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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Fazila  
21.9.17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

S A D B R S H E E T

1. Original Application No. 36/07/
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) H. Ronalh & Ors vs Union of India & Ors

Advocate for the Applicant(s) Mr A. Dasgupta, Mr S. Bhuyan  
& Miss B. Das.

Advocate for the Respondent(s) Addl. CGSC. M. M. Ahmed

Notes of the Registry	Date	Order of the Tribunal
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Application is in form is filed on 11.5.07 deposit Rs. 50/- No. 28G 980504 Dated 6.1.07	18.5.07.	The claim of the applicant is that From April 1999 to 28 <sup>th</sup> April, 2001 the applicants have been continuously working as Casual labour. On 2001 the applicants were terminated from their services. The applicants have approached this Tribunal by filing of O.A.No.353 of 2001 for granting the temporary status/regularisation. This Court has passed an order dated 11.2.2002 directing the respondents to consider the case of the applicants and <u>the services of the all</u> <u>the workers who worked for 240 days</u> <u>without taking note of the artificial breaks.</u>
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Dy. Registrar

Copy of the application  
has been filed by the  
applicant for issuing  
to the respondents without  
omissions.

N.B.  
8.2.07

Subsequently again the applicants have  
approached this Tribunal by filing  
O.A.No.94 of 2003. On 25.02.2004, the  
Tribunal has disposed of the said O.A.  
directing the respondents to consider the

2  
Notice & order sent  
to D/Section for  
issuing to R-1 to 4  
by regd. A/D post.

Feb  
25/5/07. D/No - 497 to  
Dt - 31/5/07. 500

18.5.07

case of the applicants. The Tribunal observed that the applicants case be considered under DOPT O.M. dated 07.06.1998. On 30.11.2004 (Annexure H) the respondent has passed an order in terms of the judgment and order passed by this Tribunal on 25.02.04, it was stated that none of the applicants have completed 240 days in two consecutive years and as such they are not entitled for temporary status.

I have heard Mr.J.L.Sarkar learned counsel for the applicants Mr. M.U. Ahmed learned Addl.C.G.S.C. for the respondents.

In the facts and circumstances I am of the view that the application has to be admitted. Application is admitted. Issue notice on the respondents. Post the matter on 29.06.07.

Vice-Chairman.

lm

28.6.07.  
No w/b billel.

29.6.07.

Counsel for the respondents wanted time to file written statement. Let it be done.

Post the matter on 30.7.07.

Muz  
27.7.07.

Vice-Chairman

w/b not billel.

lm

Muz  
28.8.07.

30.7.07.

Post the matter on 29.8.07.

Vice-Chairman

lm

07-08-07

29.8.07

Let the case be posted on 21.9.07  
for filing written statement.

Post on 21.9.07 for order.

Vice Chairman

Pg

17.9.07

*Attn:*  
Rejoinder has filed to-day. Post the  
matter on 4.10.07

Vice-Chairman

lm

17.9.07

Let the case be listed on 10.10.07 for  
filing of written statement. Post the matter  
on 10.10.07 for orders.

WLS not filed.

26.9.07

Vice-Chairman

lm

WLS not filed.

9.10.07

10.10.2007

Written Statement has been filed in ~~case~~  
Despite 4 adjournments granted in the  
Applicant, no rejoinder has been filed as yet.

Call this matter on 26.11.2007 for  
final disposal/hearing. Mr. G. Baishya, learned  
Sr. Standing Counsel appearing for the  
Central Government undertakes to file  
appearance memo in the course of the day.  
Rejoinder, if any, may be filed before the  
next date.

(Khushiram  
Member(A)

(M. R. Mohanty)  
Vice-Chairman

lm

10.10.2007

Written Statement has been filed in this case.

Despite four adjournments granted to the Applicant, no rejoinder has been filed as yet.

Call this matter on 26.11.2007 for final disposal/hearing. Mr.G.Baishya, learned Sr,Standing Counsel appearing for the Central Government undertakes to file appearance memo in the course of the day. Rejoinder, if any, may be filed, before the next date.

(Khushiram  
Member(A))

(M.R.Mohanty)  
Vice-Chairman

lm

10.10.2007

Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Central Government is absent. No Written Statement has been filed.

Call this matter on 19.11.07.

  
(Khushiram  
Member(A))

  
(M.R.Mohanty)  
Vice-Chairman

lm

19.11.2007

No written statement has yet been filed in this case. Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India undertakes to file written statement by 17<sup>th</sup> December, 2007.

Call this matter on 17.12.2007 awaiting reply from the Respondents.

  
(Khushiram)  
Member (A)

  
(M.R.Mohanty)  
Vice-Chairman

/bb/

mt

O.A. 36/2007

17.12.2007

Mr.A.Dasgupta, learned counsel for

the Applicant is present.

No written statement has ~~already yet~~ been filed in this case.

Call this matter on 21.01.2008 awaiting written statement from the Respondents.

W/S not biled.

MM  
18.1.08.

/bb/

  
(M.R.Mohanty)  
Vice-Chairman

21.01.2008

Mr. M. U. Ahmed learned Addl. Standing Counsel appearing for the Respondents undertakes to file written statement in course of the day. He is also instructed to serve the copy of the written statement on Dr.J.L.Sarkar, learned counsel, who has been instructed by the party in the matter, appearing for the Applicant. Registry is to accept the written statement, if the same is in the order.

Dr.J.L.Sarkar, learned counsel appearing for the Applicant undertakes to file rejoinder on behalf of the Applicant by 18<sup>th</sup> February, 2008.

Respondents should produce a copy of the O.M. dated 07.06. 1988 and the subsequent Scheme of 1993. The Respondents should disclose any clear terms about the days of engagements and the breakup periods of the Applicants by 15<sup>th</sup> February, 2008.

Call this matter on 18.2.2008.

Send copies of this order to the Respondents in the address given in the O.A.

  
(Khushiram)  
Member(A)

  
(M.R.Mohanty)  
Vice-Chairman

order dt. 21/01/08  
sent to D/Section  
for issuing to  
R-1 to 4 day post.

28/1/08. D/No- 324 to 329  
DT= 30/01/08.

W/S not biled.

MM  
15.2.08.

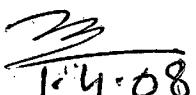
18.02.2008

Mr. S. Nath learned counsel on behalf of Mr. A. Dasgupta, learned counsel appearing for the Applicant prays for four weeks time to file rejoinder. Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents is present. Awaiting filing of the rejoinder the case may be listed for hearing on 02.04.2008.

Call this matter on 02.04.2008.

  
(Khushiram)  
Member (A)

Rejoinder not filed

  
28.2.08

Lxx

02.04.2008 Heard Mr. Asish Dasgupta, learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing counsel appearing for the Respondent Department. We also perused the materials placed on record.

For the reasons recorded separately this O.A. stands dismissed. There shall be no order as to costs.

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

28.4.08  
Copy of the  
final order Land  
to the D/Sec. for  
recuring the due to  
the parties along with  
copy to the H/Adm.  
for the parties.  
/bb/  
etc.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 36/2007

DATE OF DECISION : 02-04-2008

Shri Heeralal Rawath & 29 others

.....Applicant/s

By Advocate Shri A. Dasgupta

.....Advocate for the  
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

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

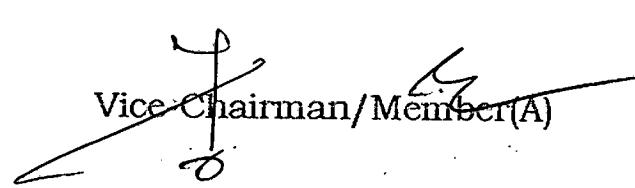
.....Advocate for the  
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.

  
Vice Chairman/Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.36 of 2007.

Date of Order : This the 2nd Day of April, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Sri Heeralal Rawath
2. Sri Rubul Mout
3. Sri Umesh Kumar
4. Sri Kiran Goswami
5. Sri Upendra Raut
6. Sri Mohan Tanti
7. Sri Jaimangal Rawath
8. Sri Phonen Gogoi
9. Sri Kanak Das
10. Sri Kailash Yadav
11. Sri Hiralal Kurmi
12. Sri Nar Bahadur Thapa
13. Sri Tenzeng Das
14. Sri Jiten Sarkar
15. Sri Chilan Duarah
16. Sri Loknath Baruah
17. Sri Robin Das
18. Sri Midul Das
19. Sri Kadam Phukan
20. Sri Rupam Das
21. Sri Bijay Gogoi
22. Sri Rajen Saikia
23. Sri Binod Das
24. Sri Rajib Rajkhowa
25. Sri Amrit Tanti
26. Sri Binod Dihingia
27. Sri Atul Chetia
28. Sri Fulena Prashad
29. Sri Kulendra Gogoi
30. Sri Manik Chetri

.....Applicants

By Advocate Sri A. Dasgupta

• Versus -

1. Union of India  
(Represented by Secretary to the  
Govt. of India, Ministry of Defence)  
New Delhi-1.

2. General Officer Commanding,  
2 Mountain Division,



C/o 99 APO

3. General Officer Commanding,  
4 Corps, C/o 99 A.P.O

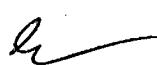
4. Commanding Officer,  
2 Mountain Division,  
Ordnance Unit,  
C/o 99 A.P.O ..... Respondents

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

ORDER (ORAL)

KHUSHIRAM, (MEMBER-A)

The Applicants, 30 in number, have claimed that they continuously (with intermittent breaks) worked as casual labourers (between April 1999 to 2001) with the Respondents and their services were terminated (without conferment of temporary status in terms of the scheme of the Government of India) and that they were thrown out of the job during 2001. They had earlier approached this Tribunal with O.A.353/2001; which was disposed of (on 11.02.2002) by remanding the matter to the concerned authority with direction to examine the case of the Applicants, on merit, in the light of the scheme of 1993 and that, while doing so, the authority should take note of the services of all the workers who worked for 240 days without taking note of the artificial breaks and that the department shall remain free to take a decision in the matter, on merit, by keeping in mind its need, the availability of work and the object of the scheme. The respondents were also directed by this Tribunal to complete the exercise within four months and pass necessary speaking order as per law. The Respondents complied with the order by passing a speaking order, on 24.05.2002, stating that the Applicants were employed on daily wage basis by the Respondents and



they were neither working prior to nor on the date of issuance of the Government of India Notification of 1993; that, temporary status, in the premises, was/were not available to be conferred on them and that, therefore, their claim for grant of temporary status was rejected. The Applicants again challenged the said decision dated 24.05.2002 before this Tribunal, by way of filing O.A.94/2003; which was decided (on 25.02.2004) with direction to the Respondents to re-consider the case of the Applicants subject to the eligibility criteria/on fulfilling the eligibility condition as per DOPT circular dated 07.06.1988. The Respondents have, again, complied with the order of this Tribunal and passed an order (on 30.11.2004) inter alia stating therein that the case was considered in depth (with reference to relevant documents) by the Respondents. Relevant portion of the said Order dated 30.11.2004 reads as under :-

“(a) Applicants were sponsored by Employment Exchange, Dibrugarh.

(b) Not even a single applicant has completed 240 days of continuous service in two consecutive years. All applicants have a break in service.”

“.....no applicant meets the laid down eligibility criteria for grant of temporary status. Therefore, it is not possible on the part of the unit/department to confer temporary status to the applicants, 31 in numbers in O.A.94/2003.”

The above decision of the Respondents are subject matter of challenge in this Original Application filed under Section 19 of the Administrative Tribunals Act 1985.

2. The Respondents have filed written statement stating that the Respondents (2 Mountain Division Ordnance Unit) being responsible to provide logistic support to all the units dependent on it, had to take workload which had increased manifold and, as a result of

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additional role assigned to the unit in Counter Insurgency Operations, they had to seek approval from the superior authority of the Headquarters for engagement of labourers; for the dependent units which were spread in vast areas (700 km x 700 km) located in remote Upper Assam and Arunachal Pradesh and because it was requested to take care of the work load which is of non routine nature. In the instant case the payment to the labourers were made by the CDA at the end of the month. The names of the candidates, before their engagements, were obtained from District Employment Exchange at Dibrugarh and a Board of officers was convened to assess the suitability of the candidates. It is the case of the Respondents that since none of the Applicants were ever employed prior to the notification of the scheme (i.e. 10.09.1993) nor any of them have rendered continuous service of 240/206 days, as the case may be, on that date; temporary status on them was not conferred. Moreover, regular troops having been made available to undertake the challenge of additional task, the necessity of engaging porters was stopped and, therefore, the Applicants were not employed/engaged thereafter. It is further case of the Respondents that 1993 scheme, being an one time scheme for grant of temporary status etc. and the same is not being a continuous scheme, the Applicants cannot claim any benefit thereunder and that since not even a single Applicant had completed 240 days in 2 consecutive years, the claim of the Applicants are not sustaivable.

