

12

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 12412007

R.A/C.P No. 45/2010.C.A. 124107

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SECTION OFFICER (Judl.)

Halib
03.10.17

ORDER SHEET

1. Original Application No. _____

2. Misc Petition No. _____

124/07

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant (S) Md. Muslim Hussain ^{ORS.} VS Union of India & Ors

Advocate for the Applicant (S) M. Chanda, S. Nath

Mrs. M. Dutta

Advocate for the Respondant (S) Secy. Case: G. B. Singh

Notes of the Registry Date _____ Order of the Tribunal

This application is in form
is filed/C F. for Rs. 50/-
deposited vide IPO/DD
No. 346652827
Dated 5.4.07

17.5.07
Dy. Registrar

Petitioner's copy for
issue notices are
received without
envelops.

17.5.07

18.5.07 The applicant is 15 in number as
Casual Labour. They were engaged from
1977 onwards on casual basis as
Safaiwala/Casual labourer with different
jobs of regular nature from time to time.
Being aggrieved with the non-
regularisation of the service of the
applicants they have approached this
Tribunal by filing O.A.No.398 of 1999,
praying for grant of temporary
status/regularisation of service of the
applicants. This Tribunal has passed an
order directing the respondents to take
necessary steps for considering their cases
afresh for temporary status. Pursuant to
the direction of the of the Tribunal the
respondents have acted upon vide order
dated 08.09.2003 (Annexure-3 series) and
granted temporary status to the

BA/24/07

N

Notice & order sent to D/Section for issuing to R-1 to 5 by regd. A/D post.

Cas D/No-501 to 505
30/5/07. Dt= 31/5/07.

Notice duly served on resp-nos-3.

Cas
26/6/07.

Wb not liked.

27.7.07.

18.5.07

applicants. But the Respondents have not regularised the post of the applicants. In response to the Notice dated 05.09.2006 of the Lawyer of the applicants the respondents No.5 for respondent No.4 issued the impugned order dated 23.09.2006 stating that there is a ban imposed by the Government of India on recruitment of conservancy staff (Group D).

I have heard Mrs. U. Dutta, learned counsel for the applicants and Mr. G. Baishya, learned Sr.C.G.S.C. for the respondents. When the matter come up for hearing the learned counsel for the respondents has submitted that he would like to take instructions. Issue notice on the respondents. Counsel for the respondents are directed to submit as to when the recruitment of conservancy staff (Group D) was banned and if so when it would be open and the records will be produced on that affect at the next date of hearing. Post the mater on 26.6.07.

Vice-Chairman

lm

29.6.07.

Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 30.7.07.

Vice-Chairman

lm

O.A. 124/07 3-

30.7.07.

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

Post the matter on 29.8.07.

WLS not filed.

21.8.07.

Vice-Chairman

lm

22.8.07.

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

Post the matter on 24.9.07.

Vice-Chairman

WLS not filed.

lm

21.9.07.

24.9.07

WS has not been filed in this case. Call this

Matter on 1.10.97 awaiting WS from the

respondents.

WLS not filed.

Vice-Chairman

28.9.07

4
OIA 124/07

01.10.07

No reply has been filed in this case as yet. Senior Standing Counsel for the Central Government seeks more time to file their written statement. Prayer is allowed. Call this matter on 14.11.07.

The Respondents should specifically reply about the details of the vacancy position and date on which ^{ban was} ~~when so~~ imposed for filling regular vacancies. These statements should remain available in the written statement itself. Call this matter on 14.11.07.

Send copies of this order to all the Respondents and free copies of the order be handed over to the counsel for both the parties.

(Khushiram)
Member(A)

(Manoranjan Mahanty)
Vice-Chairman

lm

Dt. 1.10.07.

Pl. send order
spies.

✓

14.11.2007

No written statement has been filed in this case as yet.

Call this matter on 04.01.2008 awaiting written statement from the Respondents.

B/B

(Khushiram)

14.11.2007

No written statement has been filed in this case as yet.

Call this matter on 04.01.2008 awaiting written statement from the Respondents.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

Wks not filed.

31.1.08

/bb/

OA - 124/07

04.01.2008

No written statement has been filed in this case as yet.

Call this matter on 04.02.2008 awaiting written statement from the Respondents.

30.1.08
W/s filed by
The Sp. C.G.S.C. on
behalf of the
Respondents at
page No 46 to 63.
A copy of the
same already
served to the
Advocate for
the Applicant.
LM

(Khushiram
Member(A)

(M.R. Mohanty)
Vice-Chairman

Lm

04.02.2008

In this case written statement has already been filed.

Subject to legal pleas to be examined at the final hearing, this case is admitted.

Call this matter on 04.03.2008 awaiting rejoinder from the Applicant.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

W/s filed.
30.1.08.
Rejoinder not
filed.

3.3.08.

04.03.2008

Mrs. U. Dutta learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents are present. Counsel for the Applicant requested four weeks time to file rejoinder.

Call this matter on 07.04.2008 awaiting rejoinder from the Applicant.

lm

(Khushiram)
Member (A)

Rejoinder not
filed.

4.3.08.

O.A.124/2007

07.04.2008

In this case rejoinder has not been filed as yet. Call this matter on 05.05.2008 expecting rejoinder from the Applicant.

2.5.08
No rejoinder filed.
/an


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

05.05.2008

Mrs.U.Dutta, learned counsel for the Applicant and Mr.G.Baishya, learned Sr. Standing counsel for the Union of India are present. Learned counsel for the Applicant wants some more time to file rejoinder and she states that she will be able to do so by 21st of this Month.

Rejoinder not filed.

21.5.08.

Call this matter on 22.05.2008 expecting rejoinder from the Applicant.


(Khushiram)
Member (A)


/bb/

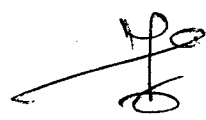
22.5.2008 On the prayer of learned counsel appearing for the Applicant, call this matter on 16.6.2008 awaiting rejoinder from the Applicant.

Rejoinder not filed.

13.6.08.

Im


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

16.06.2008

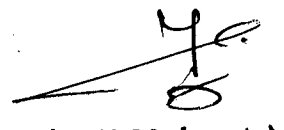
Rejoinder is undertaken to file in course of the day.

In the aforesaid premises, call this matter for hearing on 19th August, 2008

19.6.08

Rejoinder filed by the Applicant. Copy saved.



(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

19.08.2008

Mr M. Chanda, learned Counsel appearing for the Applicant, is present. Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, is also present.

On the prayer of the learned Counsel for the parties, call this matter on 11.09.2008 for hearing.



(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

nkm

11.09.2008

On the prayer of the learned Counsel for the parties, call this matter on 11.11.2008 for hearing.


(Khushiram)
Member(A)

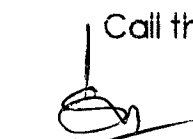

(M.R. Mohanty)
Vice-Chairman


nkm

11.11.2008

Mr.M.Chanda, learned counsel for the Applicant is present. Mr.G.Baishya, learned Sr. Standing counsel for the Union of India is absent.


Call this matter on 20.11.2008 for hearing.


(S.N. Shukla)
Member (A)



(M.R. Mohanty)
Vice-Chairman

/bb/

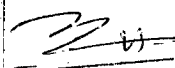
The case is ready for hearing.


18.8.2008.

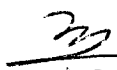
The case is ready for hearing.


10.9.08.

The case is ready for hearing.


10.11.08.

The case is ready for hearing.


19.11.08.

8

20.11.2008

appeal
matter

prayer of learned counsel
both the parties, call this
18.2009.

The case is ready
for hearing.

lm.

(S.N.Shukla)
Member(A)

(M.R.Mohanty)
Vice-Chairman

3
6.1.09.

07.01.2009

Mr M.Chanda, learned
counsel for the Applicant and Mr
G.Baishya, learned Sr. Standing
counsel for the Respondents are
present.

Call this matter on
17.02.2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

pg

17.2.09 Bench is not available.
list on 3-4.09.
12/09.

3
2.4.09

The case is ready
for hearing.

03.04.2009

Call this matter on 27.05.2009 for
hearing.

