4 (n). That the appellant further begs to state that in their affidavit-in-opposition filed in Case No. O.A.89/2003 they stated that the appellant was in engagement only for 28 days i.e. 6 days in the year 1991 and 22 days in 1995 but now in the impugned order respondents' finding is that the appellant was engaged 20 days in 1995 and 179 days in 1998 which are contradictory to each other and as such the finding is perverse and not based on any records and is misleading and liable to be quashed.

4 (o). That the appellant begs to state that in view of the contradictory and misleading statements of the respondents regarding engagement period of the appellant, the engagement period as mentioned in the chart annexed as ANNEXURE-1 be accepted as genuine *Ashem Roy*

and the perverse finding of the respondent be quashed.

5. GROUNDS WITH LEGAL PROVISIONS :

5.1. For that the action of the respondents are *prima-facie* illegal, arbitrary and violative of the principles of natural justice.

5.2. For that the respondents have acted contrary to the settled principles laid down by the Constitution of India in not giving any opportunity of hearing at the time of issuing the impugned orders dated 29.6.98.

5.3. For that the respondents have issued the impugned orders violating their own commitments and hence the same are liable to be set aside and quashed.

5.4. For that the finding of the respondents are not in terms of the direction of the Hon'ble Tribunal and as such the same can not be accepted.

5.5. For that the appellant is not in engagement on 29.6.98 in apparently perverse on the face of the order dt. 2.7.98 and in O.A.141/98 passed by the Hon'ble Tribunal.

5.6. For that the finding of the respondent about in maintenance of status-quo is apparently non-application of mind and wrong and incorrect interpretation of the order *Asstt. Secy. BOP*

2.7.98 of the Hon'ble Tribunal and as such the finding is not acceptable and liable to be quashed.

5.7. For that the period of engagement collected on the basis of alleged report of the Committee is apparently perverse and not acceptable to be genuine and hence the impugned order dt. 28.12.04 passed on that report is liable to be quashed or set aside.

5.8. For that the impugned order dt. 28.12.04 passed on the basis of such report which is contradictory to previous report is also illegal and non-application of mind and as such the same is not maintainable in law and liable to be set aside or quashed.

5.9. For that in any view of the matter the impugned orders dated 27.6.98, 29.6.98 and the order dt. 28.12.04 are bad in law and liable to be set aside or quashed.

5.10. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and hence same are liable to be set aside and quashed.

The applicant crave leave of this Hon'ble Tribunal to advance more grounds at the time of hearing of this application:

Ashim Roy

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

7. MATERS NOT PREVIOUSLY FILED ON PENDING IN
ANY OTHER COURT :

The applicant further declares that he has not previously filed any application, writ petition or suit regarding this new cause of action in respect of which this application is made before any Court or any other Bench of the Tribunal or any other authority nor any such application, Writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above the applicants most respectfully prayed that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records be grant the following reliefs to the applicants:-

8(a). To direct the respondents not to terminate the services of the applicant.

8(b). To set aside and quash orders dated 27.6.98, 29.6.98 and 28.12.2004 passed by the Respondents No. 3.5 and 3 respectively. *Ashwin Roy*

8(c). To direct the respondents to extend the benefits of the scheme prepared by the respondents.

8(d). To direct the respondents to regularize the service of the applicant as Grade-D employee.

8(e). Cost of application.

8(f). Any other relief/reliefs to which the applicant is entitled to and as deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

The applicant pray for an interim order directing the respondents to allow the applicant to continue in his service pending disposal of this application.

10. PARTICULARS OF THE I.P.O:

1. I.P.O. NO. : 20G 134123

2. Date : 22-06-05

3. Payable at : C.A.T., Guwahati

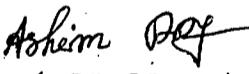
11. Enclosures :- As stated above.

Ashim Roy

VERIFICATION

I, Sri Ashim Roy, Son of Sri Atul Roy, resident of Village-Matizuri, P.O. Tempur, P.S. & District - Hailakandi, aged about 33 years, by Caste-Hindu, by profession-Service, do hereby solemnly affirm and verify that the statements made in paragraphs 1,2,3,4(a),4(b), 4(c),4(d),4(e),4(f),4(m),4(n) and 4(o) of the petition are true to my knowledge and those made in the paragraphs 4(g),4(h),4(i),4(k), 4(l) of the petition are matters of records which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this Verification on this the 21st day of June, 2005 at Guwahati.