3. We have heard Mr A.Dasgupta, learned counsel appearing for the Applicants and Mr M.U.Ahmed, learned Addl. Standing counsel for the Respondents and perused the materials placed on record.



4. It is a clear case, where Applicants were engaged as casual labourers long after the notification of the scheme of 1993. Under the said scheme, those who were under casual engagements, on the date of issuance the said notification, they were to get benefit of the said scheme. To say in other words, it was an one time scheme meant for the casual labourers engaged on the date of issuance of the Notification/Scheme of 1993. Therefore, they are neither covered under the provisions of the scheme (notified in 1993) nor are they otherwise eligible for conferment of temporary status as desire by them..

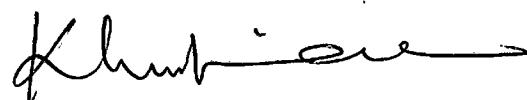
5. Learned counsel for the Applicants faced with the above situation, prayed that if a direction for consideration of claim of the Applicants could be issued, it will help them to seek an engagement on the basis of their past experiences and that at least they could be given preference in the matter of engagement as casual labourers; as are being engaged by the Respondents. Mr M.U.Ahmed, learned Addl. Standing counsel for the Respondents argued that the Respondents in compliance of the direction of this Tribunal given in O.A.94/2003 has already passed a speaking order after examining the records of each one of the applicant. Since none of the Applicants have fulfilled the eligibility condition, the Respondents have rejected their case for grant of temporary status. Accordingly no purpose will be served by referring the matter again and again to the Respondents to consider their case as the same has been examined and scrutinized twice by the Respondents and has been found without any merit

6. In a similar case (where certain persons claiming to be casual labourers, seeking regularization in Railways were repeatedly



remitted back to the Respondents by this Tribunal to explore the possibility of regularization/engagements) Hon'ble High Court has, virtually, reprimanded this Tribunal for remitting the matter time and again (Reference: Order dated 10.12.2007 of the Hon'ble High Court of Guwahati rendered in W.P.(C) No.6201/2007 <sup>of</sup> Gopal Chandra Saha & Ors. Vs. Union of India & Ors). Thus, the last prayer of the counsel for the Applicants cannot be acceded to.

7. Accordingly the claim of the Applicants for grant of temporary status is without any laid down criteria/eligibility and the O.A being devoid of merit, the same is dismissed; but however, without any order as to costs.



(KHUSHIRAM)  
ADMINISTRATIVE MEMBER



(MANORANJAN MOHANTY)  
VICE CHAIRMAN

/pg/

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**Guwahati Bench**  
**GUWAHATI BENCH,**

**GUWAHATI**

Original Application No.....36...../ 2007

Shri Heeralal Rawath & Ors

....Applicants

-VS-

Union of India & Ors.

....Respondents

**SYNOPSIS & LIST OF DATES**

This is an application for setting aside the order dated 30.11.2004 [Annexure: - H] passed by the Commanding Officer (Respondent No. 4) rejecting the granting of temporary status in a wrong notion and for a direction to regularize the services of the applicants having completed 240 days in a year for two consecutive years as per DOPT Office Memorandum dated 07.06.1988 and in view of the Judgment and order passed by this Hon'ble Tribunal in Original Application No. 353 of 2001 on 11.02.2002 and in Original Application No. 94 of 2003 on 25.02.04.

Date	Particulars	Annexure / Para	Page
1997	Authorities of 2 MTM Div Ordinance Unit sent requisition for sponsoring names of candidates to employment exchange for recruitment of Casual Mazdoors.		
14.10.97 15.10.97 16.10.97	Applicant names were sponsored by Employment Exchange and they were asked to appear before the Commanding Officer 2MTM Div. Ordinance Unit on 14.10.97, 15.10.97 and 16.10.97.	A (Copy of the letter dated 13.10.97 issued by the Asstt. Director of Employment Exchange, Dibrugarh to one of the applicant)	16
	On receipt of the aforesaid letter the applicants appeared before the interview Board. All of them succeeded after getting qualified in physical test viva-voice etc.		
01.12.97 02.12.97	Appointment orders to the applicants' No. 1 to 28 were issued by the Commanding Officer, 2 MTM Div. Ordinance Unit on 1.12.97 and were directed to Join on 2.12.97 and they joined their duties on 2.12.97.	B (Series) Appointment letters issued by the Commanding Officer.	17-43

18  
Sri Kiron Goswami

23.04.98 28.4.98	The applicant No. 29, 30, 31 were in the waiting list for appointment, however they were subsequently appointed. The applicant No. 29 and 30 joined on 23.04.98 and applicant No. 31 joined on 28.4.98. Since the date of joining the applicants have been in continuous service without any interruption.		
2.12.97 to Mar' 99	From 2 <sup>nd</sup> December, 1997 to March 1999 the applicants were paid their full wages for all working days except Sunday and Holidays. During this period all these applicants had completed more than 240 days.		
April	From April 1999 to 28 <sup>th</sup> April 2001 though the applicant had been continuously working for all working days but unfortunately on record they were shown to have worked for 19 days in a month. This was done with an oblique motive. to frustrate their claim for regularization after having temporary status. It reveals from attendant register that applicant had completed more than 240 working days in the year 1998.	Detailed particulars of number of days worked by the applicants in each month commencing from Feb' 1998 to Dec' 1998 are furnished in tabular from in Para.....,	
28.04.01	From 28 <sup>th</sup> April 2001 the applicant have not allowed to work. All of them were terminated from their services by verbal orders of the concern officer under whom they had been working.		
03.07.01	Though the applicants were disengaged but the concerned authority sent requisition for sponsoring some persons for engagement as casual labourers. Then the applicant approached the employment exchange authority. The Asstt. Director of District Employment Exchange, Dibrugarh vide his letter dated 03.07.2001 sought for classification from respondents whether the applicants would have preference in engagement.	<b>C</b> (Letter dated 3.7.01 issued by the Asstt. Director of Employment Dist Exchange Dibrugarh	44
	On receipt of the letter dated 03.07.2001 the Commanding Officer had not proceeded to engage casual labour.		
11.02.02	The applicants in that aforesaid situation preferred an application before this Hon'ble Tribunal for conferment of temporary status and regularization of their services. This application was registered as O.A No. 353 of 2001. This Hon'ble Tribunal passed judgment and order on 11.2.2002. The Hon'ble Tribunal remanded the matter to the concerned authority to examine the case	<b>D</b> Judgment and Order dated 11.02.02 passed by the Hon'ble Tribunal in O.A. No. 353 of 01	45-50

Sri Kisan Goswami 12

	on merit in the light of the scheme of 1993 for conferment of temporary status and it was further directed that in doing so the authority should <i>consider</i> the service of all workers who served 240 days in a year without taking note of artificial break.		
24.05.02	On 24.05.02 one Major Anil Bishnoi o/c Administration and Service Wing passed a speaking order on behalf of the Commanding Officer as per direction of this Hon'ble Tribunal. In the said order it was <i>contended</i> that as the applicants were not in employment prior to 1993, they are not entitled to conferment of temporary status.	E Order dated 24.5.02 served one Sri Rubul Mout	51-52
25.02.04	Being dissatisfied with the order dated 24.05.2002; the applicants again approached this Hon'ble Tribunal by filing a Original Application. The said Original Application is registered as O.A. No. 94 of 2003. On 25.02.2004, the Hon'ble Tribunal, while disposed off the said application it was stated that the scheme for grant of temporary status is one time arrangement. It is applicable to these persons who joined prior to 01.09.1993 and fulfilled the criteria laid in this behalf. The Hon'ble Tribunal further observed that the applicants case be considered under DOPT O.M dated 07.06.1988.	F (Order dated 25.02.04 in O.A. No. 94 of 2003 passed by the Hon'ble Tribunal.	53-55
28.10.04 25.11.04	Employment Exchange in Dibrugarh was informed that some mazdoors would be recruited in their establishment and the employment exchange may sponsor some persons for this recruitment. Feeling aggrieved by this approach the applicant submitted representation.	G (Representation dated 25.11.2004)	56
30.11.04	On 30.11.2004, Offg. C/O passed an order in terms of the judgment and order passed by this Hon'ble Tribunal on 25.02.04 in O.A. No. 94 of 2003. In this order it was stated that none of the applicants had completed 240 days in two consecutive years and as such they are not entitled for temporary status.	H (Order dated 30.11.04)	57
25-31 Dec. 04	The respondent authority published an advertisement in Employment News at 25-31 Dec' 2004 inviting application for recruitment at 2 <sup>nd</sup> Mountain Div. Ordinance Unit, C/o 99 APO for the post of Mazdoor exclusively for SC/ST. But the concerned authority did not proceed thereafter till date.	I (Advertisement dated 25-31 Dec' 04 in Employment Exchange.	58

7.11.06, 5.8.06 1.8.06 24.4.06 & 25.10.05	The applicant approached the concerned authority by submitting several representations for re-instatement. But the concerned authority did not reinstate the applicants till date.	J (Series) Representations dated 7-11-06, 5-8- 06, 1-8-06, 24-4-06 and 25-10-05	59-63
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Sri Kiran Gorwani

**Filed by**  
*Basabi Das*  
**Advocate**

19  
Sri Kishan Goswami

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

Original Application No...../ 2007

Shri Heeralal Rawath & Ors

....Applicants

-VS-

Union of India & Ors.

....Respondents

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Filed by

Basabi Das

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

**GUWAHATI BENCH,**

**GUWAHATI**

Original Application No.....36...../ 2006

Shri Heeralal Rawath & Ors

....Applicants

-VS-

Union of India & Ors.

....Respondents

**Particulars of the Applicant:**

1. Sri Heeralal Rawath  
S/o Sri Ramdeo Rawath  
Sector -B Dinjan Cantt.  
Station Head Quarter,  
P.O. – Panitola, District – Dibrugarh.
2. Sri Rubul Mout  
S/o Sri Pulin Mout  
Village – Dongerchuk,  
P.S – Chabua, District – Dibrugarh,  
Pin – 786184.
3. Sri Umesh Kumar  
S/o Late Ram Kumar  
Kharjan T.E., 14 No. Line  
District : - Dibrugarh.
4. Sri Kiran Gswami  
S/o Late Ramdas Baisnad (Adoptive Father)  
Vill – Chakali Voria,  
P.O. Pani Tola, P.S. Chabua  
Dist- Dibrugarh.
5. Sri Upendra Raut  
S/o Sri Shiv Charan Raut  
C/o Jayram Store,  
Vill – Kajani Bari, P.O – Dinjan,  
P.S. – Chabua, Dist – Dibrugarh.
6. Sri Mohan Tanti  
S/o Rajender Tanti  
Vill – Dinjan (Gherkibasti)  
P.O. – Dinjan, P.S. Chabua  
District – Dibrugarh.
7. Sri Jaimangal Rawath

filed by late  
Rati Kumar  
Surwinder  
Basantibeg  
Astrocaste

Sri Kiran Gswami 20

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S/o Sri Rambiraji Rawath  
 Sector – B, Dinjan Cantt,  
 P.O. Dinjan, P.S. Chabua  
 District – Dibrugarh.  
 8. Sri Phonen Gogoi  
 S/o Late Monuram Gogoi  
 Vill – Pubdeodhaigaon  
 P.O. Chabua, P.S. Chabua,  
 Dist – Dibrugarh, Pin 786184.  
 9. Sri Kanak Das  
 S/o Sri Bhola Ram Das  
 Sector B, Dinjan Cantt.  
 P.O. Dinjan,  
 District- Dibrugarh, Pin – 786189.  
 10. Sri Kailash Yadav  
 S/o Munnu Yadav  
 Vill – Dinjan (Gherkhi Basti)  
 P.O. Dinjan, District – Dibrugarh  
 Pin – 786189.  
 11. Sri Hiralal Kurmi  
 S/o Late Kalipada Kurmi,  
 Vill – Chaklivoria, P.O. – Panitola,  
 P.S. Chabua, Dist – Dibrugarh.  
 12. Sri Nar Bahadur Thapa  
 S/o Sri Mon Bahadur Thapa  
 Vill – Dhigalibari, Baghbari,  
 P.O. – Panibari, Dist- Dibrugarh.  
 13. Sri Tenzeng Das  
 S/o Late Kushal Das,  
 Vill & P.O. – Chabua  
 District – Dibrugarh.  
 14. Sri Jiten Sarkar  
 S/o Sri Dinesh Sarkar  
 Vill – Mirigaon, P.O. Mulukgaon,  
 P.S. Chabua, Dist – Dibrugarh.  
 15. Sri Chilan Duarah  
 S/o Sri Aneswar Duarah  
 Vill – Chatiagaon, P.O. Chatiagaon.  
 Chabua, District – Dibrugarh.  
 16. Sri Loknath Baruah  
 S/o Sri Dondi Baruah  
 Vill – Gorpara Gaon,  
 P.O. Gorpara (Dikhom)  
 District – Dibrugarh.  
 17. Sri Robin Das  
 S/o Sri Bhubul Das  
 Vill – Bhardhara  
 P.O. – Bhardhara (Kanjichowa)

Sri Kizam Goswami

18. Dist – Dibrugarh  
 Sri Midul Das  
 S/o Late Phukan Das,  
 Vill – Morichagaon, P.O. Chetiagaon,  
 Chabua, District – Dibrugarh.

