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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A/T.A No. 82/2007

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SECTION OFFICER (Judl.)

Kalish

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

ORDER SHEET

1. Original Application No. 82/07
2. Miscellaneous Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(s) Bhadra Hazeniker vs Union of India & Ors

Advocate for the Applicant(s) M. Chandra, S. Nair
Ms. M. Dutta

Advocate for the Respondent(s) CGSC

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C.F. for Rs. 50/- deposited vide IPC/BD No. <u>286 990 823</u> Dated <u>17.1.07</u> sd/- Dy. Registrar</p>	29.3.2007	<p>Heard learned counsel for the parties. Judgment passed in open Court, kept in separate order.</p> <p>The O.A. is disposed of at the admission stage itself in term of the order. No costs.</p>

Vice-Chairman

/bb/

30/3/07

Received
Usha Das.
Addl. Clk
18/4/07

18.4.07

Centrifugal copy 2 to
Adm. has been collected
by the applicant on 10.5.07

26.6.07

A letter dated 18.5.07
sent by S. Joshi, Lt. Col.
Headquarter, 5 Mountain
Brigade, C/o 99 APO
received by this registry
regarding O.A 82/07
the same has been kept
in record in file 'A'.

Pro.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.82 of 2007

DATE OF DECISION: 29.03.2007

Sri Bhadra Hazarika & 6 Others.

.....Applicant/s

Mr.M.Chanda

..... Advocate for the
Applicant/s

- Versus -

U.O.I & Others,

.....Respondent/s

Ms.U.Das, Addl. C.G.S.C.

.....Advocate for the
Respondents

CORAM

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

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench & other Benches ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice-Chairman

29/3/07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 82 of 2007.

Date of Order: This, the 29th day of March, 2007.

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

1. Sri Bhadra Hazarika
S/O Sri Bap Hazarika
Working as Conservancy Safaiwala
Office of the Brigadier Commander
HQ, 5 Mountain Brigade, Along
Arunachal Pradesh, C/o 99 APO.
2. Shri Sanu Munda
Working as Conservancy Safaiwala
Office of the Brigadier Commander
HQ, 5 Mountain Brigade, Along
Arunachal Pradesh, C/o 99 APO.
3. Shri Bir Bahadur
Working as Conservancy Safaiwala
Office of the Brigadier Commander
HQ, 5 Mountain Brigade, Along
Arunachal Pradesh, C/o 99 APO.
4. Shri Kaji Tamang
Working as Conservancy Safaiwala
Office of the Brigadier Commander
HQ, 5 Mountain Brigade, Along
Arunachal Pradesh, C/o 99 APO.
5. Shri Alendra Nath Barman
Working as Conservancy Safaiwala
Office of the Brigadier Commander
HQ, 5 Mountain Brigade, Along
Arunachal Pradesh, C/o 99 APO.
6. Shri Gopal Bahadur Chetri
Working as Conservancy Safaiwala
Office of the Brigadier Commander
HQ, 5 Mountain Brigade, Along
Arunachal Pradesh
C/o 99 APO.

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7. Shri Paresh Chandra Deka
Working as ~~Casual Worker~~
Office of the Brigadier Commander
HQ, 5 Mountain Brigade, Along
Arunachal Pradesh
C/o 99 APO.

...Applicants.

By Advocates Mr. M. Chanda, Mr. S. Nath & Mrs. U. Dutta.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Defence, South Block
New Delhi - 110 001.
2. The Additional Director General
Staff Duties, General Staff Branch
Army Headquarters
DHQ, New Delhi - 110 011.
3. The Administrative Commandant
Purav Kaman Mukhyalaya
Headquarters, Eastern Command
Fort William, Kolkata - 700 021.
4. The ~~Brigadier~~ Commander
Headquarters, 5th Mtn. Brigade
Along, Arunachal Pradesh
C/O 99 APO.

... Respondents.

By Ms. U. Das, Addl. C.G.S.C.

ORDER (ORAL)

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

The Applicants, seven in number, are presently working as Conservancy Safaiwala in the office of the Brigadier Commander, Headquarters, 5th Mountain Brigade, Along, Arunachal Pradesh, C/O 99 APO. According to the Applicants, Applicant Nos. 1 to 6



were engaged in the year 1993 and the Applicant No.7 in the year 1988 and they have been rendering their services in the department on casual basis till date. Their contention is that since they have completed 240 days of work in each calendar year, they are entitled to get temporary status under "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 issued by the DOP&T under its Office Memorandum dated 10.09.1993. The Applicants claimed that similarly placed persons in the same department and other department have been granted the benefits under the said Scheme and the Applicants are left out. This Tribunal had occasions to consider similar matters like in O.A. Nos. 248/1994, 108/1996 & 398/1999 and directed the Respondents to grant similar benefits under the said Scheme to the Applicants therein. Aggrieved by the inaction on the part of the Respondents in not granting temporary status to the Applicants, they have filed this single O.A. under Section 4(5)(a) of the CAT Procedure Rules, 1985 seeking the following main reliefs:-

- "8.1 That the Hon'ble Tribunal be pleased to direct the respondents to grant Temporary Status and regularization of service of the applicants under the relevant rules.
- 8.2 That the Hon'ble Court be pleased to declare that applicants are entitled to continue in service at least in the same capacity as casual conservancy safaiwala till they are granted temporary status and further be pleased to direct the respondents to allow the applicants in the service in the same capacity as casual conservancy safaiwala."

2. Heard Mr.M.Chânda, learned counsel for the Applicants and Ms.U.Das, learned Addl.C.G.S.C. for the Respondents. Learned counsel for the Applicants submitted that though the Applicants had made representations the same have not been attended to by the Respondents.

However, he will be satisfied if the Applicants are permitted to make comprehensive representation before the Respondent No.2 who may be directed to consider and dispose of the same by passing speaking order. Mrs.M.Das, learned Addl.C.G.S.C. submitted that it that recourse will suffice the ends of justice, the Respondents have no objection to that.

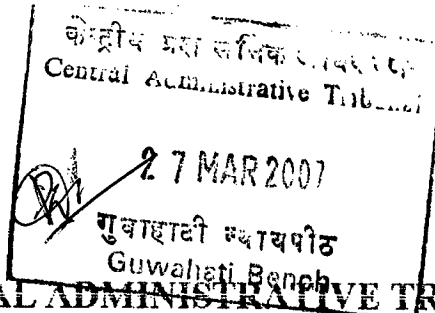
3. Accordingly, the Applicants are directed to submit individual comprehensive representation narrating all their grievances before the second Respondent within a period of two weeks time from the date of receipt of the copy of this order alongwith a copy of this O.A. and all other supporting documents. On receipt of such representations, the second Respondent or any other competent authority, as directed by him, shall consider the same in the light of the aforesaid scheme and judgments of the various Courts on this issue and pass speaking orders thereon communicating the Applicant within a period of three months thereafter.