(M.R.Mohanty)
Vice-Chairman

3
26.5.09.

pg

27.05.2009 On the prayer of Mrs. U. Dutta, learned counsel appearing for the Applicant (made in presence of Mr. G. Baishya, learned Sr. Standing Counsel for the Government of India), call this matter on 02.07.2009.

The case is ready
for hearing.

(N.D. Dayal)
Member(A)

(M.R. Mohanty)
Vice-Chairman

03.07.2009

Call this matter on 28.08.2009 for hearing.

(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

/bb/

~~28.08.2009~~

Call this matter on 23.10.2009.

(M.K. Chaturvedi)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

28.08.2009

Call this matter on 23.10.2009.

(M.K. Chaturvedi)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

28.08.2009

Call this matter on 22.10.2009.

(M.K. Chaturvedi)
Member(A)

(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

22.10.09

lm

23.10.2009 Mr.M.U.Ahmed, learned Addl. C.G.S.C. for Respondents prays for adjournment on the ground that he has not received the brief from Respondents.

In the circumstances, as the case is of year 2007 one more opportunity is granted to Respondents to take appropriate steps.

The case is ready for hearing.

12.11.09

List on 13.11.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

13.11.2009

On the request of Mr. M. Chanda, learned counsel appearing for applicant this case is adjourned to 23rd November, 2009.

List this matter on 23.11.2009

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

23.11.2009

Heard Mr.M.Chanda, learned counsel for Applicant and Mr.M.U.Ahmed, learned Addl. C.G.S.C. for the Respondents.

Hearing concluded. Reserved for orders.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

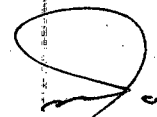
O.A. No. 124 of 2007

30.11.2009

For the reasons recorded separately,
the O.A. stands disposed of. No costs.



(Madan Kumar Chaturvedi)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

/lm/

17/12/09
Judgment/Order
dated 30/11/09 sent to
the Dispatch Section
issuing the applicant
and all the respondents
vide NO - 12924 to 12929
dated - 17-12-2009

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 124 of 2007

DATE OF DECISION 30.11.2009

Md. Muslim Hussain & 14 Others

.....Applicant/s.

Mr.M.Chanda

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

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

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER (J)

THE HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

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

Judgment delivered by

Hon'ble Member (J)

14

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 124 of 2007

Date of Order: This, the 30th Day of November, 2009

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J).

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

1. Md. Muslim Hussain
S/o Mohammad Ali
Vill:- Dola Padum, P.O: Thakurbari
P.S: Rangapara
Dist: Sonitpur (Assam).
 2. Smti Sumitra Daimary
W/o Sri Jogesh Daimary
Vill: Bhutimari, PO: Bengabari
Dist: Darrang, Assam.
 3. Sri Shukru Koya
S/o Late Madhy Koya
Vill: Bhutimari, P.O: Hatigarh
Dist: Darrang, Assam.
 4. Sri Biriya Orang
S/o Late Chanda Orang
Vill: Hatigarh, P.O: Hatigarh
Dist: Darrang, Assam.
 5. Sri Rakhal Paul
S/o Late Umesh Paul
Vill: Ulubari, P.O: Hatigarh
Dist: Darrang, Assam.
 6. Sri Jalandhar Tanti
Vill: Bhutimari, P.O: Hatigarh
Dist: Darrang, Assam.
 7. Sri Binod Daimari
S/o Late Dipra Daimari
Vill: Ulubari, P.O: Hatigarh
Dist: Darrang, Assam.
 8. Sri Biswanath Karmakar
S/o Pyara Karmakar
Vill: Bhutimari, P.O: Hatigarh
Dist: Darrang, Assam.
 9. Sri Surinder Tanti
S/o Late Nilmoni Tanti
- 8

Vill: Bhutimari, P.O: Hatigarh
Dist: Darrang, Assam.

10. Sri Jagadish Sachini
S/o Late Manusa Singh
Vill: Bhutimari, P.O: Hatigarh
Dist: Darrang, Assam.
11. Sri Uday Ram Prasad
Son of Sri Ghora Ram
Vill: Bhutimari, P.O: Bengabari
Dist: Darrang, Assam.
12. Sri Jagdev Prasad
Son of Late Khedaru Prasad
Vill: Bhutimari, P.O: Hatigarh
Dist: Darrang, Assam.
13. Sri Devnath Lohar
S/o Sri Bindeswar Lohar
Vill: Hatigarh, P.O: Hatigarh
Dist: Darrang, Assam.
14. Sri Durga Tosha
S/o Late Sivnath Tosa
Vill: Bhutimari, P.O: Hatigarh
Dist: Darrang, Assam.
15. Sri Rupa Sutradhar
Son of Pabiram Sutradhar
Vill: Utta Krishnapur, P.O: Hatigarh
Dist: Darrang, Assam.

...Applicants

(All the Applicants are working as temporary status casual
worker at Station Headquarter, Hatigarh, C/o 99 APO.)

By Advocate: Mr.M.Chanda

-Versus-

1. 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 of Staff Duties (SDGE)
General Staff Branch, Army Headquarters
DHQ, P.O: New Delhi-110 011.
3. The Administrative Commandant
Purav Kaman Mukhyalaya

2

Headquarters, Eastern Command
Fort William, Kolkata-21.

4. The Commanding Officer
Adhoc Station Headquarter, Hatigarh
C/o HQ 21 Mountain Artillery Brigade
C/O 99 APO.
5. The Station Staff Officer
Station Headquarter, Hatigarh
C/o HQ 21 Mountain Artillery Brigade
C/O 99 APO.

...Respondents

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

ORDER

• **.11.2009**

MUKESH KUMAR GUPTA, MEMBER (J) :

15 Applicants in this O.A. challenge validity of communication dated 23.09.2008 (Annexure-8) rejecting their claim for regularization in Group 'D' posts, stating that presently there is a ban imposed by the Govt. of India on recruitment of Conservancy Staff (Group 'D') and further their said claim can be considered as and when ban is lifted and Group 'D' vacancies are released by the Ministry of Finance. They also seek direction to the Respondents to absorb them on regular basis in the existing Group 'D' vacancies with retrospective effect at least from the date of completion of three years with temporary status to enable them to derive pension and pensionary benefits in the event of retirement on superannuation with all other consequential service benefits.

2. Admitted facts are that on earlier occasion Applicants along with others approached this Tribunal vide O.A. 398/1999 seeking regularization, which was disposed of vide order dated 24.01.2001

directing the Respondents to consider their case for grant of temporary status and thereafter for regularization under the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993. Pursuant thereto, they have filed representation dated 13.02.2001 (Annexure-2) and vide communications dated 08.09.2003 (Annexure-3 colly) they were appointed as casual labourers (conservancy safaiwala) and granted temporary status in terms of said scheme. Their grievance is that vide legal notice dated 27.09.2004 (Annexure-4) they had required the Respondents to grant temporary status with all consequential benefits at least w.e.f. 24.01.2001 i.e., the date of judgment in earlier proceedings, followed by another notice was issued on 05.09.2006 and in reply to latter, the impugned communication dated 23.09.2006 was issued. Their contention is that though they had completed more than four years of service with temporary status yet the Respondents have not regularized them though direction was issued to consider their regularization upon grant of such status.

3. Mr.M.Chanda, learned counsel for the Applicants assisted by Mrs.U.Dutta vehemently contended that pursuant to direction issued by this Tribunal vide order dated 24.01.2001 in O.A.398/1999, the Respondents were duty bound to regularize their service but unfortunately no steps have been taken in said direction. By granting temporary status with immediate effect vide series of order dated 08.09.2003, they have been denied various pay benefits in terms of the Scheme of 1993 and consequently made to suffer financially, besides denial of timely regularisation. They have acquired valuable legal right for regular absorption/regularization. Placing strong reliance on Respondents'

communication dated 08.07.2003 (Annexure-3) filed along with Respondents' reply it was pointed out that conservancy staff/safaiwalas are being recruited by Defence Formations on the authority of para 1205 and 1206 of Defence Services Regulations and the Army HQrs was of the opinion that category of conservancy staff is excluded from the purview of ban on creation of posts. It was pointed out that Respondents who have placed reliance on Department of Expenditure letter dated 05.08.1999 was in specific noticed vide aforesaid communication dated 08.07.2003 and in view of clarification Station Headquarter and other lower formations were required to take up the matter with the Ministry of Finance with reference to conservancy staff/safaiwala for regularization. Thus, it was canvassed that Applicants who have been discharging permanent nature of works are entitled to be absorbed or regularized with all consequential benefits in terms of Scheme of 1993.