19. Sri Kadam Phukan  
 S/o Sri Malok Phukan  
 Vill – Chetiapathar  
 P.O. – Rangchangi, P.O. Chabua,  
 Dist – Dibrugarh.

20. Sri Rupam Das  
 S/o Late Sumeshwar Das,  
 Vill – Morichagaon, P.O. Chetiagaon (Chabua)  
 Dist – Dibrugarh.

21. Sri Bijay Gogoi  
 S/o Naren Gogoi  
 Vill – Chetiagaon  
 P.O. – Chetiagaon (Chabua)  
 Dist – Dibrugarh.

22. Sri Rajan Saikia  
 S/o Sri Kamleshwar Saikia  
 Vill – Pulunga, P.O. Chabua  
 P.S. Chabua, Dist – Dibrugarh.

23. Sri Binod Das  
 S/o Sri Surjya Das  
 Vill – Morichagaon, P.O. Chetiagaon  
 P.S. Chabua, Dist – Dibrugarh.

24. Sri Rajib Rajkhowa  
 S/o Sri Rajen Rajkhowa  
 Vill – Mudeigaon, P.O. Bogdung (Panitola)  
 Dist – Dibrugarh, Assam  
 Pin – 786183.

25. Sri Amrit Tanti  
 S/o Late Bharat Tanti  
 Vill – Nagaon (Basti)  
 P.O. Dinjan, P.O. Chabua  
 Dist – Dibrugarh.

26. Sri Binod Dihingia  
 S/o Sri Susen Dihingia  
 Vill – Dihingiapar  
 P.O. Dinjay Satta (Chabua)  
 Dist – Dibrugarh.

Sri Kisan Goswami

27. Sri Atul Chetia  
S/o Sri Lubeshwar Chetia  
Vill – Begoritoliagaon,  
P.O. Mohmara ( Dhikom)  
District – Dibrugarh.
28. Sri Fulena Prashad  
S/o Sri Harilal Prashad  
Vill – Kajani Bari,  
P.O. Dinjan, P.S. Chabua,  
Dist – Dibrugarh.
29. Sri Kulendra Gogoi  
S/o Sri Ghonen Gogoi,  
Vill – Naharani, P.O. Borchapuri (Panitola)  
Dist – Tinsulia.
30. Sri Manik Chetri  
S/o Late Budeshwar Chetri  
Vill – Chetiagaon, P.O. Chetiagaon,  
P.S. Chabua, Dist – Dibrugarh.

**Particulars of the Respondents:**

1. Union of India  
(Represented by Secretary to the  
Govt. of India Ministry of Defence)  
*New Delhi - 1*
2. General Officer Commanding  
2 Mountain Division  
C/o 99 A.P.O.
3. General Officer Commanding  
4 Corps, C/o 99 A.P.O.
4. Commanding Officer,  
2 Mountain Division,  
Ordnance Unit,  
C/o 99 A.P.O

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Sri Kiran Goswami

**1. Particulars of the Order against which the application is made:**

An order dated 30<sup>th</sup> November 2004 passed by Lt Col, Offg CO.

**2. Jurisdiction of the Tribunal:**

The applicants declare that the subject matter(s) of the application is within the jurisdiction of the Hon'ble Tribunal.

**3. Limitation:**

The applicants further declare that the present application is within the Limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

**4. Facts of the Case:**

4.1 That the applicants are the citizens of India and are entitled to all the rights and privileges guaranteed to the citizens of India under the Constitution of India. This application is for common cause of regularizations of the applicants. The applicants, therefore crave leave of this Hon'ble Tribunal under Rule 4(5) (a) of the Central Administrative Tribunal Procedure Rule 1987 to file this joint application.

4.2 That all the applicants got their names, registered under Employment Exchange at Dibrugarh, Assam.

4.3 The Authorities of 2<sup>nd</sup> Mountain Division Ordnance Unit, C/o 99 APO, in the year 1997 sent requisition to the local employment exchange for sponsoring names of candidates for requirement of casual mazdoors. Pursuant to that the applicants were sponsored by their Employment Exchange vide letter dated 13.10.1997 issued by Assistant Director of District Employment Exchange, Dibrugarh, directing them to appear before the Commanding Officer, 2<sup>nd</sup> Mountain Division Ordnance Unit, C/o 99 APO on 14.10.1997, 15.10.1997 and 16.10.1997.

A copy of the letter dated 13.10.1997 to one of the applicants is annexed herewith and marked as Annexure: - A.

Kiran Grawal  
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4.4 That on receipt of the aforementioned letter the applicants appeared before the interview board. All of them succeeded after getting qualified in physical test, viva-voice. The applicants were selected for employment to the post of casual labour. Appointment orders with respect to the Applicants No. 1 to 28 were issued by Commanding Officer, 2<sup>nd</sup> Mountain Division Ordnance Unit, on 1.12.1997. They were directed to join their duties on 02.12.1997 and accordingly they joined in their service on the same day. The applicants No. 29, 30 and 31 were in the waiting list. However, they were subsequently appointed in the month of April 1998. The Applicant No. 29 and 30 joined their duties on 23.04.1998. The applicant No. 31 joined his duties on 28.04.1998.

Copies of the appointment letters issued by the Commanding Officer are annexed herewith and marked as Annexure: - B (Series).

4.5 That since the date of joining the applicants had been rendering their continuous services without any interruption. The applicants were paid their full wages for all working days except some day and holydays from 2<sup>nd</sup> December 1997 to March 1999. During this period all these applicant had completed more than 240 days in a year. From April 1999 to 28<sup>th</sup> April 2001 though the applicant had been continuously working for all working days but unfortunately on record they were shown they have worked for 19 days in a month. This was done with an oblique motive to frustrate their claim for regularization after having temporary status. The applicants had been able to collect the number of working days as records in the attendance register maintained by the authorities from February 1998 to December 1998. The Detailed particulars of number of working days from February to December 1998 are furnished below in the tabular form: -

Sri Kisan Goswami  
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PLICANT NUMBER	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL DAYS
1	23	25	26	24	25	26	25	26	24	24	26	274
2	23	25	26	24	26	26	22	25	24	22	18	261
3	23	25	26	24	25	26	25	26	24	23	26	272
4	23	25	16	13	26	25	23	26	24	24	26	251
5	23	25	25	24	26	25	25	20	7	23	26	259
6	23	25	23	24	24	25	24	26	24	24	25	267
7	23	25	26	24	24	26	24	24	20	24	26	266
8	23	25	23	23	25	25	NIL	NIL	NIL	23	25	192
9	23	25	26	24	25	26	25	26	24	20	26	270
10	23	25	16	15	26	26	25	26	24	24	26	256
11	23	25	22	24	26	23	25	25	24	24	26	267
12	23	25	24	24	26	25	21	22	23	23	25	261
13	23	25	26	24	26	26	25	26	18	10	24	253
14	23	25	19	24	26	24	25	26	22	22	26	262
15	23	25	23	23	26	23	22	25	22	23	26	261
16	23	25	19	20	24	26	25	23	24	23	26	258
17	23	25	22	23	26	26	23	25	24	22	20	259
18	23	25	19	3	NIL	26	23	26	24	21	23	213
19	23	25	23	24	21	24	21	26	24	24	19	254
20	23	25	24	23	26	26	19	24	24	24	24	262
21	23	25	24	24	26	26	24	24	24	24	23	267
22	23	25	22	23	25	26	23	26	24	24	26	267
23	23	25	26	23	26	23	25	26	24	24	26	271
24	23	25	24	24	25	26	24	26	24	24	26	271
25	23	25	26	24	25	26	25	26	24	24	26	274
26	23	25	20	24	26	25	24	26	22	24	24	263
27	23	25	24	21	26	26	25	26	24	24	26	270
28	7	24	26	26	24	26	24	24	26	NIL	NIL	207
29	7	24	26	26	11	23	24	23	22	NIL	NIL	186
30	3	24	26	NIL	22	24	24	22	25	NIL	NIL	170

4.6 That the applicants have not been allowed to work from 28<sup>th</sup> April 2001. All of them were terminated from their services by verbal orders of the concerned officer under whom they had been working. The applicants were disengaged but the concerned authority sent requisition for sponsoring some persons for engagement for casual labour in establishment of 2<sup>nd</sup> Mountain Division Ordinance Unit, C/o 99 APO where the applicants had been working as casual employee vide their notification No. CIV / EST dated 22<sup>nd</sup> June 2000.

4.7 That the applicants represented their case before the employment exchange authority who espoused the cause so that they may have preference in engagement of casual employees in the 2<sup>nd</sup> Mountain Division Ordinance Unit, C/o 99 APO. Accordingly Assistant Director District Employment Exchange, Dibrugarh, vide his letter dated 03.07.2001 intimated the commanding officer 2<sup>nd</sup> Mountain Division Ordinance Unit, C/o 99 APO seeking clarification whether the applicants would have preference in engagement of casual labour in the said establishment. On receipt of that letter dated 03.07.2001 the commanding officer had not proceeded to engage casual labour in the establishment.

Copy of the letter dated 03.07.2001 issued by the Assistant Director, District Employment Exchange, Dibrugarh is annexed herewith and marked as Annexure: - C.

4.8 That the applicants in that aforesaid situation preferred an application before this Hon'ble Tribunal for conferment of temporary status and regularization of their services. This application was registered as Original Application No. 353 of 2001. This Hon'ble Tribunal passed an judgment and order on 11.02.2002. The Hon'ble Tribunal remanded the matter to the concerned

authority to examine the case on merit in the light of the scheme of 1993 for conferment of temporary status and it was further directed that in doing so the authority should note of the service of all workers who served 240 days in a year without taking note of artificial break.

A copy of the Judgment and order passed by the Hon'ble Tribunal in O.A No. 353 of 2001 on 11.02.2002 is annexed herewith and marked as

**Annexure: - D**

4.9 That on 24.05.2002 one Major Anil Bishnoi O/C Administration and Service Wing passed a speaking order on behalf of the commanding officer as per direction of this Hon'ble Tribunal. In the said order it was contained that as the applicants were not in employment prior to 1993, they are not entitled to conferment of temporary status.

A copy of the order dated 24.05.2002 served one Sri Rubul Mout is annexed herewith and marked as **Annexure: - E.**

4.10 That being highly dissatisfied with the aforementioned order dated 24.05.2002 the applicants again approached this Hon'ble Tribunal by filing a Original Application. The said Original Application is registered As O.A. No. 94 of 2003. On 25<sup>th</sup> February 2004, this Hon'ble Tribunal while disposed off the said application it was stated that the scheme for grant of temporary status is one time arrangement. It is applicable to those persons who joined prior to 01.09.1993 and fulfilled the criteria laid in this behalf. The Hon'ble Tribunal further observed that the applicants case can be considered under DOPT O.M. dated 07.06.1988.