4. The Original Application is disposed of as above. In the circumstances, there will be no order as to costs.

5. However, learned counsel for the Applicants apprehended that Applicants could be disturbed from their services. Therefore, it is further directed that status quo as on today shall be maintained till the disposal of their case. /Representation



(K.V.SACHIDANANDAN)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 82 /2007

Sri Bhadra Hazarika and Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

Applicants were initially appointed as Conservancy Saliwala on casual basis on different dates in the year 1993 under the Brigadier Commander, Headquarters, 5th Mtn. Brigade, Along, Arunachal Pradesh and they are serving as such till date.

24.04.2000- Applicants are working since 1993 and they have completed 240 days of work in each calendar year, which is evident from the Part II order dated 24.04.2000. (Annexure- 2)

Applicants have approached the respondents through representations time and again praying for regularization of their services but to no result. (Annexure- 3 series)

10.11.1995, 28.04.1997, 24.01.01- Casual workers who were working under Station Headquarter, Rangiya, Hatigarh and other station Headquarters approached this Hon'ble Tribunal on different occasions and they were granted temporary status and regularization of their service. Applicants being similarly situated casual workers praying before this Hon'ble Tribunal for similar direction upon the respondents. (Annexure- 6 and 7)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to direct the respondents to grant Temporary Status and regularization of service of the applicants under the relevant rules.

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2. That the Hon'ble Court be pleased to declare that applicants are entitled to continue in service at least in the same capacity as casual conservancy safaiwala till they are granted temporary status and further be pleased to direct the respondents to allow the applicants in the service in the same capacity as casual conservancy safaiwala.
 3. Costs of the application.
 4. Any other relief(s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

During pendency of this application, the applicants pray for the following relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents not to terminate services of the applicants till disposal of the Original Application.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents to provide the relief as prayed for.

Bhadra Hazarika.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 82 / 2007

Sri Bhadra Hazarika & Ors. : Applicants

-Versus -

Union of India & Others. : Respondents.

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05.	3 (Series)	Copies of the representations.	18-40.
06.	4	Copy of Copy of judgment and order dated 10.11.95.	41-45
07.	5	Copy of judgment and order dated 28.04.97.	46-50.
08.	6	Copy of judgment and order dated 24.01.01	51-52

Date: 26.03.07

Filed by

W. Dutta
Advocate

Bhadra Hazarika.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 82 /2007

Filed by the Applicant
through U. Dutta,
Advocate on 26.03.07

BETWEEN:

1. **Sri Bhadra Hazarika,**
S/o- Sri Bap Hazarika,
Working as Conservancy Safaiwala.
Office of Brigadier Commander,
HQ, 5 Mountain Brigade, Along,
Arunachal Pradesh, C/o- 99 APO.
2. **Shri Sanu Munda,**
Working as Conservancy Safaiwala.
Office of Brigadier Commander
HQ, 5 Mountain Brigade, Along,
Arunachal Pradesh, C/o- 99 APO.
3. **Shri Bir Bahadur,**
Working as Conservancy Safaiwala.
Office of Brigadier Commander
HQ, 5 Mountain Brigade, Along,
Arunachal Pradesh, C/o- 99 APO.
4. **Shri Kaji Tamang,**
Working as Conservancy Safaiwala.
Office of Brigadier Commander
HQ, 5 Mountain Brigade, Along,
Arunachal Pradesh, C/o- 99 APO.
5. **Shri Alendra Nath Barman,**
Working as Conservancy Safaiwala.
Office of Brigadier Commander
HQ, 5 Mountain Brigade, Along,
Arunachal Pradesh, C/o- 99 APO.
6. **Shri Gopal Bahadur Chetri,**
Working as Conservancy Safaiwala.
Office of Brigadier Commander
HQ, 5 Mountain Brigade,
Along, Arunachal Pradesh
C/o- 99 APO.

Bhadra Hazarika.

7. Shri Paresh Chandra Deka,
Working as Casual worker,
Office of Brigadier Commander
HQ, 5 Mountain Brigade,
Along, Arunachal Pradesh
C/o- 99 APO.

.... Applicants.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Defence, South Block,
New Delhi- 110001.
2. The Additional Director General
Staff Duties, General Staff Branch,
Army Headquarters,
D.H.Q, New Delhi-110011.
3. The Administrative Commandant
Purav Kaman Mukhyalaya,
Headquarters, Eastern Command,
Fort William, Kolkata- 700021.
4. The Brigadier Commander,
Headquarters, 5th Mtn. Brigade,
Along, Arunachal Pradesh,
C/O- 99 APO.

...Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order (s) against which this application is made.

This application is made not against any particular order but praying for a direction upon the respondents to grant Temporary Status and regularization of service of the applicants under the relevant rules and further praying for a direction upon the respondents not to disengage the applicants from services till they are granted temporary status and regularised in service.

Bhadra Hazarika.

2. Jurisdiction of the Tribunal.

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

3. Limitation

The applicants further declare that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

- 4.1 That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. Applicants No. 1 to 6 are employed as Conservancy Safaiwala on casual basis under the Brigadier Commander, Headquarters, 5th Mtn. Brigade, Along, Arunachal Pradesh, on different dates and they were entrusted with work of Sweeper, Safai, grass cutting etc. Applicant No. 7 is working as casual worker since 1988 and his service is being utilized in establishment office work also.
- 4.2 That applicants pray for permission to move this application jointly in a single application under section 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1985 as the relief's sought for in this application by the applicants are common.
- 4.3 That the applicants No. 1 to 6 are working in this Army Establishment on casual basis as Conservancy Safaiwala for years together but they are deprived from regular service benefits, pay scales, dearness allowance, house rent, medical allowances and even minimum pay scales was also not granted to these applicants while they are in casual service under the Brigade Commander, Along. Be it stated that applicant No. 7 is working as casual worker since 01.11.1988 in the office of Headquarter 5th Mtn. Brigade. They are also deprived from the benefits of different schemes of

Bhabra Hazarika.

