

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 45/2007

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet..... O.A Pg. 1 to 5

2. Judgment/Order dtd. 29.11.2008 Pg. 1 to 8. 8.13m.38 sec

3. Judgment & Order dtd. Received from H.C/Supreme Court

4. O.A. 45/2007 Pg. 1 to 27

5. E.P/M.P..... Pg..... to

6. R.A/C.P..... Pg..... to

✓ 7. W.S.R.NO.-2 Pg. 1 to 11

✓ 8. Rejoinder..... Pg. 1 to 4

Addl. Rejoinder Pg. 1 to 6

9. Reply/Supp. ment. R.NO. 2 Pg. 1 to 7

10. Any other Papers..... Pg..... to

11. Memo of Appearance.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

SECTION OFFICER (Judl.)

Fariba
22.9.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 45/07
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Bteagen Das VS Union of India & Ors

Advocate for the Applicant(s) Adil Ahmed
Smita Bhattacharya

Advocate for the Respondent(s) Adv. Case Mr. M. Das

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide I.P.C/B.D No. 34660466 Dated 7.2.07 S. G. Registrar 13.2.07	13.2.07	This is the second round of litigation. Vide order dated 08.08.2006 passed in O.A.No.191 of 2006 the Tribunal has directed to the respondent to dispose of the representation of the applicant and for grant of temporary status. Vide communication dated 10.11.2006 (Annexure D) the competent authority considered the case of the applicant and passed the following order:

Copy of application
for issuing notice
alongwith envelope and
Rs. 15/- for respondent.
Nos. 6, 7 & 8 have
been submitted.

"His claim that he was
engaged continuously from
March 1994 to December
1999 as a Casual Plumber in
AIR, Staff quarter/office is
false and misleading since no
such records prevailing in this

Received and copy of
dated 13.2.07.

contd/-

14/2/2007
Applicant.

13.2.07

Department. In fact he was engaged for the work purely on contract basis from time to time under O/O Assistant Engineer, CCW, AIR, Guwahati as per "CPWD Contract Rules." Therefore, there is no provision for claiming Casual/ Regular Service in the department"

The authority also submitted that he was engaged as casual plumber for a period of 3(three) months only from December, 1989 to February

Order dated 13.2.07
Received on behalf of -
Mrs. M. Das, Add: C.C.S.C.
Sri. J. Kumar Ch. Guwa

20.2.07

1990 by O/O Assistant Engineer (C) CCW, AIR Shillong. His claim that he was engaged continuously from March 1989 to December 1990 is false and misleading the Court. He was engaged for period of three months from December 1989 to February, 1990. Therefore he is not entitled to get the benefits.

I have heard Mr. A. Ahmed learned counsel for the applicant and Mr. G. Baishya learned Sr.C.G.S.C. for the respondents. When the matter came up for hearing the learned counsel for the applicant has brought to my notice the Annexures A & B issued by the competent authority. In Annexure D it is stated that his claim that he was engaged continuously from March 1989 to December 1990. The counsel for the respondents has submitted that he will verify the records. Let it be done. Post the matter on 14.3.07.

lm

Vice-Chairman

14.3.2007 When the matter came up for consideration, Mrs. M. Das, learned Addl. C.G.S.C. for the Respondents submitted that Annexures-A & B annexed with the O.A. are not authentic certificates. The Applicant is directed to react to that statement.

15.3.07

Rejoinder filed
by Rept. No. 2.
page-1 to 7.

Post the matter on 09.04.2007.


Member


Vice-Chairman

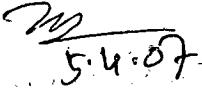
/bb/

4.5.07. Counsel for the applicant has submitted that pleadings are completed. Post the matter on 8.6.07.

No. wks filed by
R.No- 1 & 3 to 8.

1m

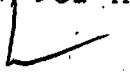

Vice-Chairman

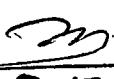

5.4.07. 8.6.07.

Post the matter on 12.7.07 for hearing.

No. wks filed by
R.No- 1 & 3 to 8.

1m


Vice-Chairman


3.5.07.

12.7.07 Counsel for the applicant has submitted that he has some personal difficulty. Post the matter on 17.7.07.


8.5.07.

Rejoinder filed by
the Applicant.
page 1 to 4.


Vice-Chairman

The case is ready
for hearing.


7.5.07.

The case is ready
for hearing.

17.7.2007 It is submitted that the counsel for the applicant wanted to file rejoinder.

Post the case on 13.8.2007. In the meantime applicant may file rejoinder. Registry is directed to ascertain whether it is a single Bench or Division Bench matter.


11.7.07.
The case is ready.


Vice-Chairman


16.7.07.

- 3P - OA 45/07

18.7.07
The matter is division
Bench. Wrongly listed on
Single Bench. Di

Addl. Respondents listed

by the applicant.

My
4.10.07

05.10.2007

Call this matter on 09.10.2007.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

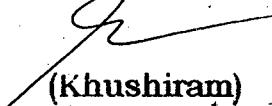
/bb/

4.10.07

09.10.07.

No Court was on 13.8 learned counsel appearing for the
10.10.2007. Applicant this matter, stands adjourned to
be taken up on 19th November, 2007.

Call this matter on 19th November,
2007.


(Khushiram)
Member (A)


(Manoranjan Mohanty)
Vice-Chairman

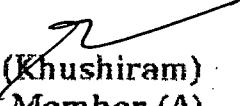
1m

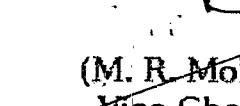
1m

My
16.11.07.

19.11.2007.

On the prayer of Mr A. Ahmed,
learned counsel for the Applicant (made
in presence of Mrs M. Das, learned Addl.
Central Government Standing Counsel)
this case is adjourned to 27.11.2007.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nk

27.11.2007

Heard Mr.A.Ahmed, learned counsel
for the Applicant and Mrs.M.Das, learned
Addl. C.G.S.C. fro the Respondents.

Hearing concluded. Order is
reserved.

/bb/

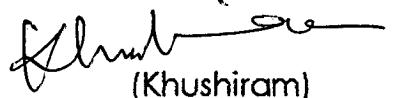

(Khushiram)
Member (A)

O.A. 45/2007

29.11.2007 Judgment pronounced in open
Court, kept in separate sheets.

16/12/07
Plaintiff dismissed
vide O.Nos. 1757
to 1759 on 12/12/07.
SK

The O.A. is dismissed in terms of the
order. No costs.


(Khushiram)
Member (A)

1/bb/

Receive copy on
behalf of M. Das Addl
C.G. SC
Reeta Singh
9.1.08.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.45/2007

DATE OF DECISION : 29-11-2007

Brajen Das Applicant/s
Mr A. Ahmed Advocate for the
..... Applicant/s

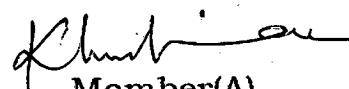
-Versus -

Union of India & Ors. Respondent/s
Mrs M. Das, Addl.C.G.S.C. Advocate for the
..... Respondent/s

CORAM

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.


Mamber(A)

8

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.45 of 2007.

Date of Order : This the 29th Day of November, 2007.

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

**Shri Brajen Das,
Son of Shri Bhagaban Das,
Resident of Galia,
Post Office Bhabanipur,
Dist. Barpeta, Assam**

.....Applicant

By Advocate Mr A. Ahmed.

- Versus -

1. **The Union of India,
represented by Director General,
All India Radio, Akashwani Bhawan,
New Delhi - 110001.**
2. **The Deputy Director General (NER)
All India Radio, Guwahati-3.**
3. **The Station Director,
All India Radio, Shillong-1.**
4. **The Station Director,
All India Radio, Chandmari,
Guwahati-3.**
5. **The Superintendent Engineer, (Civil)
Civil Construction Wing,
All India Radio,
Dr. P. Kakoti's Building,
Near Ganeshguri Fly Over,
G.S.Road, Guwahati-6.**
6. **The Executive Engineer (Civil)
Civil Construction Wing,
All India Radio,
Guwahati Division, , Tarun Nagar,
Bye Lane-1, Guwahati-781005.**
7. **The Assistant Engineer (Civil)
Civil Construction Wing,
All India Radio,**

Guwahati Sub Division,
Chandmari, Guwahati-3.

8. The Assistant Engineer (Civil)
Civil Construction Wing,
All India Radio,
Rynjah, Shillong-6,
Meghalaya.Respondents

By Mrs M. Das, Addl. C.G.S.C.

ORDER

KHUSHIRAM, MEMBER(A)

The Applicant claims to have worked as Casual hand class Plumber under the Assistant Engineer (Civil), All India Radio, Shillong continuously from March, 1989 to December 1990 and had claimed conferment of temporary status for having worked for over 240 days in a calender year with the department. He had earlier filed O.A.191/2006 before this Tribunal which was disposed of by order dated 8.8.2006 directing the Respondents to consider and dispose of the representation filed by the Applicant within a time frame of 4 months. Accordingly he filed representation before the Respondents for granting temporary status/absorption on regular basis in terms of Government of India,DOPT O.M. dated 10.09.1993. The representation dated 25.01.2006 was rejected vide order dated 10.11.2006, relevant portion of which reads as under :

i) "he was engaged as casual plumber for a period of 3(three) months only from December 1989 to February 1990 by O/o Assistant Engineer (C), CCW, AIR, Shillong. His claim that he was engaged continuously from March 1989 to December 1990 is false and misleading information submitted before the Hon'ble Tribunal.

ii) His claim that he was engaged continuously from March 1994 to December 1999 as a casual plumber in AIR, staff quarter/office is false and misleading since

*T
E*

no such records prevailing in this Department. In fact he was engaged for the work purely on contract basis from time to time under O/o Assistant Engineer ©, CCW, AIR, Guwahati as per "CPWD Contract Rules". Therefore, there is no provision for claiming Casual/Regular Service in the department.

iii) That his claim for regularization of service and giving temporary status is misleading to court and he has no legal right to claim for regularization of service."

The applicant claims that he has rendered continuous service on numerous occasions as required under the rules for grant of temporary status.

Aggrieved by the decisions of the Respondents he has filed this O.A. praying for setting aside the order dated 10.11.2006.