A copy of the order passed this Hon'ble Tribunal on 25.02.2004 in O.A. No. 94 of 2003 is annexed herewith and marked as **Annexure: - F.**

Sri Kiran Goswami

Sri Kiran Goswami

4.11 That the applicants beg to state that regularization of casual workers are guided by the DOPT O.M. dated 7.6.1988. According to this scheme working period 206/240 days is two consecutive years with sponsorship of employment exchange is the eligibility criteria for regularization. However in the year 1993 a scheme for grant of temporary status was framed. According to this scheme a casual employee has completed 240 days work in a year would be granted with the temporary status meaning thereby they would get regular scale of pay and amenities. However, the Apex Court in Union of India –VS – Mohan Pal as reported in 2002 (1) SCC 216 it was held that grant of temporary status is one time arrangement and it would be applicable for these persons employed before 1993.

4.12 That the applicants beg to state that they fulfill the criteria for regularization. The respondent authority made an afford to recruit some employees in places were applicants were working. On 28.10.2004, Employment Exchange in Dibrugarh was informed that some mozdoors would be recruited in their establishment and the employment exchange may sponsor some persons for this recruitment. Feeling aggrieved by this approach, the applicants submitted representation before the 2<sup>nd</sup> Mountain Division Ordinance Unit, C/o 99 A.P.O. by stating interalia that they are eligible parsons for absorption in service. Accordingly, their case may be considered.

A copy of the representation dated  
25.11.2004 is annexed hereto and  
marked as Annexure: - G.

4.13 That on 30.11.2004, Offg. C/o passed an order in terms of the judgment and order passed by this Hon'ble Tribunal on 25.02.2004 in O.A. 94 of 2003. In this order it was stated that none of the applicants had completed 240 days in two consecutive years and such they are not entitled for temporary status.

Sri Kishan Grosswami

A copy of the order dated 30.11.2004 is annexed hereto and marked as

Annexure: - H.

4.14 That it is apparent on the face of the record that the commanding officer failed to exercise his mind in as much as this Tribunal directed him to consider whether the applicants are entitled for regularization in terms DOPT O.M. dated 07.06.88. But the commanding officer was influenced by an extraneous consideration. He was under an impression that he had to consider whether the applicants are entitled for grant of temporary status.

4.15 That the respondent authority published an advertisement in Employment News at 25-31 December, 2004 inviting applicants for recruitment at 2<sup>nd</sup> Mountain Division Ordnance Unit, C/o 99 APO for the post of Mazdoor ~~exclusively~~ for SC / ST. But the concerned authority did not proceed thereafter till date.

A copy of the advertisement dated 25-31 in Employment News is annexed herewith and marked as Annexure: - I.

*published*

4.16 That the applicants thereafter approached the concerned authority by submitting several representations dtd 07.11.06, 05.08.06, 1.08.06, 24.04.06 & 25.10.05 for re-instatement in their services. But the concerned authority did not reinstate the applicants till date.

Copies of some of the representations are annexed hereto and marked as Annexure: - J (Series).

4.17 That the applicants begs to state that the applicants have completed more than 240 / 206 days in a year for two consecutive year and as per rule in force they are entitled to be regularized in service. In the instant case although all applicants had completed more than 240 /

Sri Kiran Goswami

206 working days in two consecutive year, but the respondent authority did not regularize the services of the applicants till date.

4.18 That the applicants beg to state that it is a fit case where this Hon'ble Tribunal may be pleased to direct the respondent authority to produce the record to establish the number of working days of the applicants.

5. **Grounds for Relief with Legal Provision: -**

Being highly aggrieved by the action of the respondents the applicants preferred this application on the following among other grounds –

5.1 For that all applicants completed 240 days of work in a year for two consecutive years and are entitled for regularization in terms of DOPT O.M dated 07.06.88. The respondent No. 4 failed <sup>to</sup> exercise his mind to appreciate the order passed by this Tribunal on 25.02.2004 in O.A. 94 of 2003. He was under an impression that he was directed to consider about grant of temporary status. In fact he was directed to consider about regularization and not for grant of temporary status.

5.2 For that the impugned order dated 30.11.2004 suffers from non-application of mind in as much as the Hon'ble Tribunal passed orders whereby the respondent authorities were directed to consider whether the applicants had completed 240 days of work in a particular year without taking note of an artificial breaks and consider the case of the applicants subject to eligibility criteria on fulfilling the eligibility condition for regularization as per DOPT OM dated 07.06.88. But instead of complying the orders passed by this Hon'ble Tribunal, the respondent authority passed order to stating that the applicants are not entitled for grant of temporary status. The respondent authority while passing the impugned order had not been taken note the artificial break as directed by this Hon'ble Tribunal and as such liable to be set aside and quashed.

Sri Kisan Gangwani

5.3 For that the impugned order is arbitrary based on unreasonable ground and same is violative of Article 14 of the Constitution of India and as such the order dated 30.11.2004 liable to set aside and quash.

5.4 For that the applicants have been deprived of their means of livelihood against the procedure established by law and the same is violative of Article 21 of the Constitution of Indian and as such order dated 30.11.2004 is liable to be set aside and quashed.

6 **Details of the remedies exhausted: -**  
 The applicants have no other alternative remedy except approaching this Hon'ble Tribunal. The applicants demanded justice which has been denied by the respondent authorities.

7 **Matters not previously filed or pending in any other Court or Tribunal: -**  
 The applicant declare that the subject matter of this application are not pending before any Court of Law, any other authority or any other branch of the Hon'ble Tribunal.

8 **Relief Sought: -**  
 That in the premises aforesaid the applicant prays that your Lordships may be pleased to call for the records, issue notices on the respondents to show cause as to why -

- (I) The impugned order issued under office order No. 270 / 01 / PC / X / HQ dated 30.11.2004 passed by the Lt. Col Offg. C/O 2<sup>nd</sup> Mountain Division Ordinance Unit, C/o 99 APO (Annexure: - H) shall not be set aside and quashed and upon hearing the parties may be pleased to set aside and quash the aforementioned office order dated 30.11.2004.
- (II) To direct the respondent authority to regularize the services of the applicant having completed 240 days in a years for two consecutive year in view of the judgments and orders passed by this Hon'ble

Sri Kiran Goswami  
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Tribunal in O.A. No. 353 of 2001 on 11.02.2002 and in O.A. No. 94 of 2003 on 25.02.2004

(III) To pass such further or other order (s) as your Lordships may deem fit and proper in the facts and circumstances of the case.

**9. Interim order if any prayed for:**

The applicants pray for no interim order.

**10. Particulars of the Postal Order: -**

I.P.O. No. : - 28G 980504

Name of the issuing office : - GPO

Date of issue : - 20.1.2007

Payable at : - The Register Central  
Administrative Tribunal, Gurukul

**11. List of enclosures: -**

As indicated in the index.

### VERIFICATION

I, Sri Kiran Goswami, son Late Jitu Goswami, aged about 31 years, residence of Village Chakali Voria (Gaon), P.O. Pani Tola, P.S. Chabuah, District – Dibrugarh, Assam, do hereby states that I am one of the applicants of this case and am well acquainted with the facts and circumstances of this case. I have been authorized by other applicants to take necessary steps of this case. The statements made in Paragraphs 4:1, 4:2, 4:5, 4:6, 4:11, 4:14..... are true to my knowledge and belief and those made in Paragraphs 4:3, 4:4, 4:7, 4:8, 4:9, 4:10, 4:12, 4:13, 4:15, 4:16..... are true to my information derived from the records which I believe to be true and rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 20th day of December 2006 at Guwahati.

*Sri Kiran Goswami*

Signature

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ANNEXURE— A

Sl. No. 10

GOVERNMENT OF ASSAM

DEPARTMENT OF LABOUR & EMPLOYMENT

DISTRICT EMPLOYMENT EXCHANGE : DIBRUGARH

WO ACT/60/97/3620-770/97 dated Dibrugarh the 13.10.97

To :

Shri Hiralal Rowat (3113/96/90)

**Sub :** Recruitment of Casual Labour

Your name has been forwarded to the Commanding Officer, 2 MTN Div. Ord. Unit C/O 99 APO for a post of Casual Labour.

You are advised to report to him on 14<sup>th</sup> Oct/97 15<sup>th</sup> Oct/97 and 16<sup>th</sup> Oct/97 at 10 A.M. for interview/test.

Sd/- Illegible

13.10.97

(Mrs. S. Khatun)

Asstt. Director of Employment  
District Employment Exchange, Dibrugarh.

*Attested  
B. Das*

...Comd.

ANNEXURE-8 series

Regd. by post

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Rabuli Mout.  
Dinjin Tinali  
P.O. Dinjan  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)

Col  
Commanding Officer

*Passed  
B.Dar*

*Contd.*

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ANNEXURE-B<sup>(contd.)</sup>

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

270503/CIV/EST

01/Dec' 97

Umesh Kumar  
Vill - Kharjan  
P.O. Bagdung  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col  
Commanding Officer

...Contd.

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO

270503/CIV/EST

01/Dec' 97

Hiralal Rawat  
Vill. - Dinjin Tinali  
P.O. Dinjan  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible  
Col.  
Commanding Officer

...Contd.

ANNEXURE -

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

270503/CIV/EST

01/Dec' 97

Kiran Goswami  
Vill.- Dinjin, Tinali Sec 'B'  
P.O. Dinjan  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

...Contd.

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Upendra Raut

Vill.- Sain Bhrihar Tola  
P.O.. Sain Via Kanti  
Dist-Muzzafarpur (Bihar)

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

...Contd.

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- 28 -

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO

270503/CIV/EST

01/Dec' 97

Mohan Tanti  
Vill.- Dinjin Tinali  
P.O. Dinjan  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

...Contd.

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO

01/Dec' 97

270503/CIV/EST

Jai Mangal/Raut  
Vill. -G Dinjin  
P.O. : Dinjanital  
Dibrugarh, Assam  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

...Contd.

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 97

270503/CIV/EST

Phnon Gogoi  
Vill:-- Deendhai Par  
P.O. Chabua  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

...Contd.

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 97

270503/CIV/EST

Kanak Das  
Vill. - Dinjan, Tinali  
P.O. Dinjan,  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
Col  
Commanding Officer

...Contd.

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ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 97

270503/CIV/EST

Kailash Yadav  
Vill.- Dinjan  
P.O. Dinjan  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs), and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

...Contd.

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/ESTT

Hiralal Kumari  
Vill.- Chakali Bharia Gaon  
P.O. Panitola  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col.

Commanding Officer

ANNEXURE-REGD. BY POST

2 Mtn. Div. Ord. Unit  
 C/O 99 APO  
 01/Dec' 97

270503/CIV/EST

Nar Bahadur  
 Vill. - Dinjan  
 P.O. Dinjan  
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
 (VK Sharma)  
 Col.  
 Commanding Officer

...Contd.

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ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 97

270503/CIV/EST

Tezing Das  
Vill.- Dinjan, Tinali  
P.O. Dinjan  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

...Contd.

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ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 97

270503/CIV/EST

Jitten Ch. Sarkar  
Vill. - Mirigaon  
P.O. Muluka Gaon  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997..
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

...Contd.

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ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Shilan Dowara  
Vill.- Chetia Gaon  
P.O, Chetia Gaon  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

..Contd.

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Lok Nath Baruah  
Vill. & P.O. - Garpara  
Dikan  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment, to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

...Contd.

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ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/December, 97

270501

270503/CIV/EST

Rabin Das

Bharahara village,

P.O. Chabua

Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

...Contd.

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ANNEXURE-REGD. BY POST

2 Mtn. Div. Ord. Unit

01/Dec'97 C/O 99 APO

270503/CIV/EST  
 270503/CIV/EST  
 Mridul Das  
 Maricha village  
 P.O. Chetia (Chabua)  
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

...Contd.

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ANNEXURE -

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 97

270503/CIV/EST

Kadam Phukan  
Chetia Pathar  
P.O. Rangchangi  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Commanding Officer

...Contd.

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ANNEXURE-

REGD. BY POST

2. Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 97

270503/CIV/EST

Rupam Das  
Moricha Gaon  
P.O. Chetia Gaon  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997..
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

...Contd.