Central Government for casual workers. There are number of Central Govt. schemes for regularization of casual workers, who continued for long time as casual worker some of the scheme were issued under O.M dated 07.06.1988 but the respondents did not take any initiative for regularization of service of the applicants.

- 4.4 That your applicants beg to state that they are serving for a considerable long period under the Brigade Commander, 5th Mtn. Brigade, Along, and although they were recruited on casual basis after observing all formalities but their service were not regularised after serving for a considerable long period under the respondents. The details particulars of the applicants are furnished below:

Sl. No.	Name	Date of initial appointment
1.	Sri Bhadra Hazarika	01.09.1993
2.	Sri Sanu Munda	01.08.1993
3.	Sri Bir Bahadur	01.06.1993
4.	Sri Kaji Tamang	01.08.1993
5.	Sri Alendra Nath Barman	01.09.1993
6.	Sri Gopal Bahadur Chetri	01.09.1993
7.	Sri Paresh Chandra Deka	01.11.1988

From the above table it is quite clear that the applicants are rendering their casual services as Conservancy Safaiwala, for a very long period with utmost satisfaction of the authority under the Brigade Commander, Headquarter, 5th Mtn. Brigade, Along, but in spite of having various scheme of Central Govt. for regularization of service of casual workers the present respondents did not take any initiative for regularization of service of the applicants. It is further submitted that the Govt. of India, Ministry of Defence from time to time issued necessary instructions to the lower formation to consider and grant temporary status to the working casual labourers, but in spite of such instructions their case was not considered due to inaction, laches on the part of the respondents. Therefore the applicants are entitled to regularization of their service.

Bhadra Hazarika.

Copies of departmental pass issued to the applicants are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1 (Series).

- 4.5 That it is stated that the Conservancy Safaiwala working under the same Ministry of Defence in the State of Arunachal Pradesh who were initially appointed as casual conservancy Safaiwala were subsequently given regular scale of pay whereas in the Brigade Commander, Headquarter, 5th Mtn. Brigade, Along the applicants have been treated as casual conservancy safaiwala even after serving for a very long period of more than 13 years. Applicant No. 7 is working as casual worker including office work on casual basis since 01.11.1988 but in spite of serving for long 19 years on casual basis his service has not been regularised for the reason best known to the authority and thereby applicants have been discriminated in the matter of grant of temporary status, which resulted violation of Article 14 of the Constitution of India.
- 4.6 That it is categorically stated that all the applicants have completed more than 240 days in each calendar year from the date of their initial engagement as such they are entitled to grant of temporary status and regularization of services. Be it stated that in spite of their entitlement for grant of Temporary status, the applicants are not being considered by the Respondents over these years for grant of the said benefit. It is pertinent to mention here that service records of the applicants were not being maintained properly. Applicant's engagement, work allotment and break in service were being done on verbal orders and no formal orders of engagement were being issued to the individual applicants. Respondents issued temporary pass where detail particulars of individual applicants were furnished. Initial engagement of all the applicants were for 2/3 months and on each occasion there was an artificial break of service to deprive the regular service benefit of the applicants. Be it stated that nature of work for which the applicants were employed is permanent in

Bhadra Hazarika.

nature. Therefore the applicants are legally entitled to grant of temporary status and regularization with all consequential service benefits from the date of their initial engagement.

It is pertinent to mention here that from the Part II order No. 05 Viv/5 MB/2000 dated 24.04.2000 it is evident that applicants are working since 1993 and they have completed 240 days of work in each calendar year as such they are entitled to regularization of their services from the date of their initial engagement.

Copy of Part II order dated 24.04.2000 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

- 4.7 That the applicants beg to state that they are being paid wages for less than the minimum pay, payable under the pay scale applicable to the regular employees belonging to corresponding cadres, since the applicants belonged to the category of casual labour. It may be stated that they are entitled to the same privileges, which the regular employees are enjoying. Therefore in the instant case the applicants are subjected to hostile discrimination, as such the applicants are approaching before the Hon'ble Tribunal praying for a direction upon the respondents to grant temporary status to the applicants and regularization of their services with all consequential service benefits from the date of their initial engagement.
- 4.8 That the applicants beg to state that there are administrative instructions issued by the higher authorities under the following letters quoted hereunder:
1. Q-3144 Eastern Command CB/SD Fort William under File No. 4022/G, Calcutta dated 23.08.93.
 2. 2221/4/QS (SD) HQ. 51 Sub Area dated 20.08.93 under file No. 4022.G, Eastern Headquarters.
 3. Q/3160 HQ. 51 Sub Area dated 14.08.93 under file No. 4022/G, Eastern Headquarters.

Bhadra Hazarika

4. Q/3141 HQ. Sub Area under file No. 4022/C, Station HQ.
5. 2221/4/C/GS (SD) Sub Area dated 07.08.1993.
6. O-3156 HQ. 51 Sub Area dated 02.08.93.
7. O-3126 HQ. 51 Sub Area dated 27.08.93.
8. O-3104 HQ. 51 Sub Area dated 28.08.93.
9. O-3171 HQ. 51 Sub Area dated 13.08.93.
10. C/60249/SDCB CS Branch Army Hqr.

The above quoted letters were regarding regularization of the casual workers and their conditions of services. The Hon'ble Tribunal be pleased to direct the respondents to produce all those letters before the Hon'ble Tribunal. Be it stated that as per circular of Govt. of India, casual workers, who had completed 240 days work, in two subsequent years are entitled to be regularised in Group 'D' posts. Therefore, all the present applicants are entitled to be regularised in service.

It is pertinent to mention here that the applicants have learned from a reliable source that there are 15 sanctioned posts lying vacant in the Headquarters, 5th Mtn. Brigade, Along, Arunachal Pradesh since last 10 years and services of the applicants are being utilized against those vacancies on casual basis in order to deprive them from the regular scale of pay, service benefits and pensionary benefits in the event of their retirement. It is also stated that there are specific instructions from the higher authorities to regularise services of the present applicants but the respondent No. 4 did not take any initiative to regularise services of the applicants just to deprive them from their legitimate rights accrued upon the applicants from their long services on casual basis. Therefore the Hon'ble Tribunal be pleased to direct the respondents to regularise services of the applicant against the existing 15 vacancies with arrear service benefits including monetary benefits. It is further submitted that by operation of law the applicants have acquired temporary status, however the Hon'ble Tribunal be pleased to direct the respondents to

Dhobra Hazarika.

grant temporary status to the applicants from 10.09.1993 with all consequential benefits.