2. The Respondents have filed written statement denying the correctness and authenticity of the statements made by the Applicant. It has also been stated that Annexures A & B certificate dated 11.12.1990 and 10.12.1999 annexed with the O.A showing that the applicant had been engaged as Plumber in AIR, Staff Quarters/Office, Shillong on casual basis since March 1989 to till date (11.12.90) and also showing his engagement as Plumber in AIR, Staff Quarter/Officer, Guwahati on casual basis since 3rd March, 1994 to till date (10.12.99) are not correct. These certificates had been issued by the officer concerned without any authority. Thus the certificates dated 11.12.90 and 10.12.99 annexed by the Applicant in support of his claim for granting temporary status/regularization have no validity. The Respondents have also submitted copies of letter dated 30.8.2006 from Assistant Engineer (civil) All India Radio, Shillong stating that the total period of the Applicant's engagement was for 3 months only. He was never given/offered any appointment nor he discharged from the engagement. The claim of the Applicant regarding his engagement



continuously from March 1989 to December 1990 is false as no records were produced or/are available to support the same. Another letter dated 25.09.2006 the Executive Engineer (Civil) CCW AIR, Guwahati Division states that the claim made by the Applicant that he had worked as Casual hand class plumber under the Assistant Engineer (Civil) CCW All India Radio, Shillong continuously "from March, 1989 to December, 1990 is false."

3. The Applicant has filed rejoinder and tried to support his claim to get the benefit of temporary status/regularization in terms of Government of India DOPT Scheme 10.09.1993 as he was working as casual worker with the Respondents from March 1989 to December 1991.

4. In the written statement filed on behalf of Respondent No.2, Deputy Director General, North East Region, All India Radio, Guwahati it has been stated that the Applicant was engaged as Casual plumber for a period of three months only from March 1989 to December 1990 is false and misleading. It has been stated that according to the report of the Assistant Engineer (Civil) CCW AIR, Shillong and supported by the report filed by the Executive Engineer (Civil) CCW AIR Guwahati the engagement of applicant from records has been verified for the period from December 1989 to February 1990 - 3 months only. It has also been stated that no record was available regarding engagement of the applicant from March 1989 to December, 1990. It has also been stated that the plumbers are being engaged through contractor by Civil Construction Wings (CCW) of AIR which is totally a separate establishment and Respondents have no authority to appoint or engage any such casual



labourer under them. The certificate dated 10.12.1999 submitted by the Applicant as Annexure-B with his O.A had no authority to appoint plumbers. Therefore, such certificate cannot be treated as official document. It has also been added that the Applicant was given contract work from time to time under CPWD Contract Rules and he was never engaged beyond a period of 90 days at a time and he is not entitled to be given temporary status. It has also been clarified that the case of the Applicant and that of Sri Shynal Kr. Mallik (the case which the Applicant cited in support of his claim) are not similar and the same is not applicable in this case.

5. Heard Mr A. Ahmed, learned counsel appearing for the Applicant and Mrs M. Das, learned Addl.C.G.S.C. for the Respondents. During the course of arguments the learned counsel for the Applicant has stated that the Applicant was engaged during the period from 1989 to 1991 and under the Right to Information Act he has obtained informations vide letter dated 6.8.2007, relevant portion of which is reproduced as under :

"(i) Subject matter	Engagement of casual plumber/labour in the office of the Station Director, All India Radio, Shillong, Meghalaya under the Ministry of Information and Broadcasting, Government of India, Prasar Bharati Broadcasting Corporation of India.
(ii) Time/period to which information relates	From the month of March 1989 to which December 1991
	23/12/89 5/03/90 26/04/90 05/05/90 01/06/90 16/06/90 30/06/90 17/07/90 31/07/90 01/10/90 22/10/90 06/11/90 08/01/91 31/01/91 16/02/91 21/02/91
(iii) Details of Information	Engagement of following casual plumber/labour : Shri Brajen Das, Son of Shri Bhagaban Das,



Resident of Galia,
P.O. Bhawankipur, District Barpeta
Assam

He was paid a lumpsum amount on hand receipt for Plumbing works and repairing of old pipe lines. There is no engagement after 2/91 to 12/91.

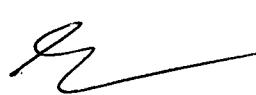
He was engaged by CCW, AIR, Shillong Sub Divn during Dec/89 for 22 days/Jan/90 for 25 days and during Feb/90 only 22 days."

In the light of this added informations the claim of the written statement by respondents stand disproved. He has submitted a copy of the letter dated 23.06.2006 from Assistant Engineer (civil) All India, Shillong certifying that Applicant Brajan Das was working in the Sub Division office of All India Radio, Shillong as a casual 2nd class plumber as per attendance register "for December 1989" and "for January to February 1990." This document also shows the same proof that applicant had worked from December 1989 to Febeurary 1990 for a period of 90 days.

6. Mrs M.Das, learned Addl.C.G.S.C in course of her arguments has stated that the letter from Assistant Engineer (Civil) dated 30.8.2006 shows that total period of the Applicant's engagement was for maximum of 3 months only. Similarly in letter dated 25.9.06 also supports the fact that Brajen Das was engaged as a Plumber in the office of the Assistant Engineer (Civil) AIR from December 1989 to February 1990 i.e. only for a period of 3 months. The claim made by the Applicant that he worked as a casual hand plumber continuously from March 1989 to December 1990 is false.



7. From the facts narrated above it has been admitted by the Respondents that the Applicant has been engaged from December 1989 to February 1990. The claim of continuous employment of the Applicant from March 1989 to December 1990 has not been conclusively proved even Annexure-X (copy of letter dated 6.8.07) obtained by the Applicant under RTI Act also states "he was paid a lumpsum amount on hand receipt for Plumbing works and repairing of old pipe lines. There is no engagement after 2/91 to 12/91." Even if he was engaged periodically from 23.12.1989 to 16.02.1991 to 02.02.1991 with breaks in between his continuous employment against the required 208 days is also not proved. If he was engaged as a Casual labourer for the requisite period then only he is entitled to conferment of temporary status. A person engaged as a casual labourer is paid the wages on daily basis and he is not paid a "lumpsum of amount." For discharging the duties he was paid a "lumpsum amount" which proves that he was not engaged as a ~~casual~~ labourer but was paid for the services he rendered for contract/piece work and as such he is not entitled to conferment of temporary status/regularization in terms of Government of India O.M. No.51016/2/90-Estt.(C) dated 10.09.1993, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. In this connection, the orders of the Apex Court in Secretary, State of Karnataka & others vs. Umadevi (3) and others, reported in (2006) 4 SCC 1, wherein it was held that "appointments made without following the due process or the rules for appointment did not confer any right on the appointees and that the court cannot direct their absorption or regularization or re-engagement or making them permanent. Those



decisions which run counter to the principles settled in this decision, or in which directions running counter to what has been held herein have been given, will stand denuded of their status as precedents."

In view of the foregoing discussions and the Apex Court ^{original} decision, the application is accordingly dismissed without any order as to costs.

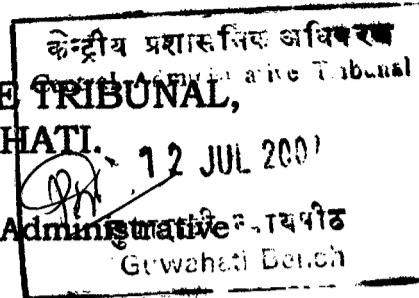

(KHUSHIRAM)
ADMINISTRATIVE MEMBER

//pg//

10

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

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



ORIGINAL APPLICATION NO. 45 OF 2007.

Shri Brajen Das

...Applicant

- Versus -

The Union of India & Others

...Respondents

INDEX

SL No.	Annexure	Particulars	Page No.
1	...	Application	1 to 11
2	...	Verification	12
3	A	Copy of the engagement certificate dated 11.12.1990 issued by the concerned authority, Shillong.	13
4.	B	Copy of the engagement certificate dated 10.12.1999 issued by the Dy. Director All India Radio, Guwahati.	14
5	C	Copy of the order passed by the Central Administrative Tribunal, Guwahati Bench on 8.8.2006 in O.A.191/2006.	15 - 17
6	D	Copy of the impugned order dated 10.11.2006 issued by the Dy. Director General (NER), All India Radio, Guwahati.	18 - 21
7	E	Copy of the order passed by the Central Administrative Tribunal, Guwahati Bench on 6.2.2002 in O.A.131/2001.	22 - 25
8	F	Typed copy of the judgment and order passed by the Hon'ble High Court on 15.12.2005 in W.P.(C) No.7808/2002.	26 - 27

Date: 12 - 2 - 2007

Filed By:

Smita Bhattacharjee
Advocate

(Signature)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 45 OF 2007.

Shri Brajen Das

...Applicant

- Versus -

The Union of India & Others

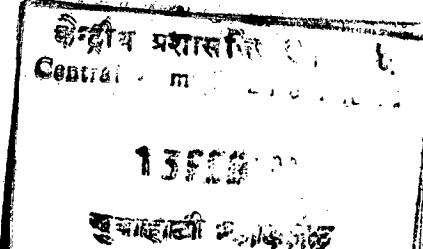
...Respondents

LIST OF DATES & SYNOPSIS :

The Applicant studied up to Class-X and took up training in the plumber trade at Industrial Training Institute, Government of Assam under Central Government Scheme. He was engaged as casual plumber under the Respondent No.8 from March 1989 to December 1990 without any break. Thereafter he was engaged as Casual plumber in All India Radio Staff Quarter / Officer, Guwahati since 3rd March 1994 to 10.12.1999. However, as instructed by the Respondent No.7 the Applicant executed his work under the Respondent through in the name of M/s Nilachal Enterprise since January 2000 to March 2006 without any break. In the meantime he filed various representation before the Respondent No.2 for granting him temporary status / absorption on regular basis in terms of Government of India O.M. dated 10th September 1993. However, the Respondent No.2 granted temporary status to one Shri Kishore Basfor, Casual Labour on 5th July 1995 ignoring the claim of the Applicant. Respondent also stopped the engagement of the Applicant on casual basis or on contract basis after March 2006 till date. Being aggrieved by non granting of temporary status / regularization by the Respondents the Applicant filed an Original Application No.191 of 2006 before this Hon'ble Tribunal. The Hon'ble Tribunal disposed the aforesaid O.A. on 08.08.2006 by directing 2nd Respondent to consider and dispose the Representation submitted by the Applicant within time frame of four months. The Respondent No.2 rejected the claim of the Applicant on 10.11.2006 in a most mechanical manner and without application of mind.

Hence this Original Application filed before this Hon'ble Tribunal for seeking justice in to this matter.

B.M.



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

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

ORIGINAL APPLICATION NO. 10/123456789 OF 2007.