(APPELLANT)

To

The T.O.E/Silcher.

Sub:- PARTICULARS OF CASUAL LABOURS.

Kindly find herewith a list of Casual Labourers engaged on 22.06.88 and those are continued in service. The

Sl.No. Name of casual labourer. Grade. Date of birth. Sponsoring and their full address. particulars

1. 2. 3. 4. 5.

1. Sri Seshank Kumar Das. S/C 39.09.60 5877/90
S/O Sri Surendra Ch.Das. X01.10
P.O. & Vill-Katigora.
Dist-Cachar.

2. Sri Amresh Das. S/C 01.01.65 1910/88
S/O Late Hemchandra Das. X01.10
Vill-Bakrihawar.
P.O.KALINAGAR.
Dist-HAILAKANDI.

3. Sri Ashim Roy. S/C 09.02.70 5889/90
S/O Sri Atul Ch.Roy. X01.10
Vill-Matijuri.
P.O-Tempur.
Dist-Hailakandi.

4. Sri Jayanta Das. S/C 15.07.71 1205/88
S/O Sri Jitendra Ch.Das X01.10
Vill-Bakrihawar.
P.O. Kalinager.
Dist. Hailakandi.

5. Sri Arbindu Das. S/C 17.2.87 6679/63
S/O Sri Arun Das. X01.10
Vill-Sripur.
Dist-Cachar.

Received from J.F.O.Phones/Underpur, Kengroad after 31.03.85 and up-to
date of casual labourers and their particulars are shown below.

6. 7. 8.

01.01.1985 To complete targetted work, which was unable to complete by the existing staff. Year Days Year Days
1985 - 62 1991 - 246
1986 - 30 1992 - 294
1987 - 62 1993 - 288
1988 - 242 1994 - 240
1989 - 240
1990 - 244

Year Days Year Days
1986 - 273 1993 - 243
1989 - 275 1994 - 243
1990 - 241
1991 - 240
1992 - 249

Year Days Year Days
1988 - 240 1992 - 247
1989 - 247 1993 - 245
1990 - 249 1994 - 243
1991 - 247 1995 - 26

Year Days Year Days
1988 - 273 1992 - 247
1989 - 290 1993 - 245
1990 - 245 1994 - 245
1991 - 246

Year Days Year Days
1984 - 365 1991 - 259
1985 - 365 1992 - 247
1986 - 245 1993 - 243
1987 - 364 1994 - 241
1988 - 287 1995 - 279
1989 - 276
1990 - 275

ANNEXURE-2

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER,
SILCHAR.

NO.E-20/Grp-D/Rectt/99 Dated at Silchar, 09.12.97

To

The Sub-Divisional Officer (Telegraphs),
Mailakandi.

Sub :- Casual labours (Grant of temporary
status and regularization scheme) 1989
engaged after 30.3.85 up to 22.6.88).

In pursuance of the DOT New Delhi
letter No. 269-4/93-STN-II dated 17.12.93
CGMT/Guahati letter No. Rectt-3/10/Part-II
dated 4.01.94, the following four Casual
Mazdoors in your Sub-Division are approved for
granting of temporary status on the basis of
particulars furnished by you vide your letter
No.E-22/Rect/95-96 dt. 14.8.95.

You are directed to take further action
after verification of their eligibility once
again on the points mentioned below:-

- (1) Age at the time of engagement.
- (2) Educational qualification up to VIII
standard.
- (3) No of days worked year wise.

After conferring the provisional
approval for granting of temporary status
w.e.f. 9.12.97 to the Casual Mazdoors mentioned
Ashim Roy

below. Intimation is to be given to TDM/Silchar for their place of posting which will be decided by TDM/Silchar.