- 4.9 That the applicants beg to state that they have approached the respondent No. 4 time and again praying for regularization of their services but to no result.

Copies of the representations are annexed hereto for perusal of Hon'ble Tribunal as Annexure- 3 (Series).

- 4.10 That the applicants beg to state that similarly situated casual conservancy safaiwalas who were working under Station Headquarter, Rangiya and also in other Station Headquarters had been regularised following the judgment and order passed by this Hon'ble Tribunal in O.A. No. 228/1993, 264/1993 and 265/93. The applicants further beg to state that similar question was raised in O.A. Nos. 56/94, 248/94 (Md. S.I. Ali & Ors. -Vs- U.O.I & Ors.), O.A. No. 108/1996 and O.A. No. 398/01 (Smti S. Daimary & Ors. -Vs- U.O.I & Ors.) the same were duly contested by the respondents, however, the Hon'ble Tribunal was pleased to pass order in favour of the applicants in O.A. No. 248/94 and 108/1996 and those applicants were granted temporary status and regularised in service. The present applicants being similarly situated casual conservancy safaiwalas like the applicants in O.A. No. 248/94, O.A. No. 108/96 and O.A. No. 398/01 (Smti S. Daimary & Ors. -Vs- U.O.I & Ors.), praying before this Hon'ble Tribunal for similar direction like the direction passed in O.A. No. 248/1994, O.A. No. 108/1996 and O.A. No. 398/01 (Smti S. Daimary & Ors. -Vs- U.O.I & Ors.).

Copy of judgment and order dated 10.11.95; 28.04.97 and 24.01.01 are annexed hereto as Annexure- 4, 5 and 6 respectively.

- 4.11 That the applicants beg to state that they are apprehending that their services may be terminated at any point of time, as such they are praying

Bhadra Hazarika

before the Hon'ble Tribunal for a direction upon the respondents not to disengage the applicants from their present employment till they are granted temporary status and regularised their services.

4.12 That the applicants beg to state that they have no other alternative than to approach before this Hon'ble Tribunal praying for a direction upon the respondents to grant the applicants temporary status and further be pleased to direct the respondents to regularise service of the applicants and till such exercise is completed applicants should not be disturbed from their present engagement.

4.13 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, the applicants having worked for a considerable long period 13/19 years, therefore they are entitled to be regularised in service in Group 'D' category against the existing available vacancies.

5.2 For that, the applicants have completed 240 days in each years from the date of their initial appointment as such they have acquired a valuable right for grant of Temporary Status and regularization of their services.

5.3 For that, the applicants have been serving since 1988/1983 continuously and without any break and their performances have been certified as satisfactory by the respondents.

5.4 For that, such Temporary Status has been granted to other similarly situated Casual Workers working under other Station Headquarters like Rangiya, Hatigarh, Thakurbari and other Station Headquarter in the State of Arunachal Pradesh.

5.5 For that, the denial of the grant of Temporary status and appointment to the applicants is arbitrary, unjust, unfair and violative of the principles of

Bhadra Hazarika.

natural justice and also offends Article 14 and 16 of the Constitution of India.

5.6 For that, the applicants submitted representations and made approaches to the respondents for grant of Temporary Status but to no result.

5.7 For that, present applicants being similarly situated casual conservancy safaiwalas like applicants O.A. Nos. 56/94, 248/94 (Md. S.I. Ali & Ors. - Vs- U.O.I & Ors.), O.A. No. 108/1996 and O.A. No. 398/1999 and who were granted temporary status and regularised in service, as such present applicants are also entitled to similar benefits.

6. Details of remedies exhausted.

That the applicants state that they have exhausted all the remedies available to them and there is no other alternative and efficacious remedy than to file this application. Personal approaches and representation made by the applicant failed to evoke any response.

7. Matters not previously filed or pending with any other Court.

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicants humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

Bhadra Hazarika.

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to grant Temporary Status and regularization of service of the applicants under the relevant rules.
- 8.2 That the Hon'ble Court be pleased to declare that applicants are entitled to continue in service at least in the same capacity as casual conservancy safaiwala till they are granted temporary status and further be pleased to direct the respondents to allow the applicants in the service in the same capacity as casual conservancy safaiwala.
- 8.3 Costs of the application.
- 8.4 Any other relief(s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.
9. Interim order prayed for.
During pendency of this application, the applicants pray for the following relief: -
- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to terminate services of the applicants till disposal of the Original Application.
- 9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents to provide the relief as prayed for.
10.
This application is filed through Advocates.
11. Particulars of the I.P.O.
- | | | | |
|------|---------------|---|-------------------|
| i) | I. P. O. No. | : | 286 990823 |
| ii) | Date of Issue | : | 29.1.07 |
| iii) | Issued from | : | G.P.O., Guwahati. |
| iv) | Payable at | : | G.P.O., Guwahati. |
12. List of enclosures.
As given in the index.

Bhadra Hazarika

VERIFICATION

I, Sri Bhadra Hazarika, S/o- Sri Bap Hazarika, aged about 33 years, Working as Conservancy Safaiwala, in the Office of Brigadier Commander, HQ, 5 Mountain Brigade, Along, Arunachal Pradesh, applicant No. 1 in the instant original application duly authorized by the others to verify the statements made in the original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 25 day of March 2007.

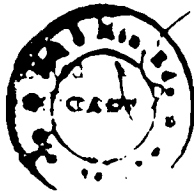
Bhadra Hazarika.

29
Annexure-1
(series)

HQ 5 MTN BDE

TEMP CIV PASS-14

Name Shri Gopal Bdr Chetri
Fathers Name Shri Rat. Bdr Shetri
Date of Birth 10 Oct 1975
Date of Emp 10 Sep 1993
Unit HQ 5 Mtn Bde C/O 99 APO



JE C 2005

Camp Bhadri
Bhadrakali
Bhadrakali

PASS NO.