BETWEEN

**Shri Brajen Das
Son of Shri Bhagaban Das
Resident of Galia
Post Office- Bhanipur
District- Barpeta
Assam**

...Applicant

- AND -

1. The Union of India, Represented by the Director General, All India Radio, Akashwani Bhawan, New Delhi - 110001.
2. The Deputy Director General (NER) All India Radio, Guwahati-3
3. The Station Director All India Radio, Shillong-1.
4. The Station Director All India Radio, Chandmari Guwahati-3.
5. The Superintendent Engineer (Civil), Civil Construction Wing All India Radio Dr. P. Kakoti's Building Near Ganeshguri Fly Over G. S. Road, Guwahati-6.
6. The Executive Engineer (Civil) Civil Construction Wing All India Radio Guwahati Division, Tarun Nagar Bye Lane-1, Guwahati-781005.
7. The Assistant Engineer (Civil)

19

Civil Construction Wing
 All India Radio
 Guwahati Sub- Division
 Chandmari
 Guwahati- 3

8. The Assistant Engineer (Civil)
 Civil Construction Wing
 All India Radio
 Rynjah, Shillong-6,
 Meghalaya.

...Respondents

DETAILS OF THE APPLICATION

1. DETAILS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE

The Application is made against the letter No. NER/2(16)/2005-Case (Misc.)/9/9 dated 10-11-2006 issued by the office of the Respondent No. 2 i.e. the Deputy Director General (NER) All India Radio, Guwahati-3 by which the Applicant's claim for regularization of his service and also giving him the temporary status were rejected by the Respondents.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

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

4. FACTS OF THE CASE

The facts of the case in brief are as follows :

[Signature]

4.1 That the Applicant is a citizen of India and as such, he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed thereunder. He belongs to most backward and poor family.

4.2 That your Applicant begs to state that he studied up to class-X standard and took training in the Plumber Trade at Industrial Training Institute, Department of Labour & Employment, Government of Assam, Guwahati under the Craftsman Training Scheme, Government of India. He had worked as a Casual Plumber under the Assistant Engineer (Civil), Civil Construction Wing, All India Radio, Shillong from March 1989 to December 1990 continuously without any break for 640 days (1 year and 9 months). Thereafter, he was engaged as casual plumber in All India Radio, Staff Quarter/ Officers, Guwahati since 3rd March 1994 to 10-12-1999. However, the Applicant was instructed by the Respondent No. 7 to work under the Respondents through a registered ownership farm. As such, under the compelling circumstances the Applicant has executed his work under the Respondents through M/s Nilachal Enterprise since January 2000 to March 2006 without any break. In the mean time, the Applicant has also filed various representations before the Respondent No. 2 for granting him temporary status/ absorption on regular basis in terms of Government of India, Department of Personal and Training O.M. No. 51016/ 2/ 90-Estt. (C) dated 10th September 1993. However, one Shri Kishore Basfore casual labourer in the Office of the Respondent No. 2 was granted temporary status of casual labour on 5th July 1995 ignoring the claim of the Applicant. The Respondents have stopped to engage the Applicant on casual basis or on contract basis after March, 2006 till date.

Copy of the engagement certificate dated 11.12.1990 issued by the concerned authority, Shillong is annexed hereto and marked as Annexure-A.

Copy of the engagement certificate dated 10.12.1999 issued by the Dy. Director All

b21

India Radio, Guwahati is annexed hereto and marked as Annexure-B.

4.3 That the factum of rendering services about 2 years without break as Casual Worker entitled the Applicant for grant of temporary status/absorption on regular basis in terms of decision held by the various Hon'ble Court's order and the policy adopted by the Government of India. It is stated that the Government of India, Department of Personal and Training has introduced a scheme which is called as "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993" vide O.M. No. 51016/2/90-Estt. (C) dated 10th September 1993. The said Scheme came into force w.e.f. 1993. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their Attached and Subordinate Offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

Temporary Status. – (i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM 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 office observing five days week).

- (ii) Such conferment of temporary status would be without reference to the creation / availability of regular Group 'D' posts.
- (iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/ territorial circle on the basis of availability of work.
- (iv) 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.

BSM

4.4 That your Applicant begs to state that he has already served continuously about 17 (seventeen) years as casual labourer as well as on contract basis under the Respondents. Now, he has been over-aged for other Government, Semi-Government and private job. The Applicant has also acquired a legal right for temporary status as well as regularization in the post of Plumber under the Respondents.

4.5 That your Applicant begs to state that being aggrieved by the non-granting of temporary status and regularization by the Respondents he filed an Original Application No.191 of 2006 before this Hon'ble Tribunal. The Hon'ble Tribunal, while disposing of the aforesaid O.A. at admission stage, vide its order dated 8.8.2006 directed the second Respondent to consider and dispose of the representation submitted by the Applicant within a time frame of four months from the date of receipt of the order.

Copy of the order passed by the Central Administrative Tribunal, Guwahati Bench on 8.8.2006 in O.A.191/2006 is annexed herewith and marked as Annexure-C

4.6 That your Applicant begs to state that the Respondent No.2 vide its order No.NER/2(16)/2005-Case (Misc)/919 dated 10.11.2006 rejected the claim of the Applicant in a most mechanical manner and also without applying proper mind. Hence the Applicant is compelled to approach this Hon'ble Tribunal again for seeking justice in this matter.

Copy of the impugned order dated 10.11.2006 issued by the Dy. Director General (NER), All India Radio, Guwahati is annexed herewith and marked as Annexure-D.

4.7 That your applicant begs to state that a similarly situated person one Shri Shymal Kumar Mallick, a casual labour in All India Radio has filed the O.A. No. 131 of 2001 praying for grant of temporary status and regularization as he has worked under the Respondents and completed 348 days in the year 1988-89 and 310 days in the year 1989-90. The Hon'ble Tribunal on 6.2.2002 directed the Respondents to take step by absorbing

22

the said Applicant against any vacant Group 'D' post or to take steps for conferment of temporary status expeditiously. The Respondents had assailed the said order dated 6.2.2002 before the Hon'ble High Court in W.P.(C) No.7808 of 2002. The Hon'ble High Court vide its judgment and order dated 15.12.2005 dismissed the said W.P.(C) by uphold the direction of the Tribunal.

Copy of the order passed by the Central Administrative Tribunal, Guwahati Bench on 6.2.2002 in O.A.131/2001 is annexed herewith and marked as Annexure-E.

^{Typed Copy} of the judgment and order passed by the Hon'ble High Court on 15.12.2005 in W.P.(C) No.7808/2002 is annexed herewith and marked as Annexure-F

4.8 That your Applicant submits that the certificates and documents issued to him establish beyond all doubt that the Applicant has rendered service on casual basis on numbers of occasions as required under the Rule for grant of temporary status. As such, he has acquired a valuable legal right for grant of temporary status and regular absorption in any Group 'D' post in All India Radio.

4.9 That your Applicant submits that it is fit case wherein the Hon'ble Tribunal may be pleased to interfere into the matter and also may be pleased to set aside and quash the impugned decision of the Respondent No.2 whereby the claims of the Applicant were rejected. Otherwise, the Applicant would suffer irreparable loss and injury as because the Applicant has a strong *prima facie* case and the balance of convenience is in his favour.

4.10 That your Applicant submits that the legitimate expectation of the Applicant, in view of the facts and circumstances that have narrated above have apparently been infringed in the instant case.

Pran

4.11 That your applicant submits that the impugned action on the part of the Respondents whereby they have rejected the claim of the Applicant for grant of temporary status and regularization is arbitrary, unfair and unjustified and against the established principle of law. The aforesaid action of the Respondents is violation of Article 14, 16, 21 and 309 of the Constitution of India.

4.12 That your applicant submits that the action of the Respondents is illegal, arbitrary and malafide with a motive behind.

4.13 That your applicant submits that the Respondents have violated the fundamental rights of the applicant and also violated the principles of natural justice.

4.14 That your applicant submits that the Central Government being a model employer cannot deprive the applicant from regularizing his service in spite of this long continuous service.

4.15 That your applicant submits that he is a poor man and he is working under the Respondents very sincerely without blemish in his service for a long decade. Non-regularization of his service is causing acute financial hardship to him.

4.16 That your applicant submits that the Respondents have acted in an arbitrary manner by depriving the applicant from regularizing his service.

4.17 That your applicant submits that he is running from pillar to post for getting justice in this matter. But the Respondents have deprived the applicant by not regularizing his service.

4.18 That your applicant submits that the action of the Respondents is whimsical, unreasonable, with a motive behind and also colourable exercise of powers.

20/11

4.19 That your applicant submits that he demanded justice and the same has been denied to him by the Respondents.

4.20 That this application is filed bonafide and for the interest of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, due to the above reasons narrated in detail the action of the Respondents is in *prima facie* illegal, malafide, arbitrary and without jurisdiction. Hence, the Letter No.NER/2(16/2205-Case (Misc.) / 9 dated 11.11.2006 issued by the Respondent No.2 is liable to be set aside and quashed.

5.2 For that the applicant served under the Respondents as a casual worker for a considerable long period of time i.e., from 03-03-1989 to December 1990 without any interruption, which is more than 240 days of employment and also from 3rd March 1994 to 10.12.1999, January 2000 to March 2006. As such, he is entitled for temporary status and also subsequent regularization under the scheme of "Casual Labourers" (Grant of Temporary Status and Regularization) dated 10.09.1993. Hence, the Letter No.NER/2(16/2205-Case (Misc.) / 9 dated 11.11.2006 issued by the Respondent No.2 is liable to be set aside and quashed.

5.4 For that the Respondent No. 2 i.e. the Deputy Director General, All India Radio rejected the Representation of the Applicant in a mechanical manner and without any application of proper mind whereas the Respondents had issued the Certificates to the Applicant regarding his engagement as Casual Labour. Hence, the Letter No.NER/2(16/2205-Case (Misc.) / 9 dated 11.11.2006 issued by the Respondent No.2 is liable to be set aside and quashed.

5.5 For that the Applicant has worked under the Respondent continuously for seventeen years as Casual Labour and now he has been over aged for any other job. Moreover, he has acquired legal right for

BSM

temporary status as well as regularization in the post of Plumber under the Respondents. Hence, the Letter No.NER/2(16/2205-Case (Misc.) / 9 dated 11.11.2006 issued by the Respondent No.2 is liable to be set aside and quashed.

5.6 For that the Central Government being a model employer cannot be allowed to adopt a different treatment as regard to regularization of the service of the applicant, when similarly situated persons are already enjoying the same benefit. Hence, the Letter No.NER/2(16/2205-Case (Misc.) / 9 dated 11.11.2006 issued by the Respondent No.2 is liable to be set aside and quashed.