List of Mazdoors approved for TSM:-

1. Sri Sashanka Kumar Das,
S/o Suresh Ch. Das,
P.O. & Vill-Katigorah,
Dist-Cachar.
2. Sri Amaresh Das,
S/o Late Harmohan Das,
Vill-Bakrihawar, Pt-VII,
Dist-Hailakandi.
3. Sri Ashim Roy,
S/o Sri Atul Roy,
Vill-Matijuri, P.O. Tempur,
Dist-Hailakandi.
4. Sri Arabinda Das,
S/o Sri Arun Das,
Vill-Sripur, P.O. Fulbari,
Dist-Cachar.

Sd/-S.K.Samanta,
Telecom District Manager, Silchar.

Copy to :-

The A.O. Cash, O/o TDM, Silchar.

Sd/-
Telecom District Manager, Silchar.

Certified to be true

Copy

Ashim Roy

*R. Dutt
Awarde!*

ANNEXURE-3

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SUB-DIVISIONAL OFFICER,
TELEGRAPHS, HAILAKANDI.

1. Sri Sashanka Kumar Das,
S/o Suresh Ch. Das,
P.O. & Vill-Katigorah,
Dist-Cachar.
2. Sri Amaresh Das,
S/o Late Harmohan Das,
Vill-Bakrihawar, Pt-VII,
Dist-Hailakandi.
3. Sri Ashim Roy,
S/o Sri Atul Roy,
Vill-Matijuri, P.O. Tempur,
Dist-Hailakandi.
4. Sri Arabinda Das,
S/o Sri Arun Das,
Vill-Sripur, P.O. Fulbari,
Dist-Cachar.

Ref :- R-22/Rectt/14 dated at Hailakandi the
22nd Dec' 97.

Sub :- Casual labours (Grant of Temporary
Status and regularization Scheme) 1989
engaged after 30.3.85.

With reference to Telecom District
Manager, Silchar letter No.E-20/Grp.D/Rectt./98
dt. 9.12.97, you have been approved by *Ashim Roy*

District Manager, Silchar for granting of temporary status of Casual Mazdoor subject to acceptance of the following certificates/records after verification, you are hereby directed to submit the following original certificates/documents along with a attested copy on or before 29.12.97 to this Office positively.

- Age proof certificate.
- Educational Qualification Certificate.
- Work Experience certificate.
- S/C S/T Certificate if any.
- Two Nos. of Character Certificate from Gazetted Officers.
- Health Certificate.
- Employment Registration Card.

(Sd/-J.R.Bhattacharjee),
Sub-Divisional Officer Telegraphs,
Hailakandi.

Copy to :-

The Telecom District Manager, Silchar-788001 for favour of his kind information.

Sub-Divisional Officer Telegraphs,
Hailakandi.

certified to be true

Copy

R. Datta
Advocate

Ashim Roy

ANNEXURE-4

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SUB-DIVISIONAL OFFICER,
TELEGRAPHHS, HAILAKANDI.

Memo No.D-22/Rectt/16A Dated at Hailakandi the 29th
Dec' 97.

In accordance with Telecom District Manager, Silchar, letter No.E-20/Gr.D/Rectt/99 dt. 9.12.97, the following approved Casual labours for granting of temporary status are posted under J.T.C. (Phones), Badarpurghat as TGM w.e.f. 30.12.97. They are instructed to report to UTO (T) BDS immediately.

1. Sri Sashanka Kumar Das.
2. Sri Amaresh Das.
3. Sri Ashim Roy.
4. Sri Arabinda Das.

The final place of posting order will be issued by the Telecom District Manager, Silchar.

Sd/-
(J.R.Bhattacharjee)
Sub-Divisional Officer Telegraphs,
Hailakandi.

Copy to :-

1. The Telecom District Manger, Silchar-788001 for information and necessary action.

Ashim Roy

2. The Sr. Accounts Officer (Cash), O/o the Telecom District Manager, Silchar.
3. The J.T.O.(Phones), Badarpurghat for information and necessary action.
4. Sri Sashanka Kumar Das, S/o Sri Suresh Ch. Das, Vill & P.O. Katigorah, Dist-Cachar.
5. Sri Amarendra Das, S/o late Harmohan Das, Vill-Bakrihewar Part-VII, P.O. Kalinagar.
6. Sri Ashim Roy, S/o Sri Atul Ch. Roy, Vill-Matijuri, P.O. Tempur, Hailakandi.
7. Sri Arabinda Das, S/o Sri Arun Das, Vill-Sripur, P.O. Fulbari, Cachar.