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ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO,  
01/Dec' 97

270503/CIV/EST

Bijoi Gogoi  
Chetia Gaon  
P.O. Chabua  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

...Contd.

ANNEXURE-REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 1997

270503/CIV/EST

Ranjan Saikia  
Amguri Pulunga Gaon  
P.O. Pulunga  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

...Contd.

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ANNEXURE -REGD. BY POST

2 Mtn. Div. Ord. Unit  
 C/O 99 APO  
 01/Dec' 97

270503/CIV/EST

Binod Das  
 Vill - Marira Town  
 P.O. Chetia Gaon  
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs.. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs); and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification..

Sd/- Illegible  
 (VK Sharma)  
 Col  
 Commanding Officer

...Contd.

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ANNEXURE -

REGD. BY POST

2 Mtn. Div. Ord. Unit  
C/O 99 APO  
01/Dec' 97

270503/CIV/EST

Rajiv Rajkhowa  
Vill - Mudee Gaon  
P.O. Bagdong (Panitola)  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible  
(VK Sharma)  
Col  
Commanding Officer

...Contd.

ANNEXURE-

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Amrit Tantilo

Vill. - Nagi Gaon

P.O. Dinjan

Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

ANNEXURE-REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Binod Dhingia  
 Vill - Bharalua Gaon  
 P.O. Kharjan  
 Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs 340.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible  
 (VK Sharma)  
 Col.  
 Commanding Officer

...Contd.

ANNEXURE -

REGD. BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

01/Dec' 97

270503/CIV/EST

Atul Chetia

Vill - Bagoritolia  
P.O. Mohmora, Dikom  
Dibrugarh, Assam

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.

2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs), and your services commence from 02 December, 1997.

3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.

4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Col

Commanding Officer

...Contd.

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ANNEXURE-C

63

GOVERNMENT OF ASSAM  
DEPARTMENT OF LABOUR & EMPLOYMENT  
DISTRICT EMPLOYMENT EXCHANGE : DIBRUGARH

WO.ACT/27/2001/1656

Dated Dibrugarh the 3.7.2001

To

Commanding Officer,  
2 Mtn. Div. ORD Unit,  
C/O 99 APO

**Sub :** Recruitment of Labour on daily wages.

**Ref :** Your Notification No. CIV/Est dated 22 June/2001

Sir,

We acknowledge with thanks receipt of your above notification. We are taking immediate action to comply with your requirements.

In this connection I would like to request you kindly to let this office know whether you will be giving any preference including age factor etc to the ex-casual labours who have worked in your department ~~for~~ for a considerable period.

Please confirm immediately.

Enclosed  
B.D.S.

*Yours faithfully,*  
Sd/- Illegible  
(S. Khatun)

Asstt. Director of Employment  
District Employment Exchange, Dibrugarh.

*Enclosed*  
*B.D.S.*

...Contd.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH  
 Original Application No. 353 of 2001

Date of decision : This the 11<sup>th</sup> day of February 2002  
 The Hon'ble Mr. Justice D.N. Choudhury, Vice Chairman  
 The Hon'ble Mr. K.K. Sharma, Administrative Member

Shri Heeralal Rawath,  
 Sector - B Dinjan C Antt.,  
 Station Headquarter,  
 P.O. Panitola, District-Dibrugarh,  
 and 30 others

By Advocates Mr. A. Dasgupta and Mr. S. Bhuyan

Applicants

-Versus-

1. The Union of India, represented by the  
 Secretary to the Government of India,  
 Ministry of Defence.

2. The General Officer Commanding,  
 2 Mountain Division, C/o 99 APO.

3. The General Officer Commanding,  
 4 Corps, C/o 99 APO

4. The Commanding Officer,  
 2 Mountain Division, Ordnance Unit,  
 C/o 99 APO.

Respondents

By Advocate Mr. A.K. Choudhury, Addl. C.G.S.C.

\*\*\*\*\*

CHOWDHURY J. (V.C.)

Conferment of temporary status has again  
 surfaced in this proceeding in the following  
 circumstances :

*Attestd  
B. Das*

*...Contd.*

The applicants are thirty one in number. They claim that they worked under the respondents as casual labourers continuously and intermittently for more than 240 days. But, instead of conferring them temporary status as per the Scheme they were thrown out of the department.

2. From the materials cited in the application it appears that these applicants were selected as casual labourers on daily wages through the Employment Exchange and to that effect appointment orders were issued on 1.12.1997. In para 4(viii) of the application the applicants indicated the period of service rendered by them in 1998. Though they averred that they worked or more than 240 days in a year, save and except the statement they have not shown the specific period they worked in a year. From 8.4.2001 the applicants were not allowed to work and verbally they were told that they were terminated from service. It was also averred that after the termination, steps were taken by the respondent authority for recruiting casual labourers on daily wages through the Employment Exchange. The employment exchange put queries to the respondents as to whether the respondents would provide any preference including age factor to the ex casual labourers who worked in the department for a considerable period. Failing to get appropriate remedy the applicants submitted representations before a number of authorities including the Ministry seeking relief. As nothing happened they moved this Tribunal praying for a direction on the respondents to consider their case for regularization in service.

3. The respondents submitted their written statement denying and disputing the claim of

applicants. In the written statement the respondents stated that the 2 Mountain Division Ordnance Unit was responsible for providing logistic support to all the Units dependent on it. The work load of the Unit had increased manifolds as a result of additional role assigned to the Units in counter insurgency operations. The dependent Units were spread over vast areas and located in remote areas of Upper Assam and Arunachal Pradesh. As a result, to overcome the shortage of manpower sanction was sought from the higher authority to employ porters/labourers on daily wages on a required basis to tide over the additional work load of non-routine nature. The formation headquarters had accorded sanctions to the Unit for opening of supply and services Imprest Account Budget Head 105 (F) with effect from 15.9.1997 for employment of civilian labourers and porters on daily wages. The names of the candidates were obtained from the District Employment Exchange, Dibrugarh. A Board of Officers was convened to assess the suitability of the candidates and to recommend names for employment as labourers on daily wages. These labourers were employed only to perform the tasks on non-routine nature like clearance of grass to avoid fire risk during summer and also for monsoon stocking of detachments located across the rivers. They were paid for the actual number of days they were employed in a month out of supply and Services Imprest Account allotted by the formation Headquarters. It was specifically averred that the daily wages were paid as per the attendance register. As regards grant of temporary status it was averred that the temporary status was not granted as there was no provision. It mentioned the communicate on vide letter No. 15225/Org 4(Civ) (a) dated 29.1.1998 issued from the Adjutant

General's Branch, Army Headquarters, New Delhi, wherein it was stated that granting of temporary status to the casual labourers was a one time affair and it was applicable in respect of those casual employees who were in service on the date of notification of the Scheme i.e. 10.9.1993 and had rendered one year of continuous service with 240 or 206 days as the case may be on that date. In reference to seeking for additional persons, the respondents did not dispute the requisition for sponsoring additional persons by the establishment of 2 Mountain Division Ordnance Unit and that it was forwarded to the District Employment Exchange, Dibrugarh on 22.6.2001. However, in the meantime, the necessity of employing additional persons was reviewed and since the necessity was not felt the process was discontinued. It was also stated that during that period the regular troops were made available for the extra work. Since the combatant manpower was readily available and it proved to be more economical to the State the Unit management decided to stop employment of the porters in future.

4. We have heard Mr. A. Dasgupta, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. C.G.S.C. at length. There is no dispute at the Bar that the Scheme for granting temporary status was introduced to regulate the employment of casual labourers in a fair manner and to avoid victimization or unfair labour practice in conformity with the consistent legal policy laid down by the Supreme Court on this matter. The Grant of Temporary Status and Regularisation Scheme of the Government of India, 1988 was introduced for engagement of casual labourers in Central Government offices keeping in mind the decision

of the Supreme Court, more particularly the decision in *Surinder Singh vs. Engineer-in-Chief, CPWD*, reported in (1986) 12 SCC 639. The 'whole Scheme' was intended to provide work to these casual labourers on a continuous basis and to make these casual labourers regular subject to availability of vacancies. The aforesaid scheme was again followed by the 1993 scheme for conferment of temporary status on all casual labourers who were in employment on the date of issue of the O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week). Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts. The notification itself indicated that the guidelines contained in the O.M. should be followed strictly in the matter of engagement of casual employees. The entire scheme was introduced with the avowed object mentioned above. Such a scheme cannot be termed as a one time measure as was submitted by Mr. A.K. Choudhury, learned Addl. C.G.S.C. A decision on this issue has already been rendered by the Full Bench of the Central Administrative Tribunal in O.A.No. 1146-HP-96 decided on 3.10.2001. The Schemes were introduced as per the constitutional mandate and in response to the decisions of the Supreme Court. As included earlier the Scheme was introduced to protect the working force. When there is a perennial nature of work, in those instances the labourers who are engaged are to be conferred with temporary status. It is for the authority to take a decision in the matter in the light of the Scheme. In the instant case, the

respondent authority was smarting under the misconception that the Scheme of 1993 in itself was a one time Scheme. The Scheme is still existing and the casual labourers working under the department are to be conferred with temporary status, that is the pure and simple meaning of the Scheme. We, therefore, remand the matter to the concerned authority to examine the case on merits in the light of the Scheme of 1993 and in so doing the authority should take note of the services of the all the workers who worked for 240 days without taking note of the artificial breaks. The department will be free to take a decision on the subject on merit, keeping in mind its need, the available work force and the object of the Scheme. The respondents are directed to complete the exercise within four months from today and pass necessary speaking order as per law.

5. The application is allowed to the extent indicated. No order as to costs.

Sd/- Vice Chairman

Sd/- Member (Admn)

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ANNEXURE-VII 20

2 Mtn. Div. Ord. Unit

C/O 99 APO

24 May 2002

270101/PC/HQ

Sri Rubul Mout, S/o Sri Pulin Mout

Vill - Dongirchuk, P.O. Bishmille

P.S. Chabua

Dist. - Dibrugarh, PIN-786184

(All concern)

not in

and

Speaking Order

1. Ref. to Central Administrative Tribunal Guwahati Bench Judgment and Order dated 11 Feb, 2002 passed in OA No. 353 of 2001 (Heeralal Rawat & 30 VS UOI). The department has perused the judgment and understood the same.

2. This unit/department has perused the case and the judgment regarding thirty one individuals inclusive of Shri Heeralal Rawat (Names are att as appx 'A') employed as casual labours on daily wages (Nerric rates) and who were paid from Budget Head 105 (F). On perusal of all related documents and the judgment the following inferences are made -

*Attested  
B Deo*  
(a) Adjutant General's Branch, Army Headquarter, New Delhi vide its letter No. 15225/Org/4 (Civ) (a) dt. 29 Jan 98 has stated that granting of temporary status to the casual labourers was a one time affair and it was applicable in respect of those casual labourers/employees who were in service on the date of the Govt. of India notification of the scheme of 10 Sep 93 and who had rendered one year continuous service i.e. 240 or 206 days as the case may be on that date. But as

...spare

regards to the thirty one casual labourers employed on daily wages by this unit/department, they were not working prior to the Govt. of India notification of 1993 with this unit/department and therefore, cannot be conferred the status they are demanding for according to the regulations.

3. In view of the aforesaid, the above applicants Shri Heeralal Rawat and others cannot be given temporary status as they were employed much later and not prior to the Govt. of India notification of 1993 and there is no provision given by Ministry of Defence Govt. of India to this unit/department to facilitate the same.

4. In view of the above, it is not possible on the part of the department to confer temporary status to the applicants, 31 in numbers in OA 353/01.

Sd/-

Adm & Ser Wing  
for Commanding Offr

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 94 of 2003.

Date of Order : This the 25th Day of February, 2004.

The Hon'ble Sri Shanker Raju, Judicial Member.

The Hon'ble Sri K.V.Prahladan, Administrative Member.