5.7 For that the certificate and documents issued to the Applicant by the Respondents established that he has rendered required service for grant of temporary status. Hence, the Letter No.NER/2(16/2205-Case (Misc.) / 9 dated 11.11.2006 issued by the Respondent No.2 is liable to be set aside and quashed.

5.8 For that the legitimate expectation of the Applicant in view of the facts and circumstances narrated details in the instant Original Application have apparently been infringed in the instant case. Hence, the Letter No.NER/2(16/2205-Case (Misc.) / 9 dated 11.11.2006 issued by the Respondent No.2 is liable to be set aside and quashed.

5.9 For that, the actions of the Respondents are malafide and illegal and with a motive behind.

5.10 For that the respondents have violated the Articles 14, 16 and 21 of the Constitution of India as well as the principles of Natural Justice.

5.11 For that in any view of the matter the action of the respondents are not sustainable in the eye of law.

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

12/11/2011

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the Applicants except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

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

That the Applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, Authority nor any such application, Writ Petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above the Applicant most respectfully prayed that Your Lordships may be pleased to admit this application, call for the records of the case, issue notices to the Respondents to show cause as to why the relief and relieves sought for by the Applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relief(s) :-

- 8.1 That the Respondents may be directed by the Hon'ble Tribunal to confer temporary status to the applicant and also to regularize the service of the applicant from his date of engagement.
- 8.2 To pass any other relief (s) to which the Applicants may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.
- 8.3 To pay the cost of the application.

9. INTERIM ORDER PRAYED FOR :

At this stage no interim order is prayed for, but if the Hon'ble Tribunal deem fit may pass any appropriate order or orders.

10. Application is filed through Advocate.**11. Particulars of I.P.O.:**

I.P.O. No. : 34 G 650 466

Date of Issue : 7- 2- 2007

Issued from : Guwahati GPO

Payable at : Guwahati GPO

12. LIST OF ENCLOSURES:

As stated above.

Verification

Pran

VERIFICATION

I, Brajen Das Son of Sri Bhagaban Das, aged about 35 years, Resident of- Galia, Post Office- Bhawanipur, in the District of- Barpeta, Assam, do hereby verify and sign this verification.

That the statements made in paragraph nos. 4.1 and 4.4 ————— are true to my knowledge, those made in Paragraphs Nos. 4.2, 4.3, 4.5, 4.6 and 4.7 — are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 12th day of February 2007.

Brajen Das.

DECLARANT

ANNEXURE-- A

TO WHOM IT MAY CONCERN

This is to certify that Shri B. Das, has been engaged as Plumber in AIR., Staff Quarters/Office, Shillong on Casual basis since March, 1989 to till to date. His performance has been found satisfactory.

I wish him all success in his life.

107.5 FM Astoria
Astoria Radio
107.5 FM

11/24/90

ATTESTED

Bhatte

ADVOCATE



- 14 -

ANNEXURE-- B

Gram : AKASHVANI
 तार : आकाशवाणी
 Phone : 541876, 541877 EPBX
 Fax : 0361-540378
 540135
 540426
 S. D. 540378 (O) 540148 (R)

प्रसार भारती
PRASAR BHARATI
 (BROADCASTING CORPORATION OF INDIA)
आकाशवाणी
ALL INDIA RADIO

•गुवाहाटी
 GUWAHATI
 PIN-781 003

क्रमांक / Ref. No.

दिनांक / Date :

TO WHOM IT MAY CONCERN

This is to certify that Shri Brajen Das, S/o. Bhagabam Das, Vill.- Golia, P.O. Bhawanipur, Dist. Barpeta, Assam, has been engaged as Plumber in AIR., Staff Quarter/Officer, Guwahati on Casual basis since 3rd March, 1994 to till todate. His performance has been found satisfactorily.

I wish him all success in his life.

R. Bhattacharya
 10/12/99
 (P. D. Shira)
 Ny. Director
 Prasar Bharati
 Guwahati

ATTESTED

Bhattacharya
ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 191 of 2006.

Date of Order : This the 8th of August 2006.

The Hon'ble Sri K.V. Sashidharnandan, Vice-Chairman.

The Hon'ble Sri Gautam Roy, Administrative Member.

Sri Brajen Das
Son of Sri Bhagaban Das
Resident of Galle, P.O. - Bhanipur
In the District of Barpeta, Assam.

...Applicant

By Advocates Mr B.K. Tolukdar and Mr M. Pothak.

- Versus -

1. The Union of India,
Represented by the Director General,
All India Radio, Akashwani Bhawan,
New Delhi - 110 001.

2. The Deputy Director (NER)
All India Radio, Guwahati - 3.

The Station Director,
All India Radio, Shillong.

... Respondents

By Advocate Ms. H. Das, Addl. C.G.S.C.

ORDER (ORAL)

K.V. SASHIDHARNANDAN, (V.C.)

The Applicant who studied up to Class - X standard and took training in the Plumber Trade at the Industrial Training Institute, Guwahati under the Craftsman Training Scheme, Government of India. The Applicant worked as Casual hand class plumber under the Assistant Engineer (Civil), All India Radio, Shillong continuously from March, 1989 to December, 1990. Thereafter, he was engaged as

ATTESTED

Bhattacharya
ADVOCATE

a plumber in All India Radio, Staff quarter/officer, Guwahati on casual basis since March, 1994 to December, 1999. Now, the Applicant has been given work on contract basis. The Applicant submitted several representations on 06.07.1990, 09.03.1991 and lastly on 25.01.2006 praying for regularisation of his service and/or giving temporary status of his service as he rendered continuous service of several years, which was not exceeded to. Aggrieved by the said inaction of the Respondents, the Applicant has filed this Application seeking the following reliefs :-

1. The Respondent No. 2, may kindly be directed either to regularise the service of the applicant or to give temporary status to the service of the applicant.

2. Any other relief or reliefs as the Hon'ble Tribunal may deem fit and proper. The above reliefs as prayed for on the grounds as stated above at para 5"

2. Heard Mr. B.K. Talukdar, learned Counsel for the Applicant and Mr. H. Das, learned Addl. C.G.S.C. for the Respondents.

Mr. B.K. Talukdar, learned Counsel for the Applicant submitted that he will be satisfied if a limited direction is given to the 2nd Respondent to consider and dispose of the representations within a time frame. Mr. H. Das, learned Addl. C.G.S.C. for the Respondents, on the other hand, submitted that the Applicant has no legal right for regularisation of his service. However, in the interest of justice if a direction is given to dispose of the representations, she has no objection.

Considering the submissions made by the learned Counsel for the parties, we direct the 2nd Respondent to consider and dispose of the representation submitted by the Applicant within a time frame

ATTESTED

Shatto
ADVOCATE

of four months from the date of receipt of this order. The Applicant will send a copy of the representation to the 2nd Respondent forthwith.

The O.A. is disposed of at the admission stage itself. In the circumstances no order as to costs.

SD/- Vice-Chairman
SD/- Member (Adm)

Date of Application : 9/8/06
Date on which copy is ready : 11/8/06
Date on which copy is delivered : 11/8/06

Address : 11/8/06
Section 111 (1) (d)
Court of Civil Appeal Bench
Gwalior

11/8/06

ATTESTED

Bhatia
ADVOCATE

REGISTERED POST

No. NER/2 (16)/2005-Case (Misc)/ 9/9

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE DEPUTY DIRECTOR GENERAL (NE)
ALL INDIA RADIO: GUWAHATI

Chanmari, Guwahati-781 003
Dated the November 10, 2006

Sub: Order dated 08/08/2006 passed by the Hon'ble CAT, Guwahati bench, Guwahati in OA No.191/2006 filed by Shri Brajen Das before the Hon'ble CAT, Guwahati bench for paying of a direction either to regularize the service of the applicant to give temporary status to the service of the applicant.

In the order dated 08/08/2006, the Hon'ble Tribunal was pleased to direct the Deputy Director General (NER), All India Radio, Guwahati to consider and dispose of the representation submitted by Shri Brajen Das within a time frame of four months from the date of receipt of the order. The applicant was also directed to send a copy to the concern authority.

As directed by the Hon'ble Tribunal the competent authority considered his case and found that no such representation was received by the department as mentioned in the Original Application. However after receiving the copy of the Original Application, the department has considered his representation dated 25/01/2006 (Annexure-E to the OA) and found that no such earlier representation dated 06/07/1990 & 09/03/1991 are in the records.

After receiving the information and records from the concerned offices the competent authority considered the case of Shri Brajen Das and found the following facts: -

- I) That he was engaged as casual plumber for a period of 3 (three) months only from December 1989 to February 1990 by O/o Assistant Engineer (C), CCW, AIR, Shillong. His claim that he was engaged continuously from March 1989 to December 1990 is false and misleading information submitted before the Hon'ble Tribunal.
- II) His claim that he was engaged continuously from March 1994 to December 1999 as a casual plumber in AIR, staff quarter / office is false and misleading since no such records prevailing in this Department. In fact he was engaged for the work purely on contract basis from time to time under O/o Assistant Engineer (C), CCW, AIR, Guwahati as per "CPWD Contract Rules". Therefore, there is no provision for claiming Casual/ Regular Service in the department.

ATTESTED

Bhattacharya
ADVOCATE

Contd...

iii) That his claim for regularization of service and giving temporary status is misleading to court and he has no legal right to claim for regularization of service.

Therefore, his representation dated 25/01/2006 is disposed of as directed by the Hon'ble CAT, Guwahati bench, Guwahati.


16/11/06
(V. Sekhose)
Dy. Director General (NER)

To,
Sh Brajen Das,
S/o Sh Bhagawan Das,
Vill: Galla, PO: Bhanpur,
Dist: Barpeta, Assam.

Copy to:-

1. Section Officer (Judicial), Central Administrative Tribunal, Guwahati bench, Bhangagarh, Guwahati for kind information with reference to Hon'ble CAT, Guwahati bench's order dated 08/08/2006 passed in O.A. No.191/2006.
2. Directorate General, All India Radio, S.VI Section, Akashvani Bhavan, Parliament Street, New Delhi-110 001 for kind information.
3. Executive Engineer (C), CCW, AIR, Guwahati Division, Tarun Nagar, By lane-1, Guwahati-781 005.
4. Assistant Engineer (C), CCW, AIR, Rynjah, Shillong-6.
5. Ms Usha Das, Addl. C.G.S.C., CAT, Guwahati bench, Guwahati.