Sd/-
Sub-Divisional Officer Telegraphs,
Hailakandi.

certified to be true

Copy

R. S. Datta
Advocate

Ashim Roy

ANNEXURE-5

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SUB-DIVISIONAL OFFICER,
TELEGRAPHHS, HAILAKANDI.

No. E-/Rectt/loose/98-99/22 Dt. 29.6.98
To

Sri Ashim Roy,
Telephone Exchange,
Jalalpur, Cachar.

Sub :- Casual labourers (Grant of temporary
status and regularization scheme),
1998 engaged after 30.3.95.

Ref :- TDM/Sc Memo No. XII/TDM-SC/CM-Rectt/
98-99/209 and this Office letter No.E-
22-/Rectt/14 dt. 22.12.97 and E-22/
Rectt/14A dt. 29.12.97.

The provisional temporary status
conferred on you vide TDM, Silchar letter No.E-
20/Grp-D/Rectt/99 dtd. At Silchar, 9.12.97 has
been cancelled by TDM, Silchar vide his letter
No.X-11/SC/CM-Rectt/98-99/209 dtd. 27.6.98, as
you have not qualified for TSM as per your
previous engagement record.

The undersigned has been decided not to
engage you any more and as such your services
are no longer required with effect from the
forenoon of 29.6.98.

Sd/-Illegible,
Sub-Divl.Officer Telegraph,
Hailakandi.

*certified to be
true copy
R. Datta
Addressed*

Ashim Roy

Copy to :-

1. TDM, Silchar for favour of kind information pl.
2. CAO, O/O TDM Silchar for information pl.
3. DE(F&A), O/O TDM, Silchar for information pl.
4. UTO(T), Badarpurghat is instructed to collect the key of Jalalpur xge. from Sri Ashim Roy before 12 noon on 29.6.98 and depute a suitable person to Jalalpur xge on emergency basis.

Sd/-

Sub-Divl.Officer Telegraph,
Hailakandi.

certified to be
true copy

R Datta
Advocate

Ashim Roy

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ANNEXURE-6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

ORDER SHEET

APPLICATION NO. 141 OF 1998

Applicant(s) : All India Telecom Employees
Union & Anr.

-Vs-

Respondent(s) :- Union of India & Ors.

Advocate for Applicant(s) :- Mr. B.K.Sharma,
Mr. S.Sarma,
Mr. U.K. Nair.

Advocate for Respondent(s) :- C.G.S.C.

Note of the Registry	Date	Order of the Tribunal

2.7.98

Heard Mr. B.K.Sharma learned counsel appearing on behalf of the applicant and Mr. S. Ali, learned Sr. CGSC for the respondents.

Application is admitted. Mr. B.K.Sharma prays for an interim order not to discontinue the services of the applicants. Mr. S.Ali has no instructions in this mater.

Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.

Ashin Dey

Meanwhile, the Casual workers (TSM) shall not be disengaged and they shall be allowed to continue in their services.

List it on 31.7.98 for orders.

Sd/-VICE CHAIRMAN,

Sd/-Member (Admn.).

*certified to be
true copy*

*R. Datta
Admn. Secy*

Ashim Roy

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA :: SILCHAR

No. E-20/TEC Regularisation/SC/04

Dated at Silchar, the 26-07-2000

To

✓ Shri.....Ashim Ray
S/oS.A.Ray
VillA.jari.....
P.O.T.
Dist.N.

Sub: - Grant of Temporary Status Mazdoor.

Ref: - Hon'ble CAT/Guwalati order dtd. 31-8-99 in OA No. 141/98

With reference to the above, you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwalati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. Estt-9/12/PART-1/23 dtd. the 28-03-2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dt. 12-02-1999, on the basis of your engagement records, as you did not fulfil the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom. in any calendar year preceding 01-08-1998.
- 2) You were not in engagement as on 01-08-1998.

The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status Mazdoor cannot be acceded to and as such your representation stands disposed of.