1. Sri Heeralal Rawath.
2. Sri Bubul Mout.
3. Sri Umesh Kumar.
4. Sri Kiran Goswami.
5. Sri Upendra Rout.
6. Sri Mohan Tanti.
7. Sri Jaimangal Rawath.
8. Sri Phonon Gogoi.
9. Sri Kanak Das.
10. Sri Kailash Yadav.
11. Sri Hiralal Kurmi.
12. Sri Nar Bahadur Thapa.
13. Sri Tanzeing Das.
14. Sri Jiten Sarkar.
15. Sri Chilan Duarah.
16. Sri Loknath Baruah.
17. Sri Rohin Das.
18. Sri Mridul Das.
19. Sri Kadam Phukan.
20. Sri Rupam Das.
21. Sri Bijay Gogoi.
22. Sri Ranjan Saikia.
23. Sri Binod Das.
24. Sri Rajib Rajkhowa.
25. Sri Amit Tanti.
26. Sri Binod Dihingia.
27. Sri Atul Chetia.
28. Sri Rulena Prashad.
29. Sri Kulendra Gogoi and
30. Sri Manik Chetia.

... Applicants.

By Advocate Sri A.Dasgupta.

- Versus -

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

Attested  
B Das

contd..2

2. General Officer Commanding,  
4 Corps 2 Mountain Division,  
C/o 99 A.P.O.

3. General Officer Commanding,  
4 Corps, C/o 99 A.P.O.

4. Commanding Officer  
2 Mountain Division,  
Ordnance Unit,  
C/o 99 A.P.O.

... Respondents.

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

O R D E R (ORAL)

SHANKER RAJU, JUDICIAL MEMBER.

The applicant through this O.A. has sought quashing of order dated 24.5.2002 by which he request for conferment of temporary status was turned down.

2. Applicant a casual worker approached this Tribunal in O.A. 353/2001 which was disposed of on 11.2.2002 directing the respondents to consider the case of the applicant as per DOPT scheme of 10.9.93 and to take a final decision by a speaking order.

3. Vide order dated 24.5.2002 the claim of the applicant was rejected as the scheme was one time and the applicant was not in engagement on 1.9.93.

4. Learned counsel for the applicant referred to para 11 of the decision of the apex Court in Union of India vs. Mohal Pal, 2002 (1) SCC 216 contends that conferment of temporary status would not be disturbed mere the direction issued was prior to the decision of Mohal Pal case (supra). However, it is contended that DOPT guidelines enlarge the zone of consideration to all casual labourers for regularisation on fulfilling the eligibility criteria as per clause 10 of the DOPT scheme of 10.9.93.

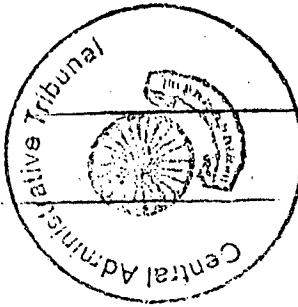
contd..3

5. The respondents on the other hand vehemently opposed the contention and has stated that the applicant was not in engagement and as per the decision of the apex Court in Mohal Pal (supra) their claim for regularisation was rightly rejected.

6. We have carefully considered the rival contention of the parties and perused the materials on record. In Mohal Pal's case DOPT instructions dated 10.9.93 was observed to be one time, those who were not in engagement on 1.9.93 ~~were~~ not eligible for consideration. However, clause 10 of the DOPT scheme clearly provides that in ~~the~~ future the engagement of casual workers shall be done as per guidelines of DOPT contained in O.M. dated 7.6.1988.

7. As per the aforesaid O.M. working period of two years in two consecutive 206/240 days and sponsorship through Employment Exchange was eligibility criteria. Accordingly the claim of the applicant for consideration under DOPT scheme of 10.9.93 being one time scheme and the fact that he was not in engagement on 1.9.93 cannot be ignored. However, in the light of DOPT circular dated 7.6.88 the respondents are directed to consider the case of the applicants subject to their eligibility criteria on fulfilling the eligibility condition for regularisation as per DOPT O.M. dated 7.6.88.

O.A. stands disposed of accordingly.



*Certified to be true copy*  
*Guwahati Branch*

Sd/MEMBER (J)

Sd/MEMBER(ADM)

*27/2/04*  
Section Officer (J)  
C.A.T. GUWAHATI BRANCH  
Guwahati-781005

To,

The Commanding Officer,  
2 Mountain Div. Ord. Unit,  
C/o 99 APO.

Date : 25/11/04

REGULARIZATION OF MAZDOOR UNDER EXISTING VACANCIES.

Sir,

With due respect I, on behalf of 30 ex-casual workers beg to submit that it has come to our notice that you have demanded to employment exchange Dibrugarh vide your letter no. 2701503/EMP/17/CIV/EST dtd. 28-10-2004 for employment of 11 Nos. mazdoors in your establishment from SC/ST categories inspite of CAT Guwahati order dtd. 25-2-2004 against our application no. AO 94 of 2003.

As sufficient number of SC/ST candidates are available among us hence you are requested to kindly absorbed them against existing vacancies as they have rendered their services in your establishment about the year and oblige.

Thanking you.

Yours faithfully,

*Hiralal Rawat*

(Hiralal Rawat)

On behalf of 30 applicants

Copy to :

1. ~~To the Hon'ble Judicial Member & Administrative Member, CAT, Guwahati Bench.~~

2. To the Secretary, Ministry of Defence, Govt. of India, New Delhi.

3. Sri Jiwan Roy, Hon'ble M.P. (Rajya Sabha).

4. To the General Officer Commanding, 4 Corps, C/o 99 A.P.O.

5. To the General Officer Commanding, 2 Mountain Division, C/o 99 A.P.O.

6. To the General Secretary, AIDEF, Khadki, Pune-3.

7. Employment Exchange, Dibrugarh.

For information alongwith xerox copy of CAT, Guwahati order dtd. 25-2-2004 with a request to look into the matter and necessary action with suitable direction please.

*Attested**B. Das*

Annexure: - H

2 Mtn Div Ord Unit  
C/O 99 APO  
30 Nov 2004

270101 / PC / X /HQ

Shri Heralal Raut  
C/o Ramdeo Raut  
Stn HQ Panitala / Dinjan  
(Indl Concerned)

SPEAKING ORDER

1. Refer to Honorable Central Administrative Tribunal Guwahati Bench Judgement dated 25 February 2004 passed in OA 94 / 2003 (Heeralal Rawat & 30 others V/S UOI). The department has perused the judgement of the Hon'ble Court and understood the same.
2. On perusal of the Judgement, the following has emerged :-
  - (a) Case of applicant be considered subject to the eligibility criteria.
  - (b) Eligibility criteria spelt out is :-
    - (i) Sponsorship through Employment Exchange.
    - (ii) Completion of 206 / 240 days consecutively in two years without break in service.
3. The case was considered in depth and relevant documents perused by the unit / department and the following emerged :-
  - (a) Applicants were sponsored by Employment Exchange, Dibrugarh.
  - (b) Not even a single applicant has completed 240 days of continuous service in two consecutive years. All applicants have a break in service.
4. In view of the above it is seen that no applicant meets the laid down eligibility criteria for grant of temporary status. Therefore, it is not possible on the part of the unit / department to confer temporary status to the applicants, 31 in numbers in OA No. 94 / 2003.

Sd/- eligible  
(P. Ganguly)  
Lt. Col  
Offg. CO

Panitala  
Attested  
B. D. S.

EN 39/59

ANNEXURE I

**Ministry of  
Defence : Army  
Ordnance Corps  
Direct Recruitment**

**Mazdoor (SC & ST Only)**

1. 2 Mountain Ordnance Divisional Unit, C/O 99 APO invites application by 15 Jan 2005 from eligible Indian Citizens for the post mentioned below for recruitment at 2 Mountain Ordnance Unit, C/O 99 APO with all India service liability:-

- (a) Name of Post : Mazdoor
- (b) No. of Post : 11
- (c) Reservation : SC-06 and ST-05
- (d) Education/Qualification : 8th Pass

(e) Age limit : 18 to 30 years of age as on 15 Jan 2005.

2. How to Apply: The applicant should apply for the above post addressed to the Commanding Officer, 2 Mountain Ordnance Divisional Unit, C/O 99 APO incorporating the Bio-data of the applicant alongwith the application given below.

3. Conduct of Recruitment: Candidates whose applications are found in order will be called for Physical test. Successful candidates will be called for medical examination and interview. A merit list will finally be drawn and candidate will be informed individually.

4. Documents Required: The following photostat copies of certificates duly attested by Gazetted Officer should accompany the application:-

- (a) Birth Certificate
- (b) Caste Certificate
- (c) Education/Qualification Certificate
- (d) Permanent residential Certificate
- (e) Name of Employment exchange and registration number
- (f) Character Certificate

5. Last date of Submission of application: 15 Jan 2005.

**Application for the Post of  
Labourer (Mazdoor)**

1. Name of applicant (In block letters):
2. Father's Name:
3. Nationality:
4. Date of Birth:
5. Permanent Home address:
6. Education/Qualification:
7. Past experience:
8. Caste:

**Declaration**

I hereby declare that the above particulars are true. In the event of any statement of documents attached is/are found to be false or incorrect, my application/appointment to be terminated.

Signature of applicant  
davp 7101 (156) 2004 FN 39/59

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EN 39/59

Employment News

25-31 December 2004

Attested  
Babu

To,

The Commanding Officer,  
2 Mtn Div. Ord. Unit,  
C/o 99 APO.

**RE-INSTATE OF EX-CASUAL LABOURERS**

Sir,

Most respectfully We beg to draw your kind attention on our request made the following appeals :-

- (a) Appeal dt. 24-04-2006  
For regularization of casual labourers.
- (b) Appeal dt. 07-08-2006  
For regularization of casual labourers.
- (c) Appeal dt. 04-10-2006  
For regularization of casual labourers.

2. We have not received any reply decision against our above appeal so far for our regularization in the department. As we are facing a lot of inconvenience for want of job as such you are requested to kindly take necessary action to re-instate us in the department for which we shall alongwith our family members remain ever grateful to you.

Thanking you.

Yours faithfully,

1/ *H Rawat*  
Heeralal Rawat

On behalf of 30 casual labourers.

2/ *Sri Kisan Goswami*

3/ *Sri Rajib Raykhan*

4/ *Amritpal Tewari*

5/ *Bimal Chhingra*

6/ *Rabin Das*

7/ *Rubul Mait*

8/ *Fulwari Bader*

for information and necessary  
actions as requested time to time.  
Xerox copy of our correspondance  
made earlier is also enclosed herewith  
for your necessary action.

*Attested  
B. Das*

From:

Heeralal Rawat & 30  
Others(Ex-casual  
workers)  
HQ 2 Mtn Div Ord  
Unit  
C/O 99 APO

TO

THE commanding Officer  
2Mtn Div Ord Unit  
C/O 99 APO.

**RE- INSTATE OF EX- CASUAL LABOURER**

Sir,

With humble submission I would like to draw your kind attention towards my appeal dt. 24-04-2006 for above subject in response to your letter No. 270503/civ Est dt. 06-sep 2005

2. I shall be highly grateful to you if your goodself intimated present position of our regularization under HQ 2 Mtn Div Ord Unit.

Thanking you.

Your faithfully

  
Heeralal Rawat & 30  
Others casual labourer

Copy to:-

All concern -----> for information with request to look into  
the case lying with authorities from since long.

Dated : 01-08-06

To,

**The Hon'able Defence Minister,  
Govt. of India,  
New Delhi - 11.**

**Sub :- RE-INSTATEMENT OF CASUAL LABOURER HQ 2 MTN. DIV  
ORD UNIT, C/O 99 APO.**

Sir,

May kindly intimated present position of our appeal dated 09-05-2006.  
(Copy of appeal is enclosed herewith).

Thanking you.

Yours faithfully,

*H. Rawat*  
Heeralal Rawat  
&

**30 Others casual labourer.**

Copy to :-

1. Shri Sarbanand Sonowal, MP.
2. Shri Deepankar Mukharjee, MP.

It is requested that Present position of our case may please be intimated for information of all casual labourers.

From: Heeralal Rawat & 30  
Other (Ex - casual workers)

To  
The Commanding Officer,  
2 Mnt Div. ord Unit,  
C/o 99 APO.

RE - INSTATEMENT OF CASUAL LABOURS

Sir,

With due regards I beg to submit that it has come to my notice through advertisement dt. 29/3/2006 in news paper Telegraph that certain vacancies of fireman have been relearned in your unit for recruitment.

2. As per your letter No. 270503/civ est dt 06 Sept 2005 we approach your goodself for consider our case sympathetically for appointment being ex casual personnel of your unit.
3. We fully hope for this opportunity and shall be remain ever grateful to you for this act of your kindness and oblige.