Dy. Director General (NER)

ATTESTED

Shattu
ADVOCATE

To,

The Deputy Director General (NLR),

Chandmari, All India Radio, Guwahati-3,

Dated Guwahati, the 25th January, 2006.

Humble

Sub:- Honble prayer either for regularization of my service or giving temporary status of my service.

Ref:- Earlier Representation submitted on 6.7.90 and 9.3.91.

Respected Sir,

Most humbly and respectfully, I beg to lay the following few lines for favour of your honour's kind consideration and favourable orders.

That sir, initially I was engaged as Plumber since the month of March, 1989 till December, 1990 by the Assistant Engineer (Civil), Civil Construction Wing, All India Radio, Shillong, I performed my duties efficiently and to the satisfaction of the superior authority.

A copy of certificate is annexed herewith and marked as Annexure-A.

Thereafter, I was engaged as a plumber in AIR, staff quarter, Guwahati on casual basis since 3rd March, 1994 to December, 1999 by the Deputy Director, All India Radio, Guwahati. I performed my duties efficiently, diligently and to the full satisfaction of my superior authority.

A copy of the certificate is annexed herewith and marked as Annexure-B.

That Sir, I submitted above representation on 6.7.90 and 9.3.91 praying either for regularization of my service or giving temporary status of my service as per the but nothing has

ATTESTED

Shatta

ADVOCATE

yet been heard from your honour³ and though I served your honours department efficiently, diligently with devotion to my duties and to the full satisfaction of my superior authorities. It may be stated that one Sri Krishna Basfore was granted temporary status on 5th July, 1995. I therefore, pray that your honour would be graciously pleased to pass order either for regularization of any service or giving temporary status of my service as per law at an early date and for which act of kindness, I as in duty bound shall ever pray.

Yours faithfully,

Sd/-

(Borjen Bas)

Vill. Golia,

P.O. Bhanipur,

Dist. Barpeta, Assam.

Copy to:-

The director, All India Radio, Shillong.

ATTESTED

Bhatta
ADVOCATE

Original Application No. 131 of 2001.

Date of decision : This the 6th day of February, 2002.

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

Shri Shyamal Kumar Mallick
Son of Late Satish Chandra Mallick
Barbari Railway Colony
Rly. Quarter No. 45/A
P.O. Dibrugarh
Assam

...Applicant

By Advocate Mr. H.Chanda

-versus-

1. Union of India
Through Secretary, Govt. of India
Ministry of Informations and Broadcasting,
New Delhi.
2. Director General,
All India Radio,
Akashvani Bhawan,
Parliament Street,
New Delhi-110001.
3. The Chief Engineer (Civil)
Civil Construction Wing (CCW)
AIR, New Delhi.
4. The Superintending Engineer (Civil),
Civil Construction Wing,
All India Radio,
Guwahati.
5. Executive Engineer (Civil)
Civil Construction Wing,
All India Radio
Dibrugarh

...Respondent

By Advocate Mr. A. Debi Roy, B.E., C.G.L., C.

Q. R. D. E. R. (ORAL)

CHOWDHURY J. (V.C.)

This is a second round of litigation centering round absorption under the respondents. The applicant earlier moved this Bench for permanent absorption in Group 'B' post. In the application he claimed that he was engaged on casual labour

ATTESTED
Ghanta
ADVOCATE

and his service was terminated by a verbal order. This bench dealt with the matter in detail in the said Application which was numbered as O.A. 172/95 and while disposing the application on 13.9.95 the Tribunal expressed its view and desired to take decision on the request for absorption of the applicant in Group 'D' category staff expeditiously by the Chief Engineer (C), CCW, AIR, New Delhi with whom the matter rested since July 1994. The authority was accordingly directed to take decision. Since no action was taken a Contempt Petition was filed and the same was numbered as C.P. No. 33/96(O.A.172/95). The said Contempt Petition was thereafter withdrawn because of some assurances given by the office of the Director General, All India Radio, New Delhi vide letter dated 15.10.1996. The full text of the said letter is reproduced below :

" Chief Engineer (C)-II, CCW, AIR, New Delhi has sympathetically considered your application mentioned above and I am directed to inform you that at present there is no vacant post in Group D cadre and your case will be considered sympathetically as & when the vacancy arises."

BBG/CM

The applicant also mentioned in his application that in the year 1988-89 and 1989-90 he completed 348 days and 310 days of work.

2. The respondents submitted its written statement and contended that the applicant could not be accommodated for want of vacancy and on the surplus ground 4 employees belonging to Dibrugarh had to sent to far off places. The applicant submitted its rejoinder and additional rejoinder. In the rejoinder the applicant pointed out that a vacancy arose on the death of Babul Chandra Dey, Peon in the Silchar Electrical Sub Division under the Guwahati Electrical Division, Civil Construction Wing, All India Radio, Guwahati.

ATTESTED

Bhattacharya
ADVOCATE

Contd. 1

3. Heard Mr. M.Chanda, Learned counsel appearing on behalf of the applicant and Mr. A. Deb Roy, Learned Sr. C.G.S.C. for the respondents.

4. From the facts stated it thus emerges that a direction was issued by this Bench in the earlier O.A. for consideration of the case of the applicant against the vacant post. The respondents on their own letter dated 15.10.1996 admitted that his case was under consideration. The Govt. of India already issued an Office Memorandum No.5106/2/90-Eatt(C) dated 10.9.1993 in the light of the earlier O.M. for conferment of temporary status. The scheme for grant of temporary status and regularisation of casual workers is also applicable in All India Radio as appears from the Office Memorandum issued by the Directorate General, All India Radio dated 30.11.1994. For consideration of granting temporary status there is no requirement of vacancy, that apart one such vacancy has arisen due to death of Babul Chandra Dey under Silchar Electrical Sub-Division under the Guwahati Electrical Division, Civil Construction Wing, All India Radio, Guwahati, as cited by Mr. M.Chanda, learned counsel for the applicant.

From the facts stated above I do not find any reason as to why the case of the applicant for absorption was not considered so long either for conferment of temporary status or for absorption against the vacancy in Group 'D' cadre despite the assurance given by the authority as far back in 1996 and keeping the matter alive.

5. In the circumstances a direction is issued to the respondents to resolve the situation either by absorbing the applicant against any vacant Group 'D' post as per the communication dated 15.10.1996 or take steps for conferment of temporary status expeditiously. The respondents shall complete

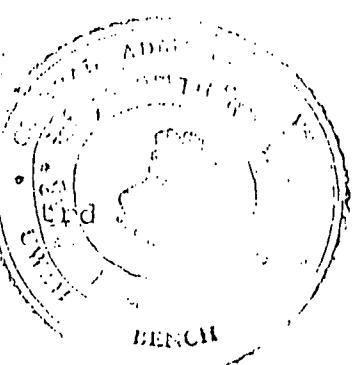
ATTESTED
Bhattacharya
ADVOCATE

Contd...
1

the exercise at any rate within a period of four months from the date of receipt of a copy of this order.

8. The application is allowed to the extent indicated above. There shall however be no order as to costs.

SD/ VICE CHAIRMAN



TEMPORARY CHIEF

CHIEF

18/1/1960

18/1/1960

ATTESTED

Bhatter

ADVOCATE

THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

WRIT PETITION (C) NO. 7808 OF 2002

1. Union of India,
represented by the Secretary, Ministry of Information and Broadcasting,
New Delhi.
2. Director General,
All India Radio, Akashvani Bhawan, New Delhi.
3. The Chief Engineer (Civil),
Civil Construction Wing, All India Radio, New Delhi.
4. The Superintending Engineer,
Civil Construction Wing, All India Radio.
5. The Executive Engineer (Civil),
Civil Construction Wing,
All India Radio, Dibrugarh.

-Versus-

Shri Shyamal Kumar Mallick.
Son of late Satish Chandra Mallick,
Barbari Railway Colony, Quarter No.45/A,
District Dibrugarh, Assam.

... PETITIONERS.

... RESPONDENT.

P R E S E N T
HON'BLE THE CHIEF JUSTICE MR. B. SUPERSHAN REDDY
HON'BLE MR. JUSTICE P. G. AGARWAL

Advocates for the petitioner : Mr. H. Rahman, Asstt. Solicitor General
Advocates for the Respondent : Mr. M. Chanda,
Mr. S. Ghosh
Date of hearing : December 15, 2005
Date of Judgment : December 15, 2005

JUDGMENT AND ORDER
(ORAL)

AGARWAL, J.: The Union of India has preferred this writ petition against the order dated 06.02.2002 passed by the Central Administrative Tribunal, Guwahati Bench in Original Application No. 131/2001.

ATTTESTED

B. Shattole
ADVOCATE

2. The Respondent Shri Shyamal Kumar Mallick, a member of the Scheduled Caste, was serving as a Casual Labourer under the Government of India and his services were verbally terminated in the year 1990. The respondent was eligible for appointment under the scheme of Government of India – "Grant of Temporary Status and Regularisation Scheme, 1993" and he approached the Central Administrative Tribunal for a direction to absorb him in a Group-D post. The Respondent/applicant had earlier approached the Central Administrative Tribunal in O.A.No.172/95, which was disposed of with the observation that the Chief Engineer(C), CCW, All India Radio shall take necessary decision and convey the same to the applicant within a period of two months from the date of receipt of the order. Thereafter, a contempt petition was also filed, which was withdrawn on the assurance that necessary orders will be passed in the matter. However, as no relief was given, the matter was finally heard and the learned Tribunal disposed of the matter directing the Respondent Authorities to resolve the situation either by absorbing the Respondent/applicant against any vacant Group 'D' post as per the communication dated 15.10.1996 or to take steps for conferment of temporary status. The above direction was issued in view of the assertion of the applicant that he had worked for the required period of time for conferment of temporary status or for absorption against the vacancy of Group 'D' post.

3. We have heard Mr.H.Rahman, learned Assistant Solicitor General for the petitioner and Mr.G.Lal, learned counsel appearing for the Respondent.

4. The factual matrix of the case are not disputed and the direction of the learned Tribunal was only to resolve the situation in accordance with the Rules and as such this petition is devoid of any merits. Accordingly, this petition is dismissed.

5. The Respondent/applicant is seeking relief for the last 10 years and we direct that the order of the Central Administrative Tribunal be given effect within a period of 60 days from the date of this order.

卷之三

802-00 R.R. 1000000
CHI A H 300

AFFESTED
B. Shatto
ADVOCATE

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

15 MAR 2007

गुवाहाटी न्यायपाठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH

ORIGINAL APPLICATION NO.-45/07

IN THE MATTER OF:

O.A. NO.-45/07

Sri Brajen Das

.....Applicant

-Versus-

The Union of India and others.