*Certified to be
true copy*

*R. Datta
Advocated*

General Manager Telecom
Silchar SSA :: Silchar

General Manager Telecom
SILCHAR

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

Original Application No. 89/2001

Date of Order : This the 28th day of April, 2004.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Sri-Abhim Roy
Son of Sri Atul Roy
Resident of Village - Matiguri
P.O. - Tempur,
Dist. - Hailakandi, Assam. Applicat.

By Advocates Mr. P. Roy, Mrs. R. Dutta.

- Versus -

1. The Union of India - represented by the Secretary to the Govt. of India, Ministry of Communication, New Delhi.
2. The Chief General Manager (Telecom), BSNL, Assam Telecom Circle, Ulubari, Guwahati - 7.
3. The General Manager, Telecom, B.S.N.L., Silchar S.S.A, Silchar, Assam.

Member, Scrutinizing Committee,
Divisional Engineer (P&A),
O/o the G.M. Telecom, BSNL,
Silchar, Assam.

The Sub-Divisional Officer (T),
Telecom, B.S.N.L.,
Hailakandi, Assam.

. . . Respondents.

By Mr. A.K. Chaudhuri, Addl. C.G.S.C.

O R D E R

K.V. PRAHLADAN, MEMBER (A) :

The application is against the order of the General Manager, Telecom, BSNL, Silchar dated 26.09.2000 at Annexure - 13, which rejected the representation of the applicant for grant of Temporary Status. The applicant seeks a direction to be issued to the Respondents to work as a "Temporary Status Labour" till regularisation of his services. The applicant claims to be in engagement by the Respondents from 1.4.1988. ON the recommendations of a DPC ho. was conferred provisional Temporary Status vide Order of 9.12.97 and 22.12.97 at

Contd...2

Annexures - 6 and 7 respectively. The applicant was posted to Jalalpur Telephone Exchange on 29.1.97 vide Annexure - 8. Vide letter No. E/Recrt/loose/98-99/22 dated 29.1.98 at Annexure - 9, the Sub-Divisional Officer, Telegraph, Bhatkandi withdraw the provisional temporary status conferred on the applicant without giving any opportunity to him. The applicant vide Judgment approached the Tribunal by way of O.A.141/98, and the Tribunal dated 31.8.99 at Annexure - 11, directed the Respondents to examine the case of each applicant after a scrutiny of all relevant records, and "pass a reasoned order on the merits of each case". The respondents appointed a Committee which vide its report of 26.9.2000 at Annexure - 13, stated that the applicant did not meet the minimum eligibility criteria of completing 240 days before 1.8.1998 and was not in engagement on 1.8.1998. It is against this order that the present O.A. has been filed.

2. The Respondents claim that the applicant has not completed 240 days in a year. He completed six days in 1991 and 22 days in 1995. He was given temporary status based on false records from 2.12.97 to 29.6.1998. The Field Officer, without verifying the certificate issued by the line staff, showed the applicant as engaged from 1.4.88 to 1993. The applicant and others alongwith various leaders had brought "unbearable" pressure on the Telecom District Authority and others for grant of Temporary Status to all such person on the fake certificates. The local Officials were forced to grant Temporary Status on a provisional basis pending verification of records from genuine records.

3. Heard both the counsel for the applicant and counsel for the Respondents and gone through all their papers. In O.A. No. 141 of 1998 this Tribunal passed an interim Order on 2.7.1998 directing the Respondents not to disengage the applicants and to continue them in service.

4. In the Judgment in O.A. No. 141 of 1998 dated 31.8.1999 this Tribunal directed the Respondents to consider the representation of each applicant and give a considered order. The respondents gave a decision on the above Judgment vide letter dated 26.9.2000 at Annexure - 13. From the records made available to the Tribunal it is not clear whether the applicants were engaged from 29.6.1998 when their temporary status was withdrawn, to the date of disposal of their application on 26.9.2000. Therefore, the applicant if he so wishes, may send a fresh representation to the Respondents within 10 days from the date of receipt of this order. The respondents shall give a considered and reasoned reply within three months from the date of receipt of such a representation from the applicant.

The O.A. is thus disposed of. No order as to costs.