4. By filing written statement, Respondents have emphasized on the communication dated 08.07.2003 as well as Ministry of Finance, Department of Expenditure letter dated 05.08.1999 to state that there has been ban on filling up vacant posts and Ministry of Finance advised not to take unilateral decision to create posts. By granting temporary status to the Applicant in September 2003 direction of this Tribunal vide judgment dated 24.01.2001 had been fully complied with. They have been allowed leave and other entitled dues strictly in terms of said Scheme of 1993. Besides this, they have been allowed Basic Pay, DA, HRA, CCA including increment. Conferment of temporary status does not automatically imply that casual labourer would be appointed as a regular Group 'D' employee within any fixed time frame. No regularization has taken place

after 1999. Same can be done only when ban on recruitment is lifted by the Government of India, emphasized Mr.M.U.Ahmed, learned Addl. Standing counsel for the Respondents.

5. We have heard Mr.M.Chanda, learned counsel for the Applicant and Mr.M.U.Ahmed, learned Addl. C.G.S.C. for Respondents, perused the pleadings, and other material placed on record.

6. The short question which arises for consideration is as to whether there is any justification for non-regularization of conservancy staff/safaiwala due to ban on creation of such posts, as projected by the Respondents.


7. On bestowing careful consideration to all aspects of the matter, particularly Respondents' own reply and the documents appended thereto we find that their entire emphasis that the Government of India, Ministry of Finance letter dated 05.08.1999 imposed ban on creation of non-plan posts for regularization of conservancy staff is totally misconceived and unjustified. Ministry of Defence Army Headquarters as well as office of GCDA issued order dated 08.07.2003 (Annexure-3) wherein it has been strongly observed that category of conservancy staff is excluded from ban on creation of posts. We may note that Integrated Headquarters of Ministry of Defence (Army) vide communication dated 19.03.2007 (Annexure-5) issued detailed instructions/procedures for outsourcing conservancy services in the Indian Army Units/Formations, which is itself would indicate that there is necessity to require such person and work is of perennial in nature. It is not in dispute that pursuant to direction issued by this Tribunal vide judgment dated

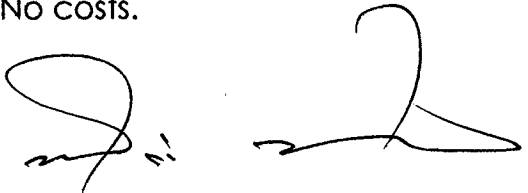


24.01.2001 and in terms of the Scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993, Applicants have already been granted temporary status vide communications dated 08.09.2003 (colly). Para 8 of said scheme provides for procedure for filling up of posts in Group 'D' on regular basis. Two out of every three vacancies in Group 'D' cadre in respective offices where casual labourers are working are required to be filled up as per extant Recruitment Rules as well as in accordance with instructions of DoPT from amongst casual labourer with temporary status. Para 9 thereto specified that on regularization of casual labours with temporary status no substitute would be appointed as he was not holding any post and violation of said Scheme was to be viewed very seriously inviting even disciplinary action. The principal contention of the Respondents in not regularizing the services of the Applicants had been so-called ban imposed vide Ministry of Finance communication dated 05.08.1999 which according to Respondents' own understanding is inapplicable in the category of conservancy staff. In this view of the matter, we do not find any justification in the impugned communication dated 23.09.2006 and accordingly, the same is quashed and set aside to the extent which denied them regularization based on so-called ban. But the matter does not rest here. For regularization, there has to be available regular vacancies. It has not been stated in specific that no vacancy were available since 1999. According to Respondents' own averments noticed, hereinabove, no regularization has been taken place after 1999, but at the same time the Respondents have issued direction/procedure for outsourcing conservancy services.

Thus, we allow O.A. in part quashing impugned communication dated 23.09.2006 and direct the Respondents to pass detailed, reasoned and speaking order highlighting the number of vacancies available in Group 'D' against which the Applicants as conservancy staff could have been regularized strictly in terms of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 particularly with reference to para 8 thereof. The aforesaid exercise shall be undertaken within a period of three months from the date of receipt of order. If there are vacancies available in Group 'D' cadre, in terms of para 8 of the said scheme, Respondents are expected to take necessary and required steps in the matter.

8. O.A. is disposed of accordingly. No costs.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)


(MUKESH KUMAR GUPTA)
MEMBER (J)

/BB/

16 MAY 2007
गुवाहाटी बेंच, असम

22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 124 /2007

Md. Muslim Hussain & Ors.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the applicants were initially engaged on different dates from 1977 onwards on casual basis as conservancy Safaiwala/casual labourer in different Regiment/Division/Units under the control of Station Headquarter, Hatigarh and they are entrusted with different jobs of regular nature from time to time.

- 24.01.2001- This Hon'ble Tribunal in O.A. No. 398/1999 directed the respondents to take necessary steps for grant of temporary status to the applicants and consequential follow up action thereafter.
(Annexure- 1)
- 13.02.2001- Applicants submitted representation to the respondent No. 4 praying for implementation of the judgment dated 24.01.01.
(Annexure- 2)
- 08/09.2003- Applicants were granted temporary status after lapse of 2 and ½ years from the date of direction passed in O.A. No. 398/1999.
(Annexure- 3 Series)
- 27.09.2004- Applicants served Lawyer's notice to the respondent No. 4 for regularization services of the applicants. (Annexure- 4)
- 10.09.1993- Govt. of India, D.O.P.T vide OM dated 10.09.93 issued Scheme for Grant of Temporary Status and Regularisation, 1993.
(Annexure- 5)
- 10.09.1991- Govt. of India, Department of Posts issued O.M, for providing service benefits to the temporary status holder casual workers.
(Annexure- 6)
- 05.09.2006- Applicants served Lawyer's notice to the respondent No. 4, for regularization of service of the applicants in the light of the judgment and order dated 24.01.01 passed in OA No. 398/1999.
(Annexure- 7)

Muslim Hussain

23.09.2006- Respondent No. 4 issued impugned order dated 23.09.06 addressed to the Lawyer of the applicants, intimating that regularization of service of the applicants can only be considered after lifting of the ban. It is stated that in the impugned order there is no mention of Govt. order under which ban on regularization of service of the temporary status holder casual worker has been imposed, and arbitrarily rejected claim of the applicants. (Annexure- 8)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. 759/3/54/Q (PC) dated 23.09.2006 (Annexure -8).
2. That the Hon'ble Tribunal be pleased to direct the respondents to absorb the applicants on regular basis in the existing Group 'D' vacancies with retrospective effect at least from the date of completion of three years' temporary service from the date of conferment of temporary status to enable the applicants to derive pension and pensionary benefits and other service benefits in the event of retirement on superannuation.
3. Costs of the application.
4. Any other relief(s) to which the applicants are entitled to as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

During pendency of this application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to observe that the pendency of the Original Application shall not be a bar to grant the relief(s) as prayed for by the applicants.

M. S. K. Sin

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 124 /2007

Md. Muslim Hussain & Ors. : Applicants.

- Versus -

Union of India & Others. : Respondents.