NAME . BHADRA HAJARIKA

FATHER - SH BAP HAJARIKA

DATE OF BIRTH - 10 JUN 73

DOE - 01 SEP 93

HEIGHT - 165 CM

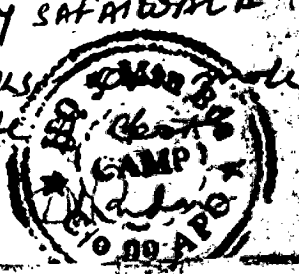
EMPLOYMENT - CONY SAFARIWALA

IDENTIFICATION MARKS

on the mangle



Bhadrakali
Bhadrakali



Attended
with
Advocate

PASS NO - 44
 NAME - BEER BAHADUR
 FATHER - SH CHATRA BAHADUR
 DATE OF BIRTH - 15 JUN 74
 DOE - 01 JUN 93
 HEIGHT -
 EMPLOYMENT - CONSY
 IDENTIFICATION MARKS - mole at

MAJ
 निरीक्षक मेजर ए फर्दीनान्ड सिंह
 EL 5 Min Bde

5 Min Bde
 CAMP
 09 APR

4

EL 5 MIN BDE

NAME - Sh Sanu Munda
 FATHER NAME - Sh Faru Munda
 DATE OF BIRTH - 17 Jan 1968
 DATE OF DOE - 01 Aug 1993
 UNIT - EL 5 MIN BDE CIE 99 APC

5 Min Bde
 CAMP
 09 APR

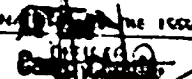
SIGNATURE OF THE ISSUING
 OFFICER
 01 AUG 1993

Arrested
 10/11/93
 Advocate

IIQ 5  MTN BDE

NAME - Sh. Kaji Tamang
FATHER NAME - Sh. DK Tamang
DATE OF BIRTH - 02 Jan 1975
DATE OF EMP - 01 Aug 1993
UNIT - IIQ 5 MTN BDE C/O 99 APC



SIGNATURE OF THE ISSUING OFFICER

Camp Comdt
HQ 5 MTN Bde

IIQ 5  MTN BDE


NAME - Sh. Alendra Nath Barmal
FATHER NAME - Sh. Upendra Nath Barmal
DATE OF BIRTH - 05 May 1965
DATE OF EMP - 01 Sep 1993
UNIT - HQ 5 MTN BDE C/O 99 APC



Station: C/O 99 APC

Date: 01 Dec 97



SIGNATURE OF THE ISSUING OFFICER

Camp Comdt
HQ 5 MTN Bde

Attended
Mouta
Advocate

GOVERNMENT OF ASSAM
DEPARTMENT OF LABOUR & EMPLOYMENT
DISTRICT EMPLOYMENT EXCHANGE, GUWAHATI

IDENTITY CARD

(NOT AN INTRODUCTION CARD FOR INTERVIEW WITH EMPLOYER)

1. Name of the applicant
2. Date of Registration
3. Registration No.
4. N.C.O. Code No.
5. Date of Birth.

✓ Sri parash kr Deka
18-9-90
8582/90
XO/10
31-12-70

INSTRUCTION OF THE APPLICANTS.

- a) Bring this card with you whenever you come to the Exchange.
- b) Quote your Registration No. and N.C.O. whenever you write to the Exchange.
- c) Renew your Registration every 3 (three) years. if you do not renew by the due date your registration will be Cancelled.
- d) You can renew your registration personally or by post, for renewal by post 'DO NOT SEND CARD' apply to the Exchange of a reply and paid card.
- 1) I have secured employment with
(Name of the Employer)
- 2) I no longer ~~employment~~ required employment Assistance.

NEXT R/Date

9/96 9/99
Shubh
12.12.93 8/10/96

✓ Parash kr Deka
(Signature of the Applicant)

For Sentt. Director of Employment,
District Employment Exchange,
District Labour Office, Guwahati-3.
Guwahati-3.

Attended
10/10/96
Advocate

DAILY ORDER PART II CIVIL AND PERS REGULARISATION OF SERVICES OF CONSERVANCY STAFF: GROUP 'B' PERS.

Presented in order No and date 05 VII/VIII/2000 di 24 Apr 2000

S.No.	Name	Category	Date of enrolment	Casualty
1.	Sh Parshu Ram Sharma S/O Sh Mahakand Sharma	Censy Safaiwala	01 May 91	
2.	Sh Mani Ram Limbu S/O Sh Dandenodan Limbu		01 May 91	Deed
3.	Sh Kamal Bdr Chettri S/O Sh Lakshmi Chettri		01 May 91	consy staff was
4.	Sh Dammesh Shrestha S/O Sh Dammesh Shrestha		01 May 91	2000
5.	Sh Gurnesh Bdr Pradhan S/O Sh Ram Pradhan		01 Jan 93	
6.	Sh Ganeshwar Bora S/O Sh Ganesh Bora		01 Jan 93	
7.	Sh Beer Bdr S/O Sh Chait Pale		01 Jun 93	
8.	Sh Kaji Tamang S/O Sh DK Tamang		01 Aug 93	
9.	Sh Sanu Munda S/O Sh Sanu Munda		01 Aug 93	
10.	Sh Lalit Bora S/O Sh Hari Bora		01 Aug 93	
11.	Sh Gopal Bahadur Chettri S/O Ram Bdr Chettri		01 Sep 93	
12.	Sh Alendra Nath S/O Sh Unendra Nath		01 Sep 93	
13.	Sh Bhadrak Hazarika S/O Sh Bip Hazarika		01 Sep 93	
14.	Sh Ranjeet Nursery S/O Sh Mani Ram Nursery		01 Sep 93	

have a continuous track starting from 1991 & 1993 & hence have completed more than 240 days consecutively for last 2 years. Please refer this (Q Part) letter No/08 Civ SMB/98 dt 20 May 98, 09/Civ/SMB/98 dt 17 Aug 98, 11/Civ/SMB/98 dt 19 Aug 98, 12 Civ SMB/98 dt 10 Dec 98, 01/Civ/SMB/99 dt 1 Jan 99, 02 Civ/SMB/99 dt 25 Jun 99, 03/Civ/SMB/99 dt 10 Sep 99, 04/Civ/SMB/99 dt 15 Dec 99/05 Civ/SMB/2000 2000 copy att. To this effect please also refer Dept of Personnel & AR OM No 49014-4777-1 dated 21 Mar 79 and OM No 5131-1-10 Est (e) dt 10 Sep 93

Office Copy

RESTRICTED

Attorney
White
Schwartz

To,

C. O. (Brigadier) Commandr
HQ, 5 Mountain Brigade Camp
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

dt 11/12/93

Yours faithfully

Bhadra Hazarika.

(Bhadra Hazarika)

S/O Bap Hazarika

Attested
Mulla
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

31/12/94

Yours faithfully

Bhadra Hazarika.

(Bhadra Hazarika)

Attested
Mulla
Adrovalli

To,

C.O. Brigadier Commander
HQ, 5 Mountain Brigade Camp
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

dt 11/12/06

Yours faithfully

Bhadra Hazarika.