.....Respondent

- AND -

IN THE MATTER OF:

Order dated 13.2.07 passed by
this Hon'ble Tribunal.

- AND -

IN THE MATTER OF:

Reply statement on behalf of
Respondent No.-2, Deputy
Director General, North East
Region, All India Radio,
Guwahati-781003.

Filed by: -
Respondent No. 2
through
Magistrate
C.G.S.E
CAT 13/3/07

(Reply Statement on behalf of Respondent No.-2)

I, Smti V.Sekhose, daughter of ~~late Shri R.SEKHOS~~.....aged about 51.....presently working Deputy Director General, North East Region, All India Radio, Guwahati-781003, do hereby solemnly affirm and say as follows :-

1. That, I am the Deputy Director General, North East Region, All India Radio, Guwahati-781003. A copy of the aforesaid application has been served by the standing counsel, I have gone through the same and have understood the contents thereof. I am acquainted with the facts and circumstances of the case on the basis of records maintained in the office.
2. That, the applicant Sri Brajen Das has filed the above application inter-alia stating that he was engaged as casual plumber in the office of the Assistant Engineer (Civil), Civil Construction Wing, All India Radio, Shillong from March-1989 to December-1990 continuously without any break. Further he stated that thereafter he was engaged as casual plumber in All India Radio, since 3.3.94 to 10.12.99. Accordingly he annexed 2 Nos. certificate dated 11.12.94 and 10.12.99 respectively annexing to the application as Annexure-A and Annexure-B.

3. That the answering respondent begs to state that infact the said Annexure-A i.e. the certificate dated 11.12.94 is false and misleading and having no authenticity.

Further the Annexure-B shown to be certified by Deputy Director is infact false and misleading having no authenticity. As much as Respondent No.-2, 3 and 4 is not the authority to appoint to engage any such casual labour under his or her disposal. They have no occasions to engage such casual labour. Hence, the so called signatory of the certificates dated 10.12.99 is not the authority to appoint plumber and there is no question of serving under him. The said certificate infact cannot be treated as official document.

4. That the answering respondent begs to state that the plumbers are being engaged through contractors by Civil Construction Wings of All India Radio which is totally a separate establishment. Therefore any such certificate issued from All India Radio has got no validity. Further, the respondent no.-7 by his letter dated AIR/CCW/SHG/AE/2006-07/13/176-77 reported that the applicant was engaged as casual plumber for a period of 3 months only from December-1989 to February-1990. He categorically stated in his letter dated from the records available it is found that he was engaged only from December-1989 to

February-1990. Further he stated that applicant's claim that he continuously engaged from March-1989 to December-1990 is false and he is misleading information to Court.

The respondent no.-6 also reported similar facts vide his letter dated 15.9.06 under no.-CWG/AIR/Court Case/B.Das/2006/961.

Copies of the letter dated 30.8.06 and 25.9.06 are annexed here and marked as **Annexure-1 and 2.**

5. That the answering respondent begs to submit that he is not entitled to get benefit under the scheme of casual labour's (Grant of Temporary Status and Regularization).

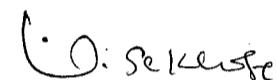
6. That in response to the Annexure-A and B, the answering respondent begs to submit that the certificate dated 11.12.94 and 10.12.99 as annexed as Annexure-A and B by which the applicant sought for temporary status and regularization is infact not authenticated having no validity and cannot be taken into consideration as being they are made out to get illegal gain.

7. That this reply statement has been filed bonafide and in the interest of justice.

VERIFICATION

I, Smti V.Sekhose do hereby verify that the contents stated above are true and correct to the best of my knowledge, belief and information and that nothing has been suppressed therefrom.

And I sign this verification on this
13th March, 2007.



Signature

FRASAR BHUJTI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE ASSISTANT ENGINEER (CIVIL)
CIVIL CONSTRUCTION WING, ALL INDIA RADIO
RYBIAH: SHILLONG-6

No. AIR/CCW/SAC/NE/2006-07/13/176-77

Dated 30-08-2006.

To,

The Deputy Director (NER) (Kind attention Shri D. Das)
All India Radio.
Chandmari
Guwahati-3

Sub:- OA No. 191 of 2006 filed by Shri Brajen Das, plumber.

Ref:- Letter No. NER/2(16)/2005-P-II (Court case)/591
Dated 21-08-2006.

Sir,

With reference to above subject and letter cited above I am to inform you that based on the records available in this Sub-Division office it is seen that Shri Brajen Das was engaged as a casual plumber for the month of December-1989 and for January to February-1990 for two months. The total period of his engagement was for a maximum period of 3 (Three) months only. He was never given or offered appointment nor was discharged from this office.

As claimed and engaged continuously from March 1989 to December 1990 is false and no records are produced or available and is misleading information to court.

This is for favour of your kind information and necessary action please.

W.M.
A/SO
(P.C. Mehta)
PC Mehta
19/8/06
Plb/
Copy
for information and necessary action to:-

Yours faithfully

3/1/06
Assistant Engineer (civil)
All India Radio: Shillong

1. The Executive Engineer (civil) CCW, IR, Guwahati-5.

2/8/06
Assistant Engineer (civil)
All India Radio: Shillong

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL):CCW:ALL INDIA RADIO
GUWAHATI DIVISION:TARUN NAGAR:BYE LANE 1
GUWAHATI-5
Telephone & fax No. 0361-2529471

Date: 25-09-2006

No. CWG/AIR/Court case/B.Das/2006/561

To
The Deputy Director General(NE)
(kind attn. to Shri Dinesh Das, Deputy Director)
All India Radio
Chandmari
Guwahati.

Sub: OA No. 191 Of-2006 filed by Shri Brajen Das, Plumber
Ref: Your office letter No. NER/2(16)/2005-P.II(Court Case)/740 dated 14.9.2006

Sir,
With reference to letter mentioned above it is to be stated that Shri Brajen Das was engaged as a casual plumber in the office of the CCW AIR Shillong Subdivision for an maximum period of 3 months only i.e., for the month of Dec, 1989, Jan to Feb, 1990 as per report submitted by Asstt. Engineer, CCW AIR, Shillong by letter No. AIR/CCW/SHG/AE/2006-07/13/176-77 dated 30-08-06 (photocopy of letter is enclosd). Hence the claim made by the applicant that he worked as casual hand class plumber under the Assistant Engineer (Civil), CCW All India Radio, Shillong continuously from March, 1989 to December, 1990 is false. This is for your kind information and further necessary action.

Encl. as stated

Yours faithfully,

(M. C. GUISTE)
Executive Engineer(Civil)
CCW AIR Guwahati Division

8 MAY 2007

গুৱাহাটী নথিপতি

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : : : : : GUWAHATI

FILED BY

Sri Brajen Das
..... Applicant

Through- Smrta Bhattacharya
(Advocate)

SK

IN THE MATTER OF :

O.A. No. 45 of 2007

Sri Brajen Das
..... Applicant

- Versus -

Union of India & Ors.
..... Respondents.

- AND -

IN THE MATTER OF :

Rejoinder filed by the
applicant to the reply
statement filed by the
respondents.

The humble applicant submit this rejoinder as follows:

1. That with regard to the statement made in paragraph 1 of the reply statement the applicant have no comment to offer.
2. That with regard to the statements made in paragraph 2 of the reply statement the Applicant begs to state that the details narrated in the reply statement regarding the case is not fully correct and are misleading to this Hon'ble Tribunal.

In this regard the Applicant states that he was engaged as plumber in the All India Radio, Staff Quarters/ Office, Shillong on casual basis from March 1989 to December 1990 by the Assistant Station Director, All India Radio, Shillong, i.e. Office of

Brajen Das.

the Respondent No. 3 In between the aforesaid period the Applicant was also engaged in the same Department i.e. Civil Construction Wing, All India Radio, from December 1989 to February 1990 by the Assistant Engineer, Civil Construction Wing, All India Radio, Shillong. The Applicant has not mislead this Hon'ble Tribunal, and the Hon'ble Tribunal may be pleased to call the records from the Office of the Respondent No. 3 from where the Certificate dated 11-12-1990 was issued to the Applicant.

3. That with regard to the statements made in paragraph 3 of the Reply statement the Applicant begs to state that the same are not true and false. The Certificate at ANNEXURE- A in the Original Application was issued on 11-12-1990 not on 11-12-1994 as stated in the Reply statement submitted by the Respondent No. 2. It is also further stated that the ANNEXURE-B of the Original Application is true and signed by the Deputy Director, All India Radio, Guwahati, one P.D. Shira. The aforesaid sign can be verified by the Forensic Laboratory or from any Official Record. The Respondent No. 2, 3 and 4 has authority to engage casual labour. The Deputy Director, All India Radio at the relevant time i.e. 10-12-1999 has issued the Certificate and regarding his authority of issuance of such Certificate the Applicant cannot be blame or be responsible for the same.

4. That with regard to the statements made in paragraph 4 of the Reply statement the Applicant begs to state that in the instant rejoinder paragraph 3 he had replied the same.

5. That with regard to the statements made in paragraph 5,6 and 7 of the Reply statement the Applicant begs to state that the same are not true and

Brayen Das

54

false. The Applicant is entitled to get the benefit under the scheme of Casual Labours' (Grant of Temporary Status and Regularization) issued by the Government of India, Department of Personal and Training, vide Office Memorandum No. 51016/2/90-Estt. (C) dated 10th September 1993 as the Applicant is working as casual labour under the Respondents since March 1989 to December 1999.

Therefore, the Reply statement filed by the Respondents is wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of the Respondents to refute the contentions, averments, questions of law and grounds made by the Applicants in the Original Application filed by the Applicants deserved to be allowed by this Hon'ble Tribunal.

DZM

V E R I F I C A T I O N

I, Shri Brajen Das, Son of Shri Bhagaban Das, aged about 35 years, Resident of Galia, Post Office-Bhawanipur, in the District of Barpeta, Assam, do hereby solemnly verify that the statements made in above rejoinder are true to my knowledge and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this Verification on this the 5th. day of April 2007 at Guwahati.

Brajen Das

DECLARANT

20 JUL 2007

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of:

O.A. no.45/07

Sri Brajen Das

Filed by: -
The respondent
MS. 1 & 2
56
through
M
delivered
P.A.T.