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Filed by

U. Dutta
Advocate

Date: 1 . 05. 07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. _____/2007

BETWEEN:

1. **Md. Muslim Hussain,**
S/o- Mohammad Ali.
Vill- Dola Padum, P.O- Thakurbari,
P.S- Rangapara, Dist- Sonitpur (Assam).
2. **Smti Sumitra Daimary**
W/o- Sri Jogesh Daimary,
Vill- Bhutimari, P.O: Bengabari,
Dist- Darrang, Assam.
3. **Sri Shukru Koya**
S/o- Late Madha Koya
Vill- Bhutimari, P.O: Hatigarh,
Dist- Darrang, Assam.
4. **Sri Biriya Orang.**
S/o- Late Chanda Orang
Vill- Hatigarh, P.O: Hatigarh,
Dist- Darrang, Assam.
5. **Sri Rakhal Paul.**
S/o- Late Umesh Paul
Vill- Ulubari, P.O: Hatigarh,
Dist- Darrang, Assam.
6. **Sri Jalandhar Tanti**
Vill- Bhutimari, P.O: Hatigarh,
Dist- Darrang, Assam.
7. **Sri Binod Daimari.**
S/o- Late Dipra Daimari
Vill- Ulubari, P.O: Hatigarh,
Dist- Darrang, Assam.
8. **Sri Biswanath Karmakar**
S/o- Sri Pyara Karmakar.
Vill- Bhutimari, P.O: Hatigarh,
Dist- Darrang, Assam.

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25
Filed by the applicant
through U. Dutta, Advocate
on 16.05.07

Muslim Hussain

9. **Sri Surinder Tanti**
S/o- Late Nilmoni Tanti
Vill- Bhutimari, P.O: Hatigarh,
Dist- Darrang, Assam.
10. **Sri Jagadish Sachini**
S/o- Late Manusa Singh
Vill- Bhutimari, P.O: Hatigarh,
Dist- Darrang, Assam.
11. **Sri Uday Ram Prasad**
Son of Sri Ghora Ram
Vill- Bhutimari, P.O: Bengabari,
Dist- Darrang, Assam.
12. **Sri Jagdev Prasad**
Son of Late Khedaru Prasad
Vill- Bhutimari, P.O: Hatigarh,
Dist- Darrang, Assam.
13. **Sri Devnath Lohar**
S/o- Sri Bindeswar Lohar
Vill- Hatigarh, P.O: Hatigarh,
Dist- Darrang, Assam.
14. **Sri Durga Tosha**
S/o- Late Shivnath Tosa
Vill- Bhutimari, P.O: Hatigarh,
Dist- Darrang, Assam.
15. **Sri Rupa Sutradhar.**
Son of Pabiram Sutradhar
Vill- Uttar Krishnapur, P.O: Hatigarh,
Dist- Darrang, Assam.

(All the applicants are working as temporary status casual worker at
Station Headquarter, Hatigarh, 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.

Mushtim Kumar

2. The Additional Director General of Staff Duties (SDGE)
General Staff Branch,
Army Headquarters,
DHQ, P.O., New Delhi-110011.
3. The Administrative Commandant,
Purav Kaman Mukhyalaya,
Headquarters, Eastern Command,
Fort William, Kolkata- 21.
4. The Commanding Officer
Adhoc Station Headquarter, Hatigarh
C/o HQ 21 Mountain Artillery Brigade,
C/O- 99 APO.
5. The Station Staff Officer,
Station Headquarter, Hatigarh
C/o HQ 21 Mountain Artillery Brigade,
C/O- 99 APO.

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made against impugned letter bearing No. 759/3/54/Q (PC) dated 23.09.2006 (Annexure-8), whereby claim of the applicants for regularization of services in Group 'D' post has been rejected on the pretext of ban and further praying for a direction upon the respondents to absorb the applicants on regular basis in the existing Group 'D' vacancies with retrospective effect at least from the date of completion of three years' of temporary service from the date of conferment of temporary status, more so, in the light of circular dated 12.04.1991, issued by the Directorate of Posts, New Delhi and also in view of the Govt. of India, D.O.P.T. O.M dated 10.09.1993 to enable the applicants to derive pension and pensionary benefits and other service benefits in the event of retirement on superannuation.

Mishra

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 period of 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.

4.2 That the applicants pray permission to move this application jointly in a single application under Section 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore they pray for granting leave to approach the Hon'ble Tribunal by a common application.

4.3 That your humble applicants were initially engaged on different dates from 1977 onwards on casual basis as conservancy Safaiwala/casual labourer in different regiment/division/units under the control of Station Headquarter, Hatigarh and they are entrusted with different jobs of regular nature from time to time.

The details particulars of service records including the date of initial engagement are furnished hereunder: -

Sl No.	Name	Date of initial engagement as casual labour
1.	Md. Muslim Hussain	01.04.1977

Muslim Hussain

2.	Smti Sumitra Daimary	01.04.1978
3.	Shukru Koya	01.04.1987
4.	Biriya Orang	01.04.1987
5.	Rakhal Paul	01.01.1990
6.	Durga Tosa	10.10.1987
7.	Jalandhar Tanti	01.04.1994
8.	Biswanath Karmakar	01.04.1992
9.	Surendra Tanti	01.04.1993
10.	Jagadish Sachini	01.03.1993
11.	Uday Ram Prasad	01.06.1994
12.	Jagdev Prasad	01.04.1996
13.	Devnath Lohar	01.04.1993
14.	Durga Tosha	10.10.1987
15.	Rupa Sutradhar	01.04.1999

It is stated that being aggrieved with the non-regularisation of the service of the applicants, they approached this Hon'ble Tribunal by filing O.A. No. 398/1999, praying for grant of temporary status as well as regularisation of the service of the applicants. The said O.A. No. 398/1999 was disposed of by the Hon'ble Tribunal with the direction to the respondents 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. The applicants immediately after receipt of the judgment dated 24.01.01 submitted representation to the respondent No. 4 praying therein for implementation of the judgment of the Hon'ble Tribunal.

A copy of the judgment and order dated 24.01.01 and copy of the representation-dated 13.02.01 are enclosed herewith for perusal of the Hon'ble Tribunal and marked as Annexure-1 and 2 respectively.

4.4 That it is stated that pursuant to the direction of the Hon'ble Tribunal the respondents have acted belatedly and after lapse of more than 2 and ½ years from the date of judgment and order dated 24.01.01 passed in O.A.

Asst. Secy

No. 398/99, granted temporary status to the applicants vide letter bearing No. 759/3/36/Q(PC) dated 08.09.2003 appointing them as temporary status casual labourer and subsequently granted their pay w.e.f. November 2003. In this context it is relevant to mention here that the Hon'ble Tribunal passed judgment in January 2001 and the applicants are entitled to get their salary at least w.e.f. January 2001 which they have qualified even earlier than that but they were denied salary w.e.f. January 2001 and granted salary w.e.f. 08.09.2003 i.e. the date from which they have been granted the temporary status, they are also entitled to leave under the scheme but the leave is denied to the applicants.

Copies of the orders dated 08.09.03 are enclosed herewith for perusal of the Hon'ble Tribunal and marked as Annexure- 3 (Series).

- 4.5 That it is stated that all the applicants thereafter regularly working under the respondent No. 4 as temporary status casual labour (conservancy safaiwala). However, no steps have been taken by the respondents, Union of India, for regularisation of the services of the applicants in spite of repeated approach of the applicants. In this connection it is relevant to mention here that some of the applicants are working in the establishment of the respondents Union of India for more than 29 years and the job entrusted to them is of permanent in nature. Situated thus applicants served a Lawyer's notice through their Lawyer addressed to the Respondent No. 4 stating therein that this Hon'ble Tribunal vide it's judgment and order dated 24.01.2001 in OA. No. 398/1999 directed the respondents to take necessary steps for considering the cases of the applicants afresh for grant of temporary status and take consequential follow-up action thereafter at the earliest, preferably within three months and pursuant to the said judgment respondents acted belatedly after a lapse of more than 2 years and ½ months and granted temporary status to

M. S. Sin

the applicants w.e.f. 08.09.2003 appointing them as casual labourers. Subsequently applicants were granted their pay w.e.f. November 2003. It is also stated in the Lawyer's notice dated 27.09.04 that the applicants are entitled to get their temporary status and salary at least w.e.f. January 2001, which they have qualified even earlier than that. But applicants were not granted their salary w.e.f. January 2001 and not even from 08.09.2003 i.e. the date from which they have been granted the temporary status, they are also entitled to get their leave under the scheme which is also not being granted to them. It is also stated that applicants did not get their arrear pay which the respondents paid to 10 other persons who were not even the applicants in the O.A. No. 398/1999 before the Hon'ble Tribunal, for the period from 08.09.03. As such the applicants have been deprived from their legitimate claims of arrear monetary benefits, leave etc. in view of grant of temporary status under the Casual labourers (Grant of Temporary status and regularization) Scheme and it flows from the judgment and order dated 24.01.01. Therefore the applicants through their Lawyer notice dated 27.09.04 urged to grant temporary status with pay and other benefits in terms of the scheme at least w.e.f. the date of judgment and consequential arrears etc. from 24.01.2001 and further urged to grant them leave as admissible, in terms of judgment and order dated 24.01.01. But to no result.