Thanking you.

Date: 24/4/2006

Yours faithfully,

  
Heeralal Rawat & 30  
Other (Ex - casual workers)

- 63 -

To,

The Commanding Officer,  
2 Mtn. Divn. Ord. Unit  
C/o. 99 APO  
~~REDACTED~~.

Date - 25/10/2005.

REF: Your letter no. 270503/CivEst dated 6th Sept, 05  
Regarding Re-Invstatement of Casual Labours.

Hon'ble Sir,

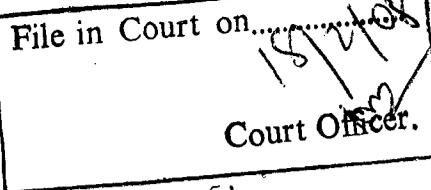
Received your above letter on 8/10/2005 We thank you very much for sending us such encouraging and hopeful letter which bears dreams and hopes to our poor Labourer.

We will be waiting till our dreams come true.

Thank you,

Yours faithfully,

  
(SRI HIRALAL RAWAT )  
And 30 others (Ex-Casual workers)  
~~REDACTED~~.  
~~REDACTED~~  
~~REDACTED~~  
~~REDACTED~~ ~~REDACTED~~.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

IN THE MATTER OF :

O.A. No.36 of 2007

Shri Heeralal Rawat

.....Applicant

- Versus -

Union of India & Ors.

.....Respondents

- AND -

IN THE MATTER OF :

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

18 FEB 2008

गुवाहाटी न्यायालय  
Guwahati Bench

Written statement submitted by the Respondent  
Nos.1 to 4.

WRITTEN STATEMENT

The humble answering respondents submit their  
written statement as follows:

1.(a) That I am COL SK Nehru, Commanding  
Officer, 2 Mountain Division Ordnance Unit  
Up ODAPO and Respondents No: 1 to 4 in the above case  
and as such I am fully acquainted with the facts and  
circumstances of the case. I have gone through a copy of  
the application served on me and have understood the  
contents thereof. Save and except whatever is specifically  
admitted in the written statement, the contentions and  
statements made in the application may be deemed to have

53  
Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Adv. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

Recd. on 2/11/08  
(S. B. Sarker)  
(S. B. Sarker)

dwelh

been denied. I am competent and authorized to file the statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both on facts and in law.

(c) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

(d) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicant had suffered from vice of illegality.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

10 FEB 2006

गुवाहाटी न्यायपीठ  
Guwahati Bench

#### Brief History of the Case

The brief History/description of the case is appended below, which may be treated as an integral part of this Reply.

The 2 Mountain Division Ordnance Unit is responsible to provide logistic support to all the units dependent on it. The workload of the unit had increased manifolds as a result of additional role assigned to the unit in Counter Insurgency Operations. The dependent unit are spread in vast areas (700 km x 700 km) and are located in remote areas of Upper Assam and Arunachal Pradesh. As a result, lots of difficulties were being faced by the unit

Amulya

in providing effective services due to shortage of manpower.

That, accordingly, a case was projected by unit to Headquarters 2 Mountain Division, the immediate superior formation, to accord sanction to employ porters/labourers on daily wages on as required basis to tide over the additional workload of non routine nature. The formation headquarters had accorded sanction to this unit for opening of supply and services imprest Account Budget Head 105 (F) wef 15 Sep 97 for employment civilian labourers and porters for the maintenance of troops and performing tasks of non

केन्द्रीय प्रशासनिक अनुच्छेद  
Central Administrative Tribunal

Central Administrative Tribunal

18 FEB 2009

गुवाहाटी न्यायमीमाल  
Guwahati Bench

nature on daily wages.

That, the employment of labourers depended on the availability/allotment of funds under Budget Head 105 (F) to the unit from local formation Headquarters and additional workload of non routine nature. The payment to the labourers was made by the CDA at the end of the month. The funds under supply and Services Imprest Account (Budget Head 105 F) is meant for employment of porter (labourers/CHT/Ponnies).

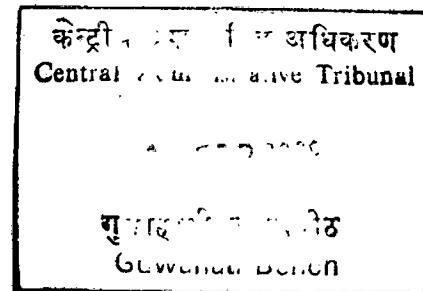
That, the process of selection of labourers on daily wages started on receipt of the sanction. The names of the candidates were obtained from District Employment Exchange, Dibrugarh. A board of officers was convened to assess the suitability of the candidates and recommended names for employment as labourers on daily wages (Nerric rates). The board Officers selected the candidates after

85  
Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Addl. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

done

conducting the following tests and recommended their employment on daily wages (nerric rates):-

- (i) 100 Mtr run.
- (ii) push ups
- (iii) Weight lifting 40 kgs.



That, as per the nature of work content, these labourers were employed only to perform the task of non routine nature which are of casual or seasonal or of intermittent nature like clearance of grass to avoid fire risk during summer and also for monsoon stocking of detachments located across river Brahmaputra and river Lohit. Accordingly, they were paid for the actual No. of days they were employed for at the end of the month, out of Supply and Services imprest Account (Budget head 105 F), allotted by the formation Headquarters.

**PARAWISE COMMENTS:-**

2. That, with regard to the statements made in paragraph 4.1, 4.2, 4.3 and 4.9 of the application, the answering respondents do not admit anything contrary to the records of the case and the applicants are put to the strictest proof thereof.

3. That with regard to the statements made in paragraphs 4.4 of the application, the answering respondents beg to submit that paragraph 3 of the appointment letter number 270503/Civ/Est dated 01 Dec 97 (Copy annexed here to as annexure 1) clearly indicate that

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**Motin Ud-Din Ahmed**  
M.A., B.Sc., LL.B.  
Addl. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

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the payment was to be made for the number of days the individual was actually employed and they were all paid as per their attendance. There has never been any representation or compliant on that account. Appointment of waiting list candidates was done purely on the additional workload of non load of non routine nature during that period. Since there was more work, additional labourers

*केन्द्रीय प्रशासनिक अधिकारी वर्ग*  
Central Administrative Tribunal  
We're called from the waiting list maintained for that purpose.

18 FEB 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

That with regard to the statements made in paragraphs 4.5 of the application, the answering respondents beg to state that the contention of the applicants is not true. The applicants were selected to be employed on daily wages (at Nerric rates) and payment was to be made for only those days on which they were called for work. Hence, the contention of rendering continuous service without interruption is not correct. As stated above, the units dependent on 2 Mountain Division Ordnance Unit were deployed/redeployed in Counter Insurgency Operations in upper Assam & Arunachal Pradesh. This resulted in increased workload which required employment of additional labourers for maintenance of the troops. As per nature of work and requirement of the work force, some of these applicants were called for undertaking the additional tasks, they were paid as per their attendance for actual number of days they were physically employed and they had never lodged any complaints.

*Ansler*

From April - April, the applicants were called for work only when necessity of their employment arose. They were all paid on daily wages as per the attendance register. As such, the contention of the applicants is not correct that the applicants worked for more number of days where as the attendance was marked for only 19 days by the management otherwise the applicants would have certainly lodged complaints on this issue, which they never did.

The applicants were not granted temporary status as there was no provision. As per Adjutant General's Branch, Army Headquarters, New Delhi letter number 15225/0rg 5 4(Civ)(a) dated 29 Jan 98 (copy annexed here to Central Administration as annexure II), granting of temporary status to the casual labourers was a one time affair and it was applicable in respect of those casual employees who were in service on the date of notification of the scheme i.e. 10 Sep 1993 and had rendered one year of continuous service with 240 or 206 days as the case may be on that date. Hence, the conferring of temporary status to the applicants is not applicable even if they were employed subsequently.

5. That with regard to the statements made in paragraph 4.6 of the application, the answering respondents beg to submit that as the regular troops were being made available for additional tasks, the necessity of the porters was stopped and the applicants were not employed thereafter.

Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Addl. Commr. Govt. Services and Counsel

Ansels

The requisition for sponsoring of additional persons for employment as porters/casual labourers by the establishment of 2 Mountain Division Ordnance unit was forwarded to the District Employment Exchange, Dibrugarh on 22 Jan 2001. In the meantime, the necessity of employing these porters/casual labourers was reviewed and since the necessity was not felt, the process was discontinued.

6. That with regard to the statements made in paragraph 4.7 of the application, the answering respondents beg to submit that during this period, the regular troops

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal  
10 FEB 2006  
गुवाहाटी न्यायपीठ  
Guwahati Bench  
were made available for the extra work. Since the combatant manpower was readily available and it proved to be more economical to the state, the unit management decided to stop employment of the porters in future.

7. That with regard to the statements made in paragraph 4.8 of the application, the answering respondents beg to submit that as per the records none of the applicants has rendered 240 days continuous service. As per court order of 25<sup>th</sup> February 2004 in O.A.No.94 of 2003 (copy annexed hereto as annexure III), the court has clearly stated that this scheme of granting temporary status was a one time scheme applicable to those who join prior to 1993.

8. That with regard to the statements made in paragraphs 4.10, 4.11 to 4.14 of the application, the

answering respondents beg to submit that as per the court order of 25<sup>th</sup> February 2004 following emerged:

(a) Case of the applicants to be considered subject to the eligibility criteria.

(b) Eligibility criteria spelt out was:

केन्द्रीय प्रशासनिक अधिकारण  
Central Administrative Tribunal

18 FEB 2009

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Guwahati Bench

(i) Sponsorship through employment exchange  
(ii) Completion of 206/240 days of continuous service in two consecutive years without break.

The case was considered in depth and relevant documents were perused and following emerged:-

(a) Applicants were sponsored by employment exchange

(b) Not even a single applicant has completed 240 days of continuous service in two consecutive years. All applicants have break in service.

9. That with regard to the statements made in paragraph 4.15 of the application, the answering respondents beg to submit that the advertisement for recruitment was published however no recruitment was conducted in this regard this office letter No.270503/PC/Civ/Est dated 01 March 2005 (copy of letter here is annexed as annexure IV).

10. That with regard to the statements made in paragraphs 4.16 and 4.17 of the application, the answering

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Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Addl. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

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respondents beg to submit that this unit has conducted recruitment of Firemen and Mazdoor during the year 2006 and 2007 after giving wide publicity through leading and local newspapers. However the applicants did not appear for the recruitment.

Further, it is settled law that completion of 240/206 days in a year may not itself be a ground for Regularization, since they were not appointed with the extant rules and the regularization cannot be a mode of appointment and attempt to induct an employee without

केन्द्रीय प्रशासनिक न्यायपाल  
Central Administrative Tribunal

following the procedure would be a back door appointment,

which does not have any legal sanction. The applicants were

not holding any post. But the applicants could have been

considered alongwith other candidates who had appeared/participated during the year 2006 and 2007 as stated above, if necessary, relaxing the age bar to the extent they had worked with the respondents but the applicants avoided the duly conducted recruitment process, the reason best known to them only. It is pertinent to mention here that, while offering public employment or any appointment, it must comply with the constitutional and statutory requirements and/or must be made in terms of the existing rules.

11. That with regard to the statements made in paragraph 4.18 of the application, the answering respondents beg to submit that in view of the clarification issued on various issues above, the contention of the

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Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Addl. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

✓ applicants is incorrect and baseless and may not be agreed to.

12. That with regard to the statements made in paragraph 5.1 of the application, the answering respondents beg to submit that the provision for grant of temporary status to the applicants does not exist as per Adjutant General's Branch. Army Headquarters letter No.15225/Org 4 (Civ) dated 29 Jan 98 (refer annexure II). Granting of temporary status to the casual labourers was a one time affair and it was applicable in respect of those casual labourers who were in service on that date of notification of the scheme i.e. 10 Sep 1993 and had rendered one year of

केन्द्रीय प्रशासनिक अदायक  
Central Administrative Tribunal

continuous service with 240 or 206 days as the case may be on that day. Hence, it is very clear that conferring of

18FCB/2004  
temporary status to the applicants is not applicable even  
गुवाहाटी न्यायपीठ  
Guwahati Bench if they were employed subsequently. As per court order

issued on 25<sup>th</sup> Feb 2004 (refer annexure III) on application No.94/2003 it has been clearly stated that respondents are directed to consider the case of the applicants subject to fulfilling of eligibility criteria as per DOPT OM dated 07 Jun 88. As per the court order of 25<sup>th</sup> Feb 2004 following emerged:

(i) Case of applicants to be considered subject to the eligibility criteria.