...Applicant

-Vs-

Union of India and ors

...Respondents

-AND-

In the matter of:

Written statement on behalf of
respondent no.2

(WRITTEN STATEMENT ON BEHALF OF RESPONDENT NO.2)

I, Smt. V. Sekhose daughter of Ht. Shri R. SEKHOS,
presently working as Deputy Director General, North East Region, All India
Radio, Guwahati-781003, do hereby solemnly affirm and state as follows :-

1. That I am the Deputy Director General, North East Region, All India Radio, Guwahati-781003. A copy of the aforesaid application has been served upon respondent no.2. I have gone through the same and being the Deputy Director General have understood the contents thereof.
2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. That the case in brief are stated below which may be treated as part of the written statement.
4. That as per report of Assistant Engineer (Civil), Civil Construction Wing, AIR, Shillong, Sri Brajen Das the applicant was engaged as causal plumber for a period of three months only from December 1989 to February 1990. Similar report has also been submitted by Executive Engineer (Civil), Civil Construction Wing, AIR, Guwahati Division, Guwahati-5.
5. That the plumbers are being engaged through contractor by Civil

Construction Wings (CCW) of AIR which is a totally separate establishment. Hence the respondent is not the authority to appoint or engage any such casual worker under his or her disposal. They have no occasion to engage such casual workers.

6. That Annexure 'A' annexed by the applicant claiming that he was engaged continuously from March 89 to December 90 is false and misleading. Further the Annexure 'B' annexed by the applicant has got no authenticity as the Deputy Director is not the authority to appoint or engaged any casual worker. The Assistant Engineer (Civil), All India Radio, Shillong and Executive Engineer (Civil) All India Radio, Guwahati vide their letters dated 30.08.06 and 25.09.06 respectively stated that there are no such records available into the matter that the applicant was engaged continuously from March 1989 to December 1990. But from the records it is available that the applicant was engaged from the month of December 89, January to February 1990.

7. That the applicant was never engaged for more than 90 days at a time and as such his claim cannot be considered as per Office Memorandum dated 10.09.1993.

Preliminary Objection:

8. That the applicant Sri Brajen Das has no legal right to get temporary status as well as for regularization of service.

9. The applicant was not engaged or appointed by the respondent as the respondent had no authority to engage the casual plumber in AIR. The plumbers are being engaged through contractor by Civil Construction Works (CCW) of AIR.

10. The applicant Sri Brajen Das infact was engaged for the month of December 89, January to February 90. Further he was never engaged for

more than 90 days at a time.

11. Reply to the facts of the case

11.1. That with regard to the statements made in paragraph 4.1 of the application the humble answering respondent has nothing to make comment on it.

11.2. That with regard to the statements made in paragraph 4.2 of the application the humble answering respondent begs to state that as per report of the Assistant Engineer (Civil), CCW, AIR, Shillong the applicant was engaged as casual plumber for a period of 3 months i.e. from December 89 and January to February 1990. The Assistant Engineer i.e. respondent no.7 sent a letter dated 30.08.06 to the answering respondent stating that from the records available in the Sub-Divisional Office it is seen that the applicant was engaged as a casual plumber for the above period and the total period of his engagement was for a maximum period of 3 months only. Further stated that he was neither given nor offered any appointment or discharged from this office.

Further similar report was also submitted by Executive Engineer (Civil), AIR, to respondent no.6 vide letter dated 25.09.06 stating that the Annexure 'A' claiming by the applicant that he was engaged continuously from March 89 to December 1990 is false and misleading. The plumbers are being engaged through contractor by Civil Construction Wings (CCW) of AIR which is totally a separate establishment. The respondents are not the authority to appoint or engage any such casual worker under his or her disposal. They have no occasion to engage such casual workers. Hence the so called signatory of certificate dated 10.12.99 annexed as Annexure 'B' to the Original Application is not the authority to appoint the plumber and there is no question of serving under him. The said certificate issued by AIR, Guwahati cannot be treated as official document.

Further it is stated that the applicant was given contract work from time to time by Civil Construction Wing, AIR, Guwahati Sub-Division

Office as per 'CPWD Contract Rules'. To that effect the Executive Engineer, Respondent no.6 also stated the same facts into the above matter vide his letter dated 12.10.06.

Further it is not correct that the applicant executed the work under respondent no.7 through M/s Nilachal Enterprise since January 2002 to March 2006 without any break. As per records it appears that M/s Nilachal Enterprise was awarded contract works by Executive Engineer (Civil) CCW, AIR, Guwahati as per 'CPWD Contract Rules' to execute the works of day to day maintenance of water supply line of AIR office including staff quarter with effect from 25.08.01 to 27.05.02.

Further it is stated that the applicant who is a registered contractor was awarded the contract of maintenance works etc with effect from 30.08.02 to March 2006. Hence, he was infact awarded contract but did not served under the respondent no.7 or any other respondent.

Copies of the letters dated 30.08.06, 25.09.06 and 12.10.06 is annexed herewith and marked as Annexure 1, 2 and 3.

11.3. That with regard to the statements made in paragraph 4.3 of the application the humble answering respondent begs to state that the Office Memorandum dated 10.09.93 under no. 51016/2/90-Estt (c) is applicable for the casual labourers except railways, department of telecommunications and department of post, who rendered a continuous service at least one year which means that have been engaged for a period of at least 240 days. But in the instant case the applicant was never engaged for more than 90 days at a time. Hence his case is not covered under the scheme and is not entitled to get the benefit of the said scheme.

11.4. That with regard to the statements made in paragraph 4.4 of the application the humble answering respondent denies the correctness of the statements made therein. He was never engaged continuously for more than 90 days at a time.

11.5. That with regard to the statements made in paragraph 4.5 of the application the humble answering respondent has nothing to make comment on it as they are being matters of records of the case.

11.6. That with regard to the statements made in paragraph 4.6 of the application the humble answering respondent begs to state that in compliance to the Hon'ble Tribunal's order dated 08.08.06 the humble answering respondent disposed of the applicant's representation dated 25.01.06 annexed as Annexure 'E' to the Original Application no.191/06 vide speaking order dated 10.11.06.

Further it is stated, as per direction of the High Tribunal his case was considered sympathetically, but from the records it is found that he was never engaged continuously for more than 90 days. Further his claim that he was engaged continuously from March 1989 to December 1990 is false and misleading information. He is not legally entitled to get the temporary status in service as well as for regularization of service

11.7. That with regard to the statements made in paragraph 4.7 of the application the humble answering respondent begs to state that the applicant is not similarly situated with Sri Shymal Kumar Mallik. In the said case in the written statement filed by the respondent it was stated that the said applicant could not be accommodated for want of vacancy and on the surplus ground. But in the instant case the applicant infact did not render any continuous service for more than 90 days.

11.8. That with regard to the statements made in paragraph 4.8 of the application the humble answering respondent reiterates and reaffirms the statements made in paragraph 11.2 of this written statement.

11.9. That the submissions made from paragraphs 4.9 to 4.19 are not legal submissions having no legal right for being entitled to get the benefit of the scheme introduced in O.M. dated 10.09.93 by the Government of India.

12. Reply to the grounds of the case :

12.1. In response to the statements made in paragraph 5.1 of the application the humble answering respondent begs to submit that the impugned order dated 11.10.96 passed by the answering respondent on the basis of records.

12.2. In response to the statements made in paragraph 5.2 of the application the humble answering respondent begs to submit that the applicant never rendered his services continuously under the respondents for more than 3 months. Further the certificate annexed by the applicant as annexure 'A' and 'B' on which basis he claimed to have served for 240 days are not the valid documents having no authenticity. His case is not covered under the scheme of Office Memorandum dated 10.09.93.

12.3. In response to the statements made in paragraph 5.4 of the application the humble answering respondent begs to submit that in compliance to the Hon'ble Tribunal's order the applicant's representation was considered and after thorough verification of the records in the office of Assistant Engineer (Civil) CCW, AIR, Shillong and the office of the Executive Engineer (Civil) CCW, AIR, Guwahati it is found that the applicant was engaged as a casual plumber for the month of December 89 to February 90. The said impugned order was issued by assigning the reasons thereof and by applying the mind.

12.4. In response to the statements made in paragraph 5.5 of the application the humble answering respondent begs to submit that the applicant has no legal right for temporary status as well as for regularization as he was never engaged for casual works continuously for 3 months. The documents annexed as annexure 'A' and 'B' by the applicant sought for temporary status infact is not the valid documents having no authenticity. The casual plumbers are being engaged through contractor, CCW, and not

by signatory of the so called certificates as they being not served under them.

12.5. In response to the statements made in paragraph 5.6 of the application the humble answering respondent begs to submit that the facts of the case of the applicant and to Sri Shymal Kr. Mallik are not similar and hence there is no discriminatory treatment as alleged by the applicant.

12.6. In response to the statements made in paragraph 5.7 of the application the humble answering respondent begs to submit that those certificates annexed as annexure 'A' and 'B' are false and misleading having no authenticity.

12.7. In response to the statements made in paragraph 5.8 to 5.11 of the application it is submitted that there is no malafide action taken by the respondent and the order dated 10.11.06 is just, proper and legal. There is no violation of the articles 14, 16 and 21 of the Constitution of India as well as principles of natural justices.

12.9. That the humble answering respondent begs to submit that the instant original application has no merit at all and the applicant make out the case on the basis of the documents i.e. Annexure 'A' and 'B' which are not the valid documents having no authenticity. The applicant has no legal right for being entitled to get the benefit under the scheme. He failed to establish his case on the basis of legal grounds and the application is not warranted any interference of this Hon'ble Court and is liable to be dismissed.

VERIFICATION.

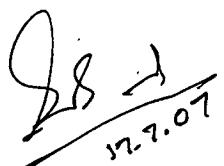
I, Smt. V. Sekhose daughter of Lt. Shri. R. SEKHOSE presently working as Deputy Director General, North East Region, All India Radio, Guwahati-781003 do hereby verify that the statements made in paragraphs 2, 3, 5, 7, 9, 11, 11, 3 to 11, 7 are true to my knowledge ; those made in paragraphs 4, 6, 10, 11, 2 and 11, 8 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I have not suppressed any materials thereof.

And I sign this verification on16th day of July 2007.



DEPONENT.



16.7.07

9 -

BY AIR MAIL POST
PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE ASSISTANT ENGINEER (CIVIL)
CIVIL CONSTRUCTION WING, ALL INDIA RADIO
RYNJAH: SHILLONG-6

ANNEXURE-1

No. AIR/CCW/SH3/AE/2006-07/13/176-77

Dated 30-08-2006.

To,

The Deputy Director (NER) (Kind attention Shri D. Das)
All India Radio.
Chandmari
Guwahati-3

Sub:- OA No. 191 of 2006 filed by Shri Brajen Das, plumber.

Ref:- Letter No. NER/2(16)/2005-P-II (Court case)/591
Dated 21-08-2006.

Sir,

With reference to above subject and letter cited above I am to inform you that based on the records available in this Sub-Division office it is seen that Shri Brajen Das was engaged as a casual plumber for the month of December-1989 and for January to February-1990 for two months. The total period of his engagement was for a maximum period of 3 (Three) months only. He was never given or offered appointment nor was discharged from this office.

As claimed and engaged continuously from March 1989 to December 1990 is false and no records are produced or available and is misleading information to court.

This is for favour of your kind information and necessary action please.

Warrant Yours faithfully

G. J.

Assistant Engineer (civil)
All India Radio, Shillong

Copy forwarded for information and necessary action to:-

1. The Executive Engineer (civil) CCW, IR, Guwahati-5.

certified to be true

MN
17/7/07

17/7/07
Assistant Engineer (civil)
All India Radio, Shillong

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL):CCW:ALL INDIA RADIO
GUWAHATI DIVISION:TARUN NAGAR:BYE LANE 1
GUWAHATI-5
Telephone & fax No. 0361-2529471

No. CWG/AIR/Court case/B.Das/2006/961 Date: 25-09-2006

To
The Deputy Director General(NE)
(kind attn. to Shri Dinesh Das, Deputy Director)
All India Radio
Chandmari
Guwahati.

Sub: OA No. 191 Of 2006 filed by Shri Brajen Das, Plumber
Ref: Your office letter No. NER/2(16)/2005-P.II(Court Case)/740 dated 14.9.2006

Sir,

With reference to letter mentioned above it is to be stated that Shri Brajen Das was engaged as a casual plumber in the office of the CCW AIR Shillong Subdivision for a maximum period of 3 months only i.e., for the month of Dec, 1989, Jan to Feb, 1990 as per report submitted by Asstt. Engineer®, CCW AIR, Shillong by letter No. AIR/CCW/SHG/AE/2006-07/13/176-77 dated 30-08-06 (photocopy of letter is enclosd). Hence the claim made by the applicant that he worked as casual hand class plumber under the Assistant Engineer (Civil), CCW All India Radio, Shillong continuously from March, 1989 to December, 1990 is false. This is for your kind information and further necessary action.

Encl. as stated

Yours faithfully,

(M. C. GUITA)
(M. C. GUITA)
Executive Engineer(Civil)
CCW AIR Guwahati Division

M
Certified to be true copy
17/7/07

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL):CCW:ALL INDIA RADIO
GUWAHATI DIVISION:TARUN NAGAR:BYE LANE 1

GUWAHATI-5

Telephone & fax No. 0361-2529471

No. CWG/AIR/Court case/B.Das/2006/1029

Date: 12-10-2006

To
The Deputy Director General(NE)

(kind attn. to Shri Dinesh Das, Deputy Director)

All India Radio

Chandmari

Guwahati.

Sub: OA No. 191 Of 2006 filed by Shri Brajen Das, Plumber

Ref: Your office letter No. NER/2(16)/2005-P.II(Court Case)/820 dated 4.10.2006

Sir,

With reference to the letter under reference and in continuation of this office letter No. CWG/AIR/Cour Case/B.Das/2006/961 dated 25-09-2006 it is to state that Shri Brajen Das was engaged as a casual plumber in the O/o the CCW AIR Shillong Subdivision for a maximum period of 3 months only i.e., for the month of Dec, 1989, Jan to Feb, 1990 which has already been communicated by this office letter dated 25-09-06.

The period from March, 94 to Dec, 99 during which Shri Brajen Das claimed to have been engaged as a plumber in All India Radio Staff Quarters/Office Guwahati on casual basis is not in the knowledge of CCW AIR Guwahati Division.

It is a fact that Shri Brajen Das was given contract work from time to time under Guwahati Subdivision office as per "CPWD Contract Rules". Since this purely contract basis work there is no provision for claiming Casual/Regular service in the department.

This is for your information and further necessary action please.

Yours faithfully,

(M. C. GUISTE)

Executive Engineer(Civil)
CCW AIR Guwahati Division

Certified to be true copy
M.C.
17/11/02

3 OCT 2007
गुवाहाटी बैचायन
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

FILED BY

Shri Brajen Das 67
Applicant
Through Smriti Bhattacharjee
(Advocate)

IN THE MATTER OF

O.A. No. 45 OF 2007

Shri Brajen Das
...Applicant

-Versus-

The Union of India &
Others.

...Respondents

IN THE MATTER OF:

An Additional Rejoinder
filed by the Applicant in
O.A. No. 45 of 2007.

-AND-

IN THE MATTER OF:

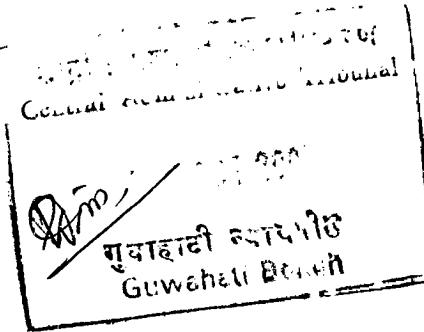
Shri Brajen Das
Son of Shri Bhagaban Das
Resident of Galia
Post Office- Bhanipur
District- Barpeta
Assam.

...Applicant

- VERSUS -

1. The Union of India
Represented by the Director
General, All India Radio,
Akashwani Bhawan,
New Delhi-1
2. The Deputy Director General
(NER) All India Radio,
Guwahati-3

Brajen Das'



3. The Station Director
All India Radio, Shillong-1.
4. The Station Director
All India Radio,
Chandmari'
Guwahati-3.
5. The Superintendent Engineer
(Civil)
Civil Construction Wing
All India Radio
Dr. P. Kakoti's Building
Near Ganeshguri Fly Over
G.S. Road, Guwahati-6.
6. The Executive Engineer
(Civil)
Civil Construction Wing
All India Radio
Guwahati Division, Tarun
Nagar
Bye Lane-1, Guwahati-781005
7. The Assistant Engineer
(Civil)
Civil Construction Wing
All India Radio
Guwahati Sub Division
Chandmari
Guwahati-3
8. The Assistant Engineer
(Civil)
Civil Construction Wing
All India Radio
Rynjah, Shillong-6
Meghalaya.

... Respondents

The humble Applicant submit his additional Rejoinder as follows: -

1. That your humble Applicant has filed an Original Application No.45 of 2007 before this Hon'ble Tribunal for granting temporary status and regularization of his service. The Respondents have filed a Written Statement in this case and the Applicant had also submitted his rejoinder. The aforesaid Original Application is

Brajendra Das.

3 OCT 2007 - 3

गुवाहाटी न्यायपीठ
Guwahati Bench

pending before this Hon'ble Tribunal for final adjudication.

2. That your Applicant begs to state that he has filed an application under RTI Act for seeking information regarding his engagement as Casual Plumber/ Labour in the Office of the Station director, All India Radio, Shillong, Meghalaya.

3. That your Applicant begs to state that the Deputy Secretary and Joint Registrar of the Central Information Commission, New Delhi vide their Memo No. SHG-16(3)/2007-S/2300/dated 6th August 2007 provided information regarding his engagement as casual plumber/labour in the Office of the Station Director, All India Radio, Shillong, Meghalaya from the month of March 1989 to December 1991. For kind perusal of this Hon'ble Tribunal the period of engagements are given below: -

From 23/12/1989 to 15/03/1990,

From 26/04/1990 to 05/05/1990,

From 01/06/1990 to 16/06/1990,

From 30/06/1990 to 17/07/1990,

From 31/07/1990 to 01/10/1990,

From 22/10/1990 to 06/11/1990,

From 08/01/1991 to 31/01/1991,

From 16/02/1991 to 21/02/1991.

Photocopy of the Memo No. SHG-16(3)/2007-S/2300/dated 6th August 2007 is annexed herewith and marked as ANNEXURE- X

4. That this Additional Rejoinder is filed bona-fide and for the ends of Justice.

Brajen Das

केन्द्रीय न्यायालय अधिकारी
Central Administrative Tribunal

१००१/२००८
गुवाहाटी न्यायालय
Guwahati Bench

VERIFICATION

I, Shri Brajen Das, Son of Shri Bhagaban Das, aged about 35 years, Resident of Galia, Post Office-Bhawanipur, in the District of Barpeta, Assam, do hereby solemnly verify that the statements made in above rejoinder are true to my knowledge and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this Verification on this the 3rd day of October 2007 at Guwahati.

Brajen Das

D E C L A R A N T

NO.SHG-16(3)/2007- S/ 2280/-

Dated the 6th Aug./07

The Deputy Secretary & Joint Registrar,
(Shri Pankaj K P Shreyaskar - by name),
Central Information Commission,
Block No.IV (5th Floor)
Old JNU Campus,
New Delhi - 110 067

Sub :- Information regarding RTI Application.

Ref :- Letter No.D.No. 34700/07 dated 18/7/2007.

Sir,

With reference to your letter dated 18/07/07 on the subject cited above, the information as desired are as follows:

5. Particulars of the information required :

(i) Subject-matter Engagement of casual plumber/labour in the office of the Station Director, All India Radio, Shillong, Meghalaya under the Ministry of Information and Broadcasting, Government of India, Prasar Bharati Broadcasting Corporation of India.

(ii) Time/ period to which information relates From the month of March 1989 to December 1991

23/12/89 15/03/90 26/04/90 05/05/90 01/06/90 - 90
16/06/90 30/06/90 17/07/90 31/07/90 01/10/90
22/10/90 06/11/90 08/01/91 31/01/91 16/02/91 21/02/91

216

(iii) Details of information: Engagement of following casual plumber/labour :

Shri Brajen Das,
Son of Shri Bhagaban Das,
Resident of Galia,
P.O. Bhawanipur, District Barpeta,
Assam.

208 day

ATTESTED

Bhette

ADVOCATE

He was paid a lumpsum amount on hand receipt for Plumbing works and repairing of old pipe lines. There is no engagement after 2/91 to 12/91.

He was engaged by CCW, AIR, Shillong Sub-Divn during Dec/89 For 22 days/ Jan./90 for 25 days and during Feb/90 only 22 days.

Yours faithfully,

(N. K. Shadap)
Station Director

Copy to :-

Shri Brajen Das, S/O Bhagabah Das, Resident of Galia, PO Bhawanipur, Dist. Barpeta, Assam.


N. K. Shadap
Station Director

ATTESTED
S. Sheth
ADVOCATE