(Bhadra Hazarika)

Sen O Bal Hazarika

Attested
Hilly
Advocate

To,

C. O. (Brigadier Command)
HQ, 5 Mountain Brigade Cantt
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Aug. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

DA-1/3/93

Yours faithfully

21/2/93

(Sanu Munda)

Son of Fannu Munda

Attested
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Aug. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

Yours faithfully

28/02/94

(Sanu Munda)

3/12/94

At-ctio
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoysafaiwala since 1st Aug. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

Yours faithfully

[Signature]

(Santu Munda)

14/1/05

*Attested
Advocate*

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Aug. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

Yours faithfully

सुनील मुन्डा

(Sanu Munda)

1/12/06

Suneel
Munda
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st June 1993. I request you to make necessary action for regularization of my service.

Thanking you.

3/3/94

Yours faithfully

B. R. Bandyopadhyay

(Beer Bdr.)

Street @
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st June 1993. I request you to make necessary action for regularization of my service.

Thanking you.

31/3/99

Yours faithfully

B. M. B. H. W. R.

(Beer Bdr.)

Attested
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st June 1993. I request you to make necessary action for regularization of my service.

Thanking you.

1/12/05

Yours faithfully

DIR BAHADUR

(Beer Bdr.)

Attested
Mulla
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Aug. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

Dt 11/12/93

Yours faithfully

Kaji Tamang
(Kaji Tamang)

Son of D. K. Tamang

Must
Mulla
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Aug. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

31/12/94

Yours faithfully

Kaeji Tamang
(Kaji Tamang)

Attested
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Aug. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

11/12/05

Yours faithfully

Kaji Tamang
(Kaji Tamang)

Arjun
Maita
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Aug. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

30/12/06

Yours faithfully

Kaji Tamang

(Kaji Tamang)

Attested
By
Advocate

To,

C. O. (Brigadier)
HQ, 5 Mountain Brigade Camp
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

1/3/94

Yours faithfully

Alendra Nath Barmen

(Alendra Nath)

Son of U. N. Barmen

Attested
Mulla
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

31/3/95

Yours faithfully

Alexandra Nath Baemon
(Alexandra Nath)

Attended
Hutta
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

31/3/06

Yours faithfully

Alendra Nath Baerman
(Alendra Nath)

Shrestha
Advocate

35- 46
To,

C. O. (Brigadier)
HQ, 5 Mountain Brigade Camp
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

Dt - 1/12/93

Yours faithfully

G. B. Chetry
(Gopal Bahadur Chetry)

Son of Ram Bahadur
Chetry.

Justice
Advocate

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

3/12/94

Yours faithfully

G. B. Chettri
(Gopal Bahadur Chettri)

*Attested
Duty
Advocate*

To,

C. O.
HQ, 5 Mountain Brigade
C/o. 99 APO

REGULARIZATION OF SERVICE

Sir,

I have the honour to inform you that I have been discharging my service in your office as Convoy Safaiwala since 1st Sept. 1993. I request you to make necessary action for regularization of my service.

Thanking you.

Yours faithfully

G. B. Chetry
(Gopal Bahadur Chetry)

1/12/06

Received
1/12/06
Shrawan

(Typed true copy)

Annexure- 3 (Series)

To,

The Officer Commanding
HQ, 5 Mountain Brigade,
C/O- 99 APO.

Sub: - Prayer for regularization of service

Sir,

Respectfully, I have the honour to inform you that I have been engaged as casual Lower Division Clerk in your office since 01.11.1988. It has come to know me that Govt. of India, Ministry of Defence has issued a circular regarding regularization of casual service. As I am serving as a casual IDC, I hope you will take necessary step for regularization of my service permanent.

Thanking you.

Yours faithfully

Sd/-

Date: 05.08.89

(Paresh Chandra Das)
Son of Madhu Ram Deka
Iekhapara Village
Niznamati, Nalbari, Assam.

*Attended
Moula
Advocate*

(Typed true copy)

Annexure- 3 (Series)

To,

The Officer Commanding
HQ, 5 Mountain Brigade,
C/O- 99 APO.

Sub:- Prayer for declaration of regular/permanent.

Sir,

I have the honour to inform you that I am serving under your command since November '88 as Casual I.D.C. ('C' Group employee).

I do hope you will declare me as permanent employee at an early date.

Thanking you.

Yours faithfully

Sd/-

Date: 03.02.90

(Paresh Chandra Das)
Son of Madhu Ram Deka
Lekhapara Village
Niznamati, Nalbari, Assam.

*Shri
Ramesh
Advocate*

(Typed true copy)

Annexure- 3 (Series)

To,

The Officer Commanding
HQ, 5 Mountain Brigade,
C/O- 99 APO.

Sub:- Prayer for regularization of service.

Sir,

I have the honour to inform you that I have been discharging my service under your command since 01.01.88 with full satisfaction of all my senior officers.

I came to know me that Govt. of India has issued order regarding job regularization under new policy. I therefore request you to make necessary step for regularization of my service w.e.f. 01.11.88 please.

Thanking you.

Yours faithfully

Sd/-

Date: 03.01.04

(Paresh Chandra Das)
Son of Madhu Ram Deka
Lekhapara Village
Niznamati, Nalbari, Assam

*Street
Advocate*

GA 248/94
SA 249/94

Attorney
26/9/95
GA 248/94
Bhadrav.
Barr H.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Annexure-4

Original Application No. 248 of 1994.

Date of decision : This the 10th day of November, 1995.

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

The Hon'ble Shri G.L.Sanglyine, Member (A).

1. Md. Syed Islam Ali (Ahmed)
S/o Syed Makib Ali
Village - Nakul No. 2
P.O. + P.S. Rangia
District-Kamrup
2. Syed Abdul Ali,
S/o Syed Azmad Ali
Village - Pub Kahan
P.O. + P.S. - Rangia
District-Kamrup
3. Md. Taher Ali
S/o Md. Momin Ali
Villate - Bongali Kuchi
P.O.+P.S. Rangia
District- Kamrup



..... Applicants

By Advocate Mr. B.K.Sharma.

-versus-

1. Union of India
Through the Secretary, Govt of India,
Ministry of Defence
New Delhi
2. Additional Director General of Staff
Duties (SDGE) General Staff Branch
Army Headquarters DHG
P.O. New Delhi-110011.
3. Administrative Commandant
Purav Kaman Mukhalaya
Headquarters, Eastern Command,
Fort William
Calcutta-700021
4. Administrative Commandant
Station Headquarters,
Rangiya.
C/o 99 A.P.O.