Copy of the Lawyer's notice dated 27.09.04 is enclosed and marked as Annexure-4.

- 4.6 That the applicants beg to say that Govt. of India, Department of Personnel and Training vide O.M bearing letter No. 51016/2/90 dated 10.09.1993 issued Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 providing benefits entitle to the casual labourers after grant of temporary status. As such the applicants are entitled to the benefits provided in the O.M dated

Mrs. S. Srinivas

10.09.1993 after the grant of temporary status and further entitled to the benefit of regularization of service in the post of Conservancy safaiwala.

Copy of the scheme of temporary status and regularisation dated 10.09.93 is enclosed and marked as Annexure-5.

- 4.7 That the applicants beg to say that Govt. of India, Department of Posts issued O.M vide letter No. 45-95/87-SPB-I dated 12.04.1991 wherein it has been decided that in compliance with the direction of the Hon'ble Supreme Court all the casual workers having temporary status are liable to be treated at par with temporary Group 'D' employees with effect from the date they have completed 3 years of service and those temporary employees are also entitled to service benefits admissible to temporary Group 'D' employees. But the respondent Union of India did not take any step to regularise the services of the applicants in Group 'D' category although they have completed more than 4 years of service with temporary status. It is categorically submitted that regular Group 'D' posts are very much available at the Station Headquarter, Hatigarh under the disposal of the respondents and as such there will be no difficulty to absorb the applicants on regular basis.

Copy of circular dated 12.04.91 is enclosed herewith and marked as Annexure - 6.

- 4.8 That the applicants further beg to say that finding no response from the respondents regarding regularization of service of the applicants they served another Lawyer's notice through their Lawyer on 05.09.2006 upon the respondent No. 4, for regularization of service of the applicants in Group 'D' vacancies, in the Station Headquarter, Hatigarh with all consequential service benefits in the light of judgment and order dated 24.01.01 in O.A. No. 398/1999. In the said Lawyer's notice dated 05.09.06 it has been stated that after pronouncement of judgment dated 24.01.01,

Mehin Arora

although the applicants have been granted temporary status but no steps were taken for regularization of their service in Group 'D' cadre. It is needless to mention here that there is a specific direction in the judgment and order dated 24.01.01, more particularly in paragraph 4 of the said judgment as quoted below:

"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 regularization 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."

In view of the above direction passed by the learned CAT on 24.01.01, the respondent authorities are duty bound to regularise service of the applicants in Group 'D' cadre, but unfortunately no steps for regularization has been taken by the authority till date, as a result applicants are suffering irreparable loss and injury in their service prospect, more particularly in the matter of pay scale, promotion, increments, ACP benefits as well as in the matter of HRA, House building advance, LTC, D.A/ADA and also in the matter of retirement dues. It is also stated in the Lawyer's Notice dated 05.09.06 that the applicants are working in your establishment since 1978 onwards, as such their nature of work, duties and responsibilities are permanent in nature. Therefore, applicants cannot be denied regularization of their services with retrospective benefits, at least from the date of pronouncement of the judgment passed by the learned CAT in O.A. No. 398/1999 i.e. w.e.f.

M. S. K. R.

24.01.2001 with all consequential benefits. As such the applicants served Lawyer's Notice on respondent No. 4 and urged to regularize their services with retrospective benefits, at least w.e.f. 24.01.2001.

Copy of Lawyer's notice dated 05.09.06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 7.

- 4.9 That it is stated that in response to the Notice dated 05.09.2006 of the Lawyer of the Applicants the respondent No. 5 for respondent No. 4 issued the impugned letter bearing 759/3/54/Q (PC) dated 23.09.2006 addressed to the Lawyer of the applicants wherein it has been stated that there is a ban imposed by Government of India on recruitment of conservancy staff (Group D). It is also stated in the impugned order dated 23.09.06 that Regularisation of services can only be considered as and when the ban is lifted and Group D vacancies are released by Ministry of Defence and instructions for recruitment to Group D cadre is received by this office. It is categorically stated in the impugned letter dated 23.09.06 that there is ban imposed by the Govt. of India in the matter of regularization but nowhere it has stated that under which order/ memorandum Govt. of India has imposed ban in regularizing service of Group D employees who have already been granted temporary status but most arbitrarily rejected claim of the applicants for regularization of their services, as such the impugned order dated 23.09.06 is cryptic, non-speaking, illegal and the same is liable to be set aside and quashed.

Copy of the impugned order dated 23.09.06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 8.

- 4.10 That the applicants further beg to say that in view of their long temporary service under the respondents they have acquired a valuable legal right for immediate absorption with retrospective effect since there is a specific circular issued by the Directorate of Postal Services, New Delhi on

Mushtaq Ahmad

12.04.1991 wherein it has been stated that temporary status holder employees should be treated at par with temporary Group 'D' employees for all purposes. Therefore, there is no justification not to regularise the services of the applicants and in fact they are entitled to be treated as regular Group 'D' employees immediately after three years of temporary service from the date of conferment of temporary status. Due to non-regularisation of the services of the applicants they have been adversely affected in the matter of pensionary benefits, since some of the applicants are working in the department for the last more than 28/29 years. Considering this aspect of the service prospect of the applicants the respondents are duty bound to absorb/regularise the services of the applicants with immediate effect granting consequential benefits. But the respondents in spite of regularization of service of the applicants most mechanically issued the impugned order dated 23.09.2006. In this connection it is relevant to mention here that the nature of duties the applicants are at present performing are regular in nature and the posts of Group D Conservancy Safaiwala are very much available in the Station Headquarter Hatigarh, therefore there is no difficulty on the part of the respondents to regularise service of the applicants. Moreover, there is a specific direction from this Hon'ble Tribunal judgment vide order dated 24.01.01 in O.A. No. 398/1999 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. As such issuance of impugned order dated 23.09.06 denying the legitimate claim of the applicants for regularization of their service on the plea of ban in recruitment will cause irreparable loss and injury in their service prospect, more particularly in the matter of pay scale, promotion, increments, ACP benefits as well as in the matter of HRA, House building advance, LTC, D.A/ADA and also in the matter of retirement dues. Therefore, the Hon'ble Tribunal be pleased to set aside

Mushtaq Ahmad

and quash the impugned order dated 23.09.06 and further be pleased to direct the respondents to regularise service of the applicants in the Group D post of Conservancy safaiwala with immediate effect.

4.11 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 under the same Ministry of Govt. of India 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.) and in O.A. No. 108/1996 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 conservancy safaiwalas like the applicants in O.A. No. 248/94 and O.A. No. 108/96, praying before this Hon'ble Tribunal for similar direction upon the respondents to absorb the applicants with immediate effect with all consequential service benefits and the effect of regularisation/absorption be granted at least from the date of completion of three years temporary service after conferment of temporary status.

4.12 That this application is made bonafide and for the ends of justice.

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

5.1 For that, the applicants have acquired a valuable and legal right for regular absorption/regularisation of their services in view their long temporary service, more so, in view of the circular dated 12.4.1991 issued by the Directorate of Posts, New Delhi and O.M dated 10.09.1993 issued by the D.O.P.T, Govt. of India, New Delhi.