(ii) Eligibility criteria spelt out was

(aa) Sponsorship through employment exchange

✓ Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Addl. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

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(ab) Completion of 206/240 days of continuous service in two consecutive years without break.

The case was considered in depth and relevant documents were perused and following emerged:

(i) Applicants were sponsorship by employment exchange.

केन्द्रीय प्रशासनिक अधिदरायी  
Central Administrative Tribunal

18 FEB 2009

गुवाहाटी न्यायालय  
Guwahati Bench

Not even a single applicant has completed 240 days of continuous service in two consecutive years.

All applicants have break in service.

Based on the court order issued on 25<sup>th</sup> Feb 2004 speaking order No.270101/PC/X/HQ dated 30 November 2004 was issued to the applicant. Copy of speaking order dated 30 November 2004 is annexed hereto as Annexure V.

13. That with regard to the statements made in paragraphs 5.2 of the application, the answering respondents beg to submit that in the speaking order dated 30 November 2004 it was clearly intimated that none of the applicants meet the eligibility criteria of 240 days of continuous service in two consecutive years. All applicants have a break in service.

14. That with regard to the statements made in paragraphs 5.3 of the application, the answering respondents beg to submit that the speaking order was issued on the facts of the lights and solid and sufficient

23  
Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Addl. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

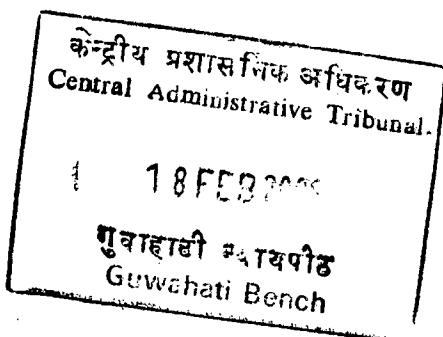
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reasons had been given in the order. Hence there is no violation of article 14 of the constitution of India.

15. That with regard to the statements made in paragraph 5.4 of the application, the answering respondents beg to submit that the respondents authority has taken steps within the existing Rule position/policy of the Government and has not violated article 21 of the constitution of India.

16. The application is devoid of any merit in the eye of law and as such liable to be dismissed for the ends of justice and equity.

*Ansels*



*Ansels*

Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Addl. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

VERIFICATION

I, Col SK Nehru, Commanding Officer  
2 Mountain Division Ordnance Unit C/0 99 APD  
 being duly authorized and competent to sign this  
 verification, do hereby solemnly affirm and verify that  
 the statements made in Paras 1b 8, 10 & 12 are true to  
 my knowledge, belief and information and those made in  
 Paras 9 are derived from the records/facts  
 etc, and the rest are humble submissions before the  
 Hon'ble Court and I have not suppressed any material  
 facts.

And I sign this verification on this the 2nd,  
 day of December 2007 at Guwahati.

✓ *Amelia*  
 DEPONENT

केन्द्रीय प्रशासनिक अधिकरण  
 Central Administrative Tribunal

| 18 FEB 2008

गुवाहाटी न्यायपीठ  
 Guwahati Bench

*Motin Ud-Din Ahmed*  
 M.A., B.Sc., LL.B.  
 Addl. Central Govt. Standing Counsel  
 Guwahati Bench (CAT)

-14-

REGD. BY POST

Annexure - I

2 Mtn. Div. Ord. Unit

C/O 99 APO

270503/CIV/EST

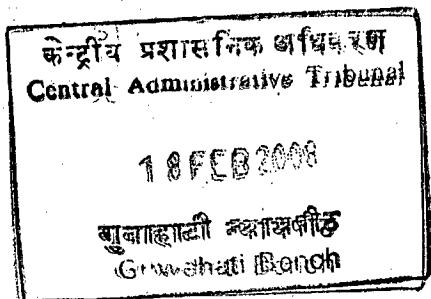
01/Dec' 97 File in Court on.....

Umesh Kumar  
Vill- Kharjan  
P.O. Bagdung  
Dibrugarh, Assam

Court Officer.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning muster roll (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.



Sd/- Illegible

(VK Sharma)

Col  
Commanding Officer

5.

Concl.

ANNEXURE-V

/Copy/

Tele: 3375033

IMMEDIATE

15226/ORG 4 (CIV) (A)

29 Jan 98

ADJUTANT GENERAL'S BRANCH  
ORG 4 (CIV) (A)

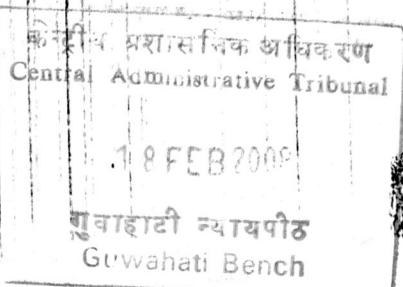
CLARIFICATION - GRANT OF TEMPORARY STATUS AND  
REGULARIZATION SCHEME FOR CASUAL LABOUR

1. Grant of Temporary Status and Regularisation Scheme circulated by the Deptt. of Personnel and Training under their OM No. 51016/2/90-ESTU(C) dated 10 Sep 93 was disseminated to all the Branches/Dates of Army HQ vide our note No. 71881/C1/ORG.4(CIV) (A) dated 29 Oct 93. Recently, while examining a case on grant of temporary status to casual employees, the DP&T have clarified that the said scheme was a one-time affair and is applicable in respect of only those casual employees who were in service on the date of the notification of the scheme, i.e. 10-9-93 and had rendered one year of continuous service with 240 or 206 days, as the case may be, on that date. Thus conferring temporary status is not applicable to those who had not completed 240 or 206 days, as the case may be, on 10 Sept. 93 and also those employed as casual labour subsequently.

2. In view of the above, it is requested that all the Units/Estts. under your administrative control may be apprised of the above clarification immediately for compliance.

3. Please acknowledge.

SDA- Td. Legible



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 94 of 2003.

Date of Order: This the 25th Day of February, 2004.

The Hon'ble Sri Shanker Raju, Judicial Member.

The Hon'ble Sri K.V.Prahladan, Administrative Member.

1. Sri Heeralal Rawath,
2. Sri Bubul Mout,
3. Sri Umesh Kumar,
4. Sri Kiran Goswami,
5. Sri Upendra Rout,
6. Sri Mohan Tanti,
7. Sri Jaimangal Rawath,
8. Sri Phonon Gogoi,
9. Sri Kanak Das,
10. Sri Kallash Yadav,
11. Sri Hiralal Kurmai,
12. Sri Nar Bahadur Thapa,
13. Sri Tanzeing Das,
14. Sri Jiten Sarkar,
15. Sri Chilan Duarah,
16. Sri Loknath Baruah,
17. Sri Rohin Das,
18. Sri Mridul Das,
19. Sri Kadam Phukan,
20. Sri Rupam Das,
21. Sri Bijay Gogoi,
22. Sri Ranjan Saikia,
23. Sri Binod Das,
24. Sri Rajib Rajkhowa,
25. Sri Amit Tanti,
26. Sri Binod Dihingia,
27. Sri Atul Chetia,
28. Sri Rulena Prashad,
29. Sri Kulendra Gogoi and
30. Sri Manik Chetia

Applicants.

By Advocate Sri A.Dasgupta.

- Versus -

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

Contd. 2

- 17 -

2. General Officer Commanding,  
2 Mountain Division.  
C/o 99 A.P.O.
3. General Officer Commanding,  
4 Corps, C/o 99 A.P.O.
4. Commanding Officer  
2 Mountain Division,  
Ordnance Unit.  
C/o 99 A.P.O.

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

ORDER (ORAL)

SHANKER RAJU, JUDICIAL MEMBER,

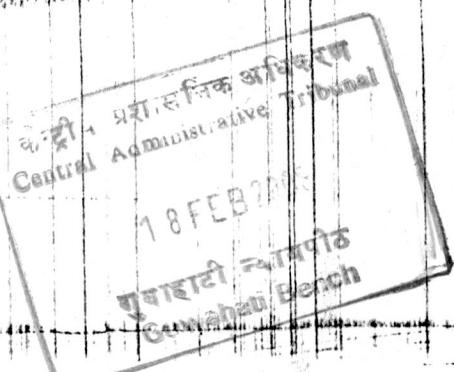
The applicant through this O.A. has sought quashal of order dated 24.5.2002 by which he request for conferment of temporary status was turned down.

2. Applicant a casual worker approached this Tribunal in O.A. 353/2001 which was disposed of on 11.2.2002 directing the respondents to consider the case of the applicant as per DOPT scheme of 10.9.93 and to take a final decision by a speaking order.

3. Vide order dated 24.5.2002 the claim of the applicant was rejected as the scheme was one time and the applicant was not in engagement on 1.9.93.

4. Learned counsel for the applicant referred to para 11 of the decision of the apex Court in Union of India vs. Mohal Pal, 2002 (1) SCC 216 contends that conferment of temporary status would not be disturbed mere the direction issued was prior to the decision of Mohal pal case (supra). However, it is contended that DOPT guidelines enlarge the zone of consideration to all casual labourers for regularisation on fulfilling the eligibility criteria as per clause 10 of DOPT scheme of 10.9.93.

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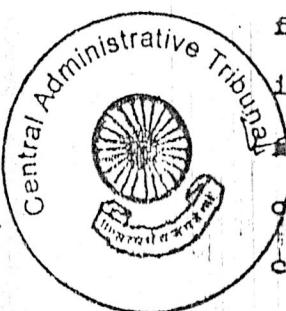
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5. The respondents on the other hand opposed the contention and has stated that the was not in engagement and as per the decision of Court in Mohal Pal (supra) their claim for regularisation was rightly rejected.

6. We have carefully considered the rival contentions of the parties and perused the materials on record. In Mohal Pal's case DOPT instructions dated 10.9.93 was observed to be one time, those who were not in engagement on 1.9.93 were not eligible for consideration. However, clause 10 of the DOPT scheme clearly provides that in view of future the engagement of casual workers shall be done as per guidelines of DOPT contained in O.M. dated 7.6.1988.

7. As per the aforesaid O.M. working period of two years in two consecutive 206/240 days and sponsorship through Employment Exchange was eligibility criteria. Accordingly the claim of the applicant for consideration under DOPT scheme of 10.9.93 being one time scheme and the fact that he was not in engagement on 1.9.93 cannot be ignored. However, in the light of DOPT circular dated 7.6.88 the respondents are directed to consider the case of the applicants subject to their eligibility criteria on fulfilling the eligibility condition for regularisation as per DOPT O.M. dated 7.6.88.

O.A. stands disposed of accordingly.



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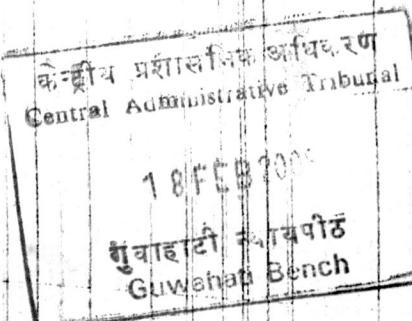
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Sd/ MEMBER (J)

Sd/ MEMBER (ADM)

Section Officer (J)  
C.A.T. GUWAHATI BENCH  
Guwahati 781005

18/3/09  
18/3/09



2 Min DIV Ord Unit  
C/0 99 APO

01 Mar 2005

270503/PC/CIV/Est

Employment Officer  
Employment Exchange  
Nugrah (Assam)

REQUISITION FOR RECRUITMENT OF MAZDOOR  
INDUSTRIAL CANDIDATES

Mr Sir,

1. Please refer to this office letter No. 2701503/EMP/17/CIV Est dated 28 Oct 2004.

2. It is for your information that this unit has not been released with any vacancy of Mazdoor. Hence our letter under reference may please be treated as cancelled.

3. This is for your information and further necessary action please.

Yours faithfully

(Lokesh Sharma)  
Lt Col  
OIC Adm & Ser Wing  
For Commanding Officer