....Respondents

By Advocate Mr. S.Ali, Sr. C.G.S.C.

Handwritten signature:
Advocate

Handwritten signature:

ORDERCHAUDHARI J. (V.C.)

The 3 applicants have been engaged as Safaiwala/Mazdoors in the Para Brigade under Station Headquarter of the Administrative Commandant and at the time of filing of the application they were posted at R.T. Brigade, Rangiya. They were employed through the Employment Exchange on daily wage basis at the rate of Rs. 30 per working day on No Work No Pay Basis. Their engagement was on periodic basis with artificial breaks. They were however disengaged finally from the respective dates mentioned in Para 6.vi of the application. Presently they are out of employment.

2. The applicants seek a direction to the respondents to re-appoint them with all consequential benefits including monetary benefits from the respective dates of engagement and to pay them regular salary and allowances in the appropriate scale from the date of engagement. The applicants contend that they have worked for more than 240 days and they have therefore become eligible to be regularised in Group D posts.

3. The respondents contend that the service of the applicants was on casual basis and neither they are entitled to claim regularisation as a matter of right nor to claim regular pay scale. It is also their contention that there are no regular posts authorised in the field units and that is why the applicants were appointed on casual basis and cannot be regularised against any posts. The respondents therefore urge that the application may be dismissed. Mr. S. Ali, the learned Sr. C.G.S.C. for the respondents reiterated these submissions.:

...4. Similar

4. Similar question arose for our consideration in O.A. 56/94 decided on 19.9.1995 and prior thereto in O.A. 264/93 decided on 5.9.1995. Since the case of the present applicants is similar to those applicants and the contentions of the parties are also same as in those applications it is not necessary to repeat those reasons once again and it would be sufficient to pass an order similar in nature in the instant application also. Mr. B.K.Sharma submitted that according to his instructions there are posts lying vacant at places other than Rangiya and that there should be no difficulty for the respondents to regularise the applicants and that the applicants would not insist for posting at Rangiya but are willing to accept appointment elsewhere where the vacancies are available. He also submitted that the benefit of the scheme for regularisation of casual labourers is also required to be considered.

5. Mr. Ali, Sr. C.G.S.C. submits that according to his instructions there are no posts presently available. We would only say in this connection that if there are any posts available not necessarily at Rangiya but at other places it would be open to the respondents to sympathetically consider whether the applicants may be regularised against those posts.

Subject to the above observations following order is passed :

1. The respondents are directed to consider extending the benefit of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1993 of the Government of India and benefit of guidelines under O.M. dated 7.6.1988 to the applicants and the question of conferring

...temporary

temporary status on them and thereafter regularisation against the posts as may be available subject to their eligibility and availability of posts wherever available.

2. The respondents No. 3 & 4 may, if necessary, seek sanction for the posts to enable consideration of regularisation of the applicants if they are otherwise found eligible for the same under the Scheme.

3. The circumstance of disengagement of the applicants may be considered in the light of the Scheme and guidelines respectively if applicable as stated above.

4. The respondents to examine the cases of the applicants in the light of above directions as expeditiously as possible but in any case within a period of three months from the date of receipt of this order and intimate their decision to the applicants accordingly.

5. The question of consequential benefits, if any, available to the applicants under the Scheme/Guidelines in the event of their being considered for regularisation may be extended to them.

6. The respondents may not confine their consideration in respect of the applicants for the aforesaid purpose only at Rangiya Field Station but may consider if they can be accommodated at any other place.

... 7. It

7. It will be open to the respondents to offer casual engagement to the applicants when possible.

The O.A. is disposed of in terms of the aforesaid directions. No order as to costs. 97

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

Certified to be true Cop.

प्रमाणित प्रतितिथि

Section Officer (A)

प्रमुख अधिकारी (अ) (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय
Guwahati Branch, Guwahati

গুৱাহাটী শাখা, গুৱাহাটী

9/13/16

trd

- 46 - Annexure-5 57

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 108 of 1996.

Date of Order : This the 28th Day of April, 1997.

Justice Shri D.N.Baruah, Vice-Chairman

Shri G.L.Sanglyine, Administrative Member.

Md. Tajnur Ali and 7 others. . . . Applicants.

By Advocate S/Shri J.L.Sarkar & M.Chanda.

- Versus -

1. Union of India
through the Secretary, Govt. of India,
Ministry of Defence,
New Delhi.

2. Additional Director General of
Staff Duties (SDGE),
General Staff Branch,
Army Head Quarters, DHG,
P.O. New Delhi-110011.

3. Administrative Commandant,
Purv Kaman Mukhyalaya,
Head Quarters, Eastern Command,
Fort William, Calcutta-700021.

4. Administrative Commandants,
Station Headquarters, Rangiya,
C/O 99 A.P.O.

. . . Respondents.

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

ORDER

BARUAH J.(V.C)

These eight applicants have approached this Tribunal in this application, praying inter alia for directions to the respondents to reappoint the applicants and regularise their services in the existing vacancies and also to the respondents to give all the consequential benefits including monetary benefit from the respective date of their engagement and also to pay regular salary and allowance to the applicants. All the applicants were engaged Casual Labourer in the Station Headquarter, Rangia under Defence Department. They were engaged on various dates and accordingly they had been

contd... 2

*Shri S. Ali
Advocate*

-47-

discharging their duties. Their services were later on terminated on different dates. Details are extracted below :

<u>Sl.No.</u>	<u>Name</u>	<u>Initial date of appointment</u>	<u>Date of verbal termination</u>
1.	Md. Tajnur Ali	22.5.1987	31.12.1993 .
2.	Md. Karimuddin Ahmed	April, 1988	9.6.1993.
3.	Sri Naren Ch. Kalita	1.8.1991	31.12.1993
4.	" Mongil Ghosi	1.11.1991	31.3.1993.
5.	Smt Lalita Das	31.12.1992	31.12.1994 .
6.	Sri Jatin Ch. Boro	1.9.1992	31.10.1993 .
7.	Md Rashid Ali	1.10.1981	31.12.1987
8.	" Kader Ali	21.4.1992	1.6.1993.

The respondents having terminated their engagement on the different dates, the applicants being dissatisfied, sent notices to the respondents through their lawyers demanding their reinstatement and for payment of their salary. However, nothing was done. Hence the present application.