Sd/MEMBER(ADM)

TRUE COPY

क्रियता

Surjib
Gohuly

Section Officer (I)

C.A.T. GUWALIATI BRANCH
Guwahati - 781 005

11/5/05

certified to be

true copy

R. Datta
Advocate

BHARAT SANCHAR (BSNL) NIGAM LTD. (BSNL)

(A Govt. of India Enterprise)

OFFICE OF THE GENERAL MANAGER

SILCHAR SSA :: SILCHAR

No: CAT/GH OA. 89/ 03/ SC/ 7

Dated at Silchar, the 28-12-2004

ORDER

In compliance to the directions contained in the order dtd. 28-04-2004 passed by the Hon'ble Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No. 89/ 2003, a representation dtd. 11-06-2004 from the applicant, Sri Ashim Roy, was received this office. The representation was thoroughly examined in the light of the observations made by the Hon'ble Tribunal.

It emerged from the examination of records as well as the author (s) that the applicant, Sri Ashim Roy, was provisionally approved for conferment of Temporary Status Mazdoor by the then TDM/ Silchar vide order No. E-20/ Grp'D' Reclt/ 99 dtd. 09-12-1997 on the basis of information furnished by the line staff through SDOT/ Hailakandi without verifying the correctness of the information. The same is not substantiated by any authenticated/ reliable records.

The engagement records in the paid account vouchers were verified by deptl. Vigilance. The engagement information furnished by the line staff were found false and fabricated. Consequently, provisional approval was cancelled by the then TDM, Silchar vide Memo No. X 11/ TDM-SC/CM-Reclt/98-99/209 dtd. 27-06-98 and the applicant, Sri Ashim Roy was disengaged w.e.f. 29-06-98.

The applicant approached to the Hon'ble Tribunal in O.A. No. 141/98 against the order of disengagement dtd. 27-06-98. The applicant was in the status disengaged w.e.f 29-06-98 i.e. prior to the interim order passed by the Hon'ble Tribunal on 02-07-98. Thus Status Quo was maintained till final order passed by the Hon'ble Tribunal/ Guwahati bench, Guwahati in O.A. No. 141/98 along with others.

As per the directions of the Hon'ble Tribunal final order dtd. 31-8-99 in O.A. No. 141/98 & others, a verification committee was constituted to scrutinize and examine all available records to work out the engagement particulars of Sri Ashim Roy & others for determining the eligibility for the benefit of Ty. Status Mazdoor.

The committee scrutinized all paid vouchers/ muster rolls to ascertain the no. of days that Sri Ashim Roy was engaged from time to time. The above exercise and verification committee report also clearly reveals that Sri Ashim Roy was occasionally and intermittently engaged as Casual Labourer for which he was not eligible for conferment of Ty. Status Mazdoor as per departmental scheme / norms.

The no. of days that Sri Ashim Roy was engaged in each year is as follows.

Calendar Year	No. of days engaged
---------------	---------------------

1995	20 days (Twenty days only)
1996	179 days (one hundred and seventy nine days only)

The engagement report from the field unit based on certificates of line staff is, therefore, factually incorrect & can not be relied upon. It is also established by records that Sri Ashim Roy has not been engaged for any work after 28-06-1998.

The length of casual service rendered by Sri Ashim Roy as summarized above, indicate that he did not complete 240 days in any year and does not fulfill the essential condition for grant of Temporary Status under Departmental scheme. He is, therefore, not eligible for the benefit of Temporary Status and other benefit of the scheme.

Accordingly, the claim of Sri Ashim Roy for grant of Temporary Status and other benefit of the scheme is rejected.

His representation dtd. 11-06-2004, in compliance to the order of Hon'ble CAT/GH order dtd. 28-04-2004 in O.A No. 89/03, stands disposed of.

John
29/12/04
(M. John Chrisostom)
General Manager, BSNL
Silchar SSA :: Silchar

Copy to:-

Sri Ashim Roy,
S/o Sri Atul Roy,
Village- Matijuri, P.O. - Tempur,
Dist. - Hailakandi - 788155 (Assam).

*certified to be
true copy*
*R. Dutt
Advocate*