Musfiq Amin

- 5.2 For that impugned order dated 23.09.2006 failed to specify that under which order Govt. of India issued ban on regularization of temporary status holder conservancy safaiwala as such the impugned order dated 23.09.06 is a cryptic, arbitrary, illegal and the same is liable to be set aside and quashed.
- 5.3 For that, the applicants have been serving with temporary status for more than 3 years and also in view of the fact that the job entrusted to the applicants are of permanent nature as such they are entitled to be absorbed on regular basis with all consequential benefits.
- 5.4 For that, Group 'D' vacancies of conservancy safaiwala are available in the Station Headquarter, Hatigarh, as such there is no difficulty on the part of the respondents to regularise service of the applicants.
- 5.5 For that, due to non-absorption on regular basis, the applicants adversely affected in the matter of pension and pensionary benefits as well as in the matter of retirement dues. As such they are entitled to be absorbed with retrospective effect i.e. immediately after completion of three years temporary service from the date of conferment of temporary status in the light of the circular dated 12.4.1991.
- 5.6 For that, the applicants have approached the authority for absorption/regularisation of their services but the same is still pending with the respondents without any favourable action.
- 5.7 For that in view of the direction passed by the learned CAT on 24.01.01 in O.A. No. 398/1999, the respondent authorities are duty bound to regularise service of the applicants in Group 'D' cadre against the existing vacancies. More so, in view of the fact that the judgment dated 24.01.2001 has attained finality.

Moshin Amin

5.8 For that, the applicants are poor low paid temporary status Group 'D' employees and have been entrusted with permanent nature of works and as such they are entitled to be absorbed/regularised with immediate effect with all consequential benefits in the light of the relevant provision laid down in the Govt. of India, D.O.P.T O.M dated 10.09.1993 Grant of Temporary status and regularization scheme.

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.

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

The applicants further declare that save and except filing of O.A. No. 398/1999 and O.A. No. 179/2002 they had not previously filed any other 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 applicant humbly prays 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):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. 759/3/54/Q(PC) dated 23.09.2006 (Annexure -8).

Ms. Anurag

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to absorb the applicants on regular basis in the existing Group 'D' vacancies with retrospective effect at least from the date of completion of three years' temporary service from the date of conferment of temporary status to enable the applicants to derive pension and pensionary benefits and other service benefits in the event of retirement on superannuation.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicants are entitled to as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to observe that the pendency of the Original Application shall not be a bar to grant the relief(s) as prayed for by the applicants.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No.	: 34G 652837 .
ii) Date of Issue	: 5.4.07 .
iii) Issued from	: G.P.O. Gowahati .
iv) Payable at	: G.P.O. Gowahati .

12. List of enclosures.

As given in the index.

Madan Kumar

VERIFICATION

I, **Md. Muslim Hussain**, S/o- **Md. Ali**, aged about 50 years, resident of Vill- Dola Padum, P.O- Thakurbari, P.S- Rangapara, Dist- Sonitpur (Assam), applicant No. 1 in the instant application duly authorized by the others to verify this 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 13th day of May 2007.

Md. Muslim Hussain

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. Sharma, Administrative Member

Smt Sumitra Daimary 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, DHG,
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.

.....

O R D E R (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

*Collected
With
Advocate*

different units/divisions under the Station Headquarter, Hathigarth 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. Chamali 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.228 of 1993 disposed of on 28.7.1994.

3. The respondents in their written statement admitted that these applicants are serving as Conservancy Safalwala 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
Sd/- MEMBER

Verified to be true Copy
Section Officer (S)
Central Administrative Tribunal
Bhilai Bench, Guwahati
Date: 8/12/2011

To,

Annexure-2

The Commanding Officer,
Station Headquarter, Hatigarh,
C/o 99 A.P.O.

Sub:- Submission of Hon'ble CAT order dated 24-01-2001
passed in O.A. No. 398 of 1999.

Respected Sir,

Please find enclose herewith a copy of the order dated 24-01-2001 passed in O.A. No. 398 of 1999 whereby Hon'ble Tribunal was pleased to direct the respondents/authority to considering the facts and circumstances from 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 aforesaid scheme of the Govt. 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.

Therefore, we are requested to you sir kindly implemented the order of the Tribunal dated 24-01-2001 passed in O.A. No. 398 of 1999 as early as possible, this is for your kind information and take necessary action.

Thanking You.

Date : 13-02-2001

Place : Hatigarh

Yours Faithfully

1. MCA, Bhandara Sub. Man.
2. MCA, Bhandara
3. MCA, Bhandara
4. MCA, Bhandara
5. MCA, Bhandara
6. MCA, Bhandara
7. MCA, Bhandara
8. MCA, Bhandara
9. MCA, Bhandara
10. MCA, Bhandara
11. MCA, Bhandara

12. MCA, Bhandara
13. MCA, Bhandara
14. MCA, Bhandara
15. MCA, Bhandara
16. MCA, Bhandara
17. MCA, Bhandara

Recd

Cy.

14/02/01

Attended
MCA
Bhandara

- 20 -

759/3/36/Q (PC)

08 Sep 2003

Muslim Hattain
(Indl concerned)

Annexure-3
(series)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.
2. With effect from 08 Sep 2003, you are hereby appointed as Casual Labourer (Conservancy Safaiwala) at Adhoc Station HQ Hattigor and granted temporary status.
3. The terms and conditions of your service will be governed in accordance with the Govt of India, Ministry of Personnel PG and Pensions Department of Personnel & Training letter No 51016/2/90 Esd dated 10 Sep 93 and guidelines contained in OM dated 3.6.88.
4. You are hereby informed and directed to report to undersigned alongwith the undermentioned documents for conservancy duties.
 - (a) Educational qualification certificate.
 - (b) Certificate of age from concerned district Registrar if educational qualification certificate is not held.
 - (c) Caste certificate from authorized officials if belong to SC, ST & OBC.
 - (d) Certificate on local address pgd permanent address from DC's/SDO's/BDO's office.
 - (e) Medical fitness certificate from District Medical Officer.
5. Failure to submit the above documents will constrain us to take the decision at our end.

*Attested
with
1-2003*

JH/+

(MKK Mohan)
Capt
Offg SSO
For Stn Cdr

759/3/36/Q (PC)

08 Sep 2003

Int. Sumitra Shimray
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.
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 - (e) Medical fitness certificate from District Medical Officer.
5. Failure to submit the above documents will constrain us to take the decision at our end.

Advocate

JH/*

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

-22-

759/3/36/Q (PC)

08 Sep 2003

Sunna Koya
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.

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(e) Medical fitness certificate from District Medical Officer.

5. Failure to submit the above documents will constrain us to take the decision at our end.

*Attested
Advocate*

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

- 23 -

759/3/36/Q (PC)

08 Sep 2003

Pragna Ojha
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.
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5. Failure to submit the above documents will constrain us to take the decision at our end.

*Attested
Advocate*

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/36/Q (PC)

08 Sep 2003

Rakhal Tal
(Indl concerned)

**APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE**

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.
2. With effect from 08 Sep 2003, you are hereby appointed as Casual Labourer (Conservancy Safaiwala) at Adhoc Station HQ Hattigor and granted temporary status.
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5. Failure to submit the above documents will constrain us to take the decision at our end.

*Attested
Advocate*

JH/*

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/36/Q (PC)

08 Sep 2003

Jalander Janti
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.
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 - (d) Certificate on local address pgd permanent address from DC's/SDO's/BDO's office.
 - (e) Medical fitness certificate from District Medical Officer.
5. Failure to submit the above documents will constrain us to take the decision at our end.

*Attested
Advocate*

JH/+

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/36/Q (PC)

08 Sep 2003

Rined Summary
(Indl concerned)

**APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE**

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.
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 - (e) Medical fitness certificate from District Medical Officer.
5. Failure to submit the above documents will constrain us to take the decision at our end.

*Attested
Duly
Advised*

JH/+

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/1/1 (PC)

08 Sep 2003

Biswanath Karmakar
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

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 - (d) Certificate on local address pgsd permanent address from DC's/SDO's/BDO's office.
 - (e) Medical fitness certificate from District Medical Officer.
5. Failure to submit the above documents will constrain us to take the decision at our end.

*Attested
10/9/03
Advocate*

011/4

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

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759/3/36/Q (PC)

08 Sep 2003

Surindra Tanti
(Indl concerned)

**APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE**

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5. Failure to submit the above documents will constrain us to take the decision at our end.

Advocate

JH/★

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/36 /Q (PC)

08 Sep 2003

Jasbir Singh
(Signature)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
(GROUP 'AD' CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.
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5. Failure to submit the above documents will constrain us to take the decision at our end.

Attended
Advocate

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

08 Sep 2003

759/3/36/Q (PC)

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57

Uday Ram Prasad
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

1. Please refer to Station HQ Rangiya letter No 3004/1/TEMP/Hattigor/Q dated 11 Sep 2003.
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*Attested
with
Advocate*



(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/36/Q (PC)

-31-

08 Sep 2003

Jagdish Prasad
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

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*Attended
Advocate*

JH/*

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/36/Q (PC)

32

Sep 2003

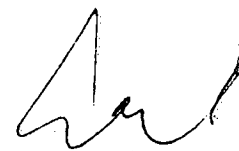
Monath Khar
(Indl concerned)

**APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE**

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*Attested
Hatt
Hatt*

JH/*



(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/36/Q (PC)

- 33 -

08 Sep 2003

Sri Durga Pasha
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

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*Attended
M. S. S.
Adm*

JH/+

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

759/3/36/Q (PC)

08 Sep 2003

Rupendra Intruder
(Indl concerned)

APPOINTMENT LETTER OF CIVILIAN CONSERVANCY SAFAIWALAS
GROUP 'D' (CLASS IV EMPLOYEE) AS A CASUAL EMPLOYEE

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*Attested
Mukh
Adv*

JH/*

(Signature)
(MKK Mohan)
Capt
Offg SSO
for Stn Cdr

Manik Chanda
Advocate

☎: 522998
Bye Lane -7
Lachit Nagar
Guwahati -781 007

- 35 -

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Ref. No.....

Date..... 27/09/09

Annexure - 4

LAWYER'S NOTICE

From:

Manik Chanda,
Advocate.

To,

The Commending Officer,
Station Head Quarter,
Hatigarh.
C/o 99 APO.

Sub: - Judgment and order dated 24.01.2001 in O.A No. 398 of 1999 passed by the
Hon'ble CAT, Guwahati; Implementation of:

My Clients: - 1) Shri Biriya Orang, 2) Smti. Sumitra Daimary, 3) Shri Durga Tosha, 4)
Shri Rakhal Pal, 5) Shri Binod Daimary, 6) Md. Muslim Hussain, 7) Shri
Jagdev Prasad, 8) Shri Sukru Koya, 9) Smti Rupa Sutradhar, 10) Shri
Deonath Lohar, 11) Shri Jalandhar Tanti, 12) Shri Uday Ram Prasad, 13)
Shri Surindra Tanti, 14) Shri Biswanath Karmakar, 15) Shri Jagadish
Sushani.

All are working as casual labourer (Conservancy Safaiwala at Adhoc
Station HQ, Hattigarh).

Sir,

As instructed by my clients above named, I have to state as follows:

The Hon'ble Central Administrative Tribunal (CAT), Guwahati Bench,
Guwahati vide its judgments and order dated 24.01.2001 in O.A No. 398/1999 (copy
enclosed herewith) directed the respondents to take necessary steps for considering the
cases of the applicants afresh for grant of Temporary Status and take consequential
follow-up action thereafter at the earliest, preferably within three months. Pursuant to

Attested
By
A.W.

Ref. No.....

Date 27/07/04

the said judgment you have acted belatedly after a lapse of more than 2 and ½ months and granted temporary status to my clients w.e.f 08.09.2003 vide your letter No. 759/3/36/Q (PC) dated 08.09.2003 appointing them as casual labourer. Subsequently you have granted their pay w.e.f November 2003. In this context please take note of that the Judgment being passed in January, 2001, my clients are to get their temporary status and salary at least w.e.f January, 2001 which they have qualified even earlier than that. But you have not granted their salary w.e.f January, 2001 and not even from 08.09.2003 i.e. the date from which they have been granted the temporary status, they are entitled to get leave under the scheme which is also not being granted to them. They also did not get their arrear pay which you have paid to 10 other persons who were not even the applicants in the O.A No. 398/1999 before the Hon'ble Tribunal, for the period from 08.09.2003. As such my clients are being deprived of their legitimate claims of arrear monetary benefits, leave etc. Which are the incidences of temporary status under the casual labourers (Grant of temporary status and regularization) scheme and it flows from the Judgment dated 24.01.2001 that such consequential benefits including regularization of services are to be extended to my clients.

I therefore serve this NOTICE on you and urge upon you to grant temporary status with pay and other benefits in terms of the scheme to my clients at least w.e.f the date of judgment and consequential arrears etc, from 24.01.2001 and further grant them leave as admissible, in terms of the judgment and order dated 24.01.2001. You are further requested to confirm your decision to the undersigned within the earliest but not later than 30 days of the receipt of this notice.

Encl:- Copy of the Judgment dated
24.01.2001.

Yours sincerely

(Signature)
(MANIK CHANDA)

बीमा नहीं NOT INSURED

लगाये गये डाक टिकटों का Amount of Stamps affixed Rs. 22/-

एक रजिस्ट्रि* Received a Registered* 22/7/04

पानेवाले का नाम S H S.

Addressed to 20 99 A.P.

क्रमांक
No.

8236

तारीख मोहर

Date Stamp

मिन्साले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

regular establishment in that office/establishment without any further reference to the Employment Exchange.

- (iii) Casual labourers recruited in an office/establishment direct without reference to the Employment Exchange, should not be considered for appointment to regular establishment unless they get themselves registered with the Employment Exchange, render, from the date of such registration, a minimum of two years' continuous service as casual labour and are subsequently sponsored by the Employment Exchange in accordance with their position in the register of the Exchange. (See Paragraph 3 below for one time relaxation.)

3.2 A casual labourer may be given the benefit of 2 years' continuous service as casual labourer if he has put in at least 240 days (206 days in the case of offices observing 5 days week) of service as a casual labourer (including broken periods of service) during each of the two years of service referred to above.

[G.I., M.F., O.M. No. F. 8 (2)-Estt. (Sp) 60, dated the 24th January, 1961; M.H.A., O.M. No. 652/60-Estt. (A), dated the 16th February, 1961; No. 15-10-66-Estt. (D), dated the 2nd December, 1966; No. 14/1/68-Estt. (C), dated the 12th February, 1969 and D.P. & A.R., O.M. No. 49014/19-84-Estt. (C), dated the 26th October, 1984.]

4. Regularization of service of casual workers, not recruited through Employment Exchange before 7-5-1985, in Group 'D' posts

4.1 The services of casual workers may be regularized in Group 'D' posts in various Ministries/Departments, etc., subject to certain conditions, in terms of the general instructions issued by this Department. One of these conditions is that the casual workers concerned should have been recruited through the Employment Exchange. Sponsorship by the Employment Exchange being a basic and essential condition for recruitment under the Government, it has repeatedly been brought to the notice of the various administrative authorities that recruitment of casual workers should always be made through the Employment Exchange. It has, however, come to the notice of this Department that in certain cases these instructions were contravened and casual workers were recruited otherwise than through the Employment Exchange. Though these persons may have been continuing as casual workers for a number of years, they are not eligible for regular appointment and their services may be terminated any time. Having regard to the fact that casual workers belong to the weaker section of the society and termination of their services will cause undue hardship to them, it has been decided, as a one time measure, in consultation with the Director-General, Employment and Training, that casual workers recruited before the issue of these instructions may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through the Employment Exchange, provided they are eligible for regular appointment in all other respects.

4.2. It is once again reiterated that no appointment of casual workers should be made in future otherwise than through the Employment Exchanges.

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(Exhaust)

Annexure-5

If any deviation in this regard is committed, responsibility should be fixed and appropriate departmental action taken against the official concerned.

[G.I., D.P. & T., O.M. No. 49014/18/84-Estt. (C), dated the 7th May, 1985.]

5. Ban on engagement of casual workers for duties of Group 'C' posts

There is a complete ban on engagement of casual workers for performing duties of Group 'C' posts and hence no appointment of casual workers should be made in future for performing duties of Group 'C' posts. If any deviation in this regard is committed, the administrative officer in charge in the rank of Joint Secretary or equivalent will be held responsible for the same.

[G.I., M.F., O.M. No. 49014/16/89-Estt. (C), dated the 26th February, 1990.]

6. Payment of wages to unskilled casual workers in Archaeological Survey of India

It has been decided that the unskilled casual worker whose nature of work is the same as that of the regular employees may be paid at the rate of 1/30 of Rs. 750 plus DA for work of 8 hours a day with effect from 7-6-1988. The guidelines issued by the Department of Personnel and Training should be strictly observed. On a reference made to them, it has been clarified as under—

- (i) The persons on daily wages on regular nature of work should not be engaged. In case casual workers have been engaged to do duties of regular nature, they shall have to be paid at the minimum time-scale of pay plus DA for work of 8 hours a day.
- (ii) The casual workers are required to be paid for the day on which they actually perform duties.
- (iii) If the casual worker is called for duty on a holiday, he will have to be paid for that day. In case this holiday happens to be paid holiday for the casual worker that he will have to be allowed additional wages for the duty for that holiday.
- (iv) The practice of engaging a casual worker on his weekly off day should be avoided. The question of allowing paid weekly off to casual workers in the offices following five days week work pattern is under consideration of the Department of Personnel and Training.

As for revision of rates in respect of skilled labour is concerned, the matter is being examined separately and the orders will be issued shortly.

[G.I., Archaeological Survey of India, O.M. No. 27-1/36-Admn. III, dated the 15th December, 1988.]

7. Scheme for Grant of Temporary Status and Regularization of Casual Workers

The guidelines in the matter of recruitment of persons on daily wage basis in Central Government offices were issued vide this Department's

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OM No. 49014/2 S6-Est. (C), dated 7-6-1988 [see *Orders under (1) above*]. The policy has further been reviewed in the light of the judgment of the CAT, Principal Bench, New Delhi, delivered on 16-2-1990, in the Writ Petition filed by Shri Raj Kamal and others v. Union of India and it has been decided that while the existing guidelines contained in OM, dated 7-6-1988, may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the Scheme as appended.

2. Ministry of Finance, etc., are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in OM, dated 7-6-1988. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

APPENDIX

Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993".

2. This scheme will come into force with effect from 1-9-1993.

3. 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.

4. *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 offices observing 5 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 and 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.

5. Temporary status would entitle the casual labourers to the following benefits:—

- (i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA. [Special Compensatory Allowance or Compensatory (City) Allowance or Composite Hill Compensatory Allowance, etc., i.e., only one of the compensatory allowance, more beneficial to them, can be taken into account for the purpose of calculating their wages.—O.M. No. 3 (2)/95-E.II (B), dated the 15th January, 1996.]
- (ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
- (iii) Leave entitlement will be on a pro rata basis at the rate of one day for every 10 days of work. Casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularization. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
- (iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
- (v) 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularization.
- (vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance, Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Government servants of their Department.
- (vii) Until they are regularized, they would be entitled to Productivity-Linked Bonus/*Ad hoc Bonus* only at the rates applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. *Procedure for filling up of Group 'D' posts.* — (i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant Recruitment Rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for the post, regularization will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularization of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's OM, dated 7-6-1988, should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of Personnel and Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

[G.I. Dept. of Per. & Trg. OM No. 1116290-Estt. (C), dated the 10th September, 1993]

8. Clarifications to OM, dated 10-9-1993, regarding grant of temporary status and regularization of casual workers

References are being received from various field formations seeking clarifications regarding orders issued by the D.P. & Trg. in connection with

grant of temporary status to the daily-rated workers. The clarifications sought for and their reply have been indicated against each clarifications as under:

Clarification sought	Reply
1. Whether the attendance of the casual workers shall continue to be marked on Muster Roll Forms No. CPWA-21 (i) Revised or the same is to be marked in the attendance register and paid through Form No. CPWA-29 as is done in the case of Group 'D' employees on Work-charged Estt.?	There will be no change in this regard. The existing practice of marking attendance will continue. The casual workers even after conferment of temporary status continue to be casual workers.
2. Whether the casual workers who are eligible for temporary status with effect from 1-9-1993 are entitled for any arrears of increment with effect from 7-6-1989?	In Para. 2 of D.P. & Trg. OM, dated 10-9-1993, it has been clearly indicated that these orders are applicable with effect from 1-1-1993. There is therefore no question of grant of any arrears to any worker in respect of period prior to 1-9-1993.
3. Whether the casual workers shall be entitled for payment of gazetted holidays also?	No.
4. Whether Service Books in respect of casual workers to whom temporary status is granted are to be opened and if not, how the benefit of grant of annual increments, leave on pro rata basis at the rate of 1 day for every 10 days as per the orders, is to be regulated?	This is a matter of convenience. If the field offices feel that it is not essential to open Service Books and they can regulate the benefits extended without opening of Service Books, they may do so. If they find that opening of Service Books is more convenient to maintain the records properly, they can follow this practice. However, for the sake of uniformity it is advised that Service Books in respect of such workers are opened.
5. Whether there will be any change in operation of orders regarding payment of OTA to the casual workers, consequent upon implementation of the orders of grant of temporary status?	No.

casual labourer, contingent paid staff, daily wager, daily-rated mazdoor, outsider) are to be treated as casual labourers. Those casual labourers who are engaged for a period of not less than 8 hours a day should be described as full time casual labourers. Those casual labourers who are engaged for a period of less than 8 hours a day should be described as part-time casual labourers. All other designations should be discontinued.

Substitutes engaged against absentees should not be designated casual labourer. For purposes of recruitment to Group 'D' posts, substitutes should be considered only when casual labourers are not available. That is, substitutes will rank last in priority, but will be above outsiders. In other words, the following priority should be observed:—

- (i) NTC Group 'D' officials.
- (ii) EDAs of the same Division.
- (iii) Casual labourers (full time or part-time. For purpose of computation of eligible service, half of the service rendered as a part-time casual labourer should be taken into account. That is, if a part-time casual labourer has served for 480 days in a period of 2 years he will be treated, for purposes of recruitment, to have completed one year of service as full time casual labourer).
- (iv) EDAs of other divisions in the same Region.
- (v) Substitutes (not working in Metropolitan cities).
- (vi) Direct recruits through Employment Exchanges.

NOTE.— Substitutes working in Metropolitan Cities will, however, rank above No. (iv) in the list

[G.I., Dept. of Posts, Lr. No. 65-24/88-SPB. I, dated the 17th May, 1989.]

✓ 2. **Casual Labourers (Grant of Temporary Status and Regularization) Scheme.** — In compliance with the directions of the Hon'ble Supreme Court a scheme was drawn up by this Department in consultation with the Ministries of Law, Finance and Personnel and the President has been pleased to approve the said scheme. The scheme is as follows:—

1. 'Temporary Status' would be conferred on the casual labourers in employment as on 29-11-1989 and who continue to be currently employed and have rendered continuous service of at least one year; during the year they must have been engaged for a period of 240 days (206 days in the case of offices observing five days week).

2. Such casual workers engaged for full working hours, viz., 8 hours including $\frac{1}{2}$ hour's lunch time will be paid at daily rates on the basis of the minimum of the pay scale for a regular Group 'D' official including DA, HRA and CCA.

3. Benefit of increment at the same rate as applicable to a Group 'D' employee would be taken into account for calculating per month rate wages,

after completion of one year of service from the date of conferment of Temporary Status. Such increment will be taken into account after every one year of service, subject to performance of duty for at least 240 days (206 days in establishments observing five days week) in the year.

4. Leave entitlement will be one day for every 10 days' of work. Casual leave or any other kind of leave, except maternity leave, will not be admissible. No encashment of leave is permissible on termination of services for any reason or on the casual labourers quitting service.

5. Maternity leave to lady full time casual labourers will be allowed as admissible to regular Group 'D' employees.

6. 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after regularization as a regular Group 'D' official.

7. Conferment of Temporary Status does not automatically imply that the casual labourers would be appointed as a regular Group 'D' employees within any fixed time frame. Appointment to Group 'D' vacancies will continue to be done as per the extant Recruitment Rules, which stipulate preference to eligible ED employees.

8. After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated at par with temporary Group 'D' employees for the purpose of contribution to General Provident Fund. They would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Government servants of this Department.

9. Their entitlement to Productivity-Linked Bonus will continue to be at the rate applicable to casual labourers.

10. Temporary status does not debar dispensing with the service of a casual labourer after following the due procedure.

11. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with.

12. Casual labourers may be regularized in units other than recruiting