2. The case of the applicants is that as per Annexure-D scheme to the rejoinder the casual workers who were in the engagement and served and worked 240 days continuously in case of 6 days week and 206 days in case of 5 days week should be granted temporary status and also to be regularised in the service in manner indicated in the said scheme. But contrary to the provisions of the said scheme the engagement of the applicants as casual labourer had been terminated. The contention of the applicants is in the facts and circumstances of the case, under the said scheme the services of the applicants ought not to have been terminated. On the other hand, they ought to have been granted temporary status and also regularise their engagement under the scheme.

contd.. 3

According to the applicants the said scheme was prepared by the Government of India, Department of Personnel and Training vide No.51016/2/90-Estt(C) dated 10.9.1993. The scheme became effective on and from 1.9.1993. The applicants ought to have been granted temporary status and thereafter regularise their service as per the conditions mentioned in the said scheme. Relevant portion of the scheme is extracted below :

"The guidelines in the matter of recruitment of persons on daily wage basis, the grant of temporary status to the casual employees, who are presently employed and have rendered one year or continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the scheme."

In view of the above all the Central Government departments except department of Telecom, Posts and Railways may be regulated under the scheme. In the scheme it is abundantly clear that these casual employees were in the engagement on the date of commencement of the scheme (1.9.1993) and who were still in the engagement on the date of issue of this scheme those casual employees should have been given the temporary status and also later on regularised. On looking to the particulars we find that applicant No. 1 Tajnur Ali, applicant No.3 N.C.Kalita, applicant No.5 Smt Lalita Das and applicant No.6 Jatin Ch.Boro were in employment on the date of commencement of the scheme and they also completed more than 240 days from the date of their initial appointment. Mr J.L.Sarkar, learned counsel appearing on behalf of the applicants has also drawn our attention to a decision of this Tribunal given in O.A.No.56 of 1994, Bhudhiram Boro & Ors. vs. Union of India & Ors. wherein

wherein this Tribunal held that those who were in employment on the date of issuance of the Notification of the scheme dated 10.9.1993 ought to be given temporary status and subsequently regularised. This Tribunal in the said judgment however, did not give the similar direction to the other applicants whose services have been terminated prior to that date. However, the Tribunal gave a direction to the respondents to consider whether they could be given benefit contained in earlier office memorandum dated 7.6.1988 which were applicable prior to enforcement of the 1993 scheme. The earlier office memorandum issued under Government of India, Department of Personnel & Training Office Memorandum No. 48014/2/86-Estt(C) dated 7.6.1988 certain conditions were laid down regarding the manner of recruitment of casual workers on daily rated basis. This office memorandum was issued pursuant to the decision of Supreme Court in its judgment dated 17.1.1986. The earlier judgment of this Tribunal directed the respondents to consider whether they could have engaged as casual labourer in pursuance to the aforesaid office memorandum dated 7.6.88. The facts of this present case are also similar in nature. Therefore, following the aforesaid judgment of this Tribunal we hold that applicants No.1 T.Ali, No.3 N.C.Kalita, No.5 Smt L.Das and No.6 J.C.Boro should be given temporary status. Regarding the remaining applicants as they were not in employment on the date of commencement of the scheme, they cannot be given the temporary status under the scheme. However, the respondents are also directed to consider whether they could be

contd.. 5

given benefit under the office Memorandum dated 7.6.1988. The respondents are directed to comply with the direction as early as possible at any rate within a period of 3 months from the date of receipt of this order.

Considering the entire facts and circumstances of the case we however, make no order as to costs. ,

Sd/-VICE CHAIRMAN
Sd/-MEMBER (A)

Certified to be true

प्रमाणित प्रतिलिपि

COURT OFFICER

Central Administrative Tribunal

Gurgaon

15/5/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.398 of 1999

Date of decision: This the 24th day of January 2001

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

The Hon'ble Mr K.K. Sherma, Administrative Member

Smt Sumitra Dainary and 16 others

.....Applicants

By Advocates Mr M. Chanda, Ms N.D. Goswami and
Mr G.N. Chakrabarty.

- versus -

1. The Union of India,
Through the Secretary to the Government of India,
Ministry of Defence,
New Delhi.
2. The Additional Director General of Staff Duties (SDGE),
General Staff Branch,
Army Headquarters. DIG,
New Delhi.
3. The Administrative Commandant,
Purav Kaman Mukhyalaya,
Headquarters, Eastern Command,
Fort Williams, Calcutta.
4. The Commanding Officer,
Station Headquarter, Hatigarh,
C/o 99 A.P.O.
5. The S.S.O.,
Station Headquarter,
Hatigarh, C/o 99 A.P.O.

.....Respondents

By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

ORDER (ORAL)

CHOWDHURY.J. (V.C.)

The applicants are seventeen in number. Since their grievance and the reliefs sought for are common, leave is granted to pursue their grievance in one single application under the provisions of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The applicants are working as Safaiwala, some of them since 1978 onwards. They rendered their service as Conservancy Safaiwala in

Advocate

different units/divisions under the Station Headquarter, Hathigarah on casual basis. The applicants by this application has sought for regularisation of their services in the light of the directions issued by the Supreme Court in D. Chumail and another vs. State of U.P., reported in (1986) 1 SCC 637, and Surinder Singh and another vs. Engineer in Chief, CPWD and others, reported in (1986) 1 SCC 639. In terms of the Supreme Court's direction, the Government of India issued a scheme, namely Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, for giving temporary status and thereafter regularisation of services. A number of decisions were also rendered by this Tribunal in like issues. One such case is O.A.No.225 of 1993 disposed of on 28.7.1994.

3. The respondents in their written statement admitted that these applicants are serving as Conservancy Safaiwala with breaks in several years. The respondents further stated that the applicants are working in the Field Station and therefore, they are not entitled for regularisation. We have found that these breaks are only artificial breaks and not real breaks.

4. Considering the facts and circumstances of the case and in view of the earlier decisions of the Supreme Court and the Tribunal, we are of the view that the applicants are also entitled for consideration of their case for granting temporary status and thereafter for regularisation under the aforementioned Scheme of the Government of India. **The respondents** are accordingly directed to take necessary steps for considering **their cases** afresh for temporary status and the consequential follow-up action thereafter at the earliest, preferably within three months from the date of receipt of the order.

5. Till completion of the above exercise, the applicants shall continue in service.

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

SD/- VICE CHAIRMAN
BY/- MEMBER



Section Officer (A)
Central Administrative Tribunal
Odisha Bench, Cuttack
dt 8/2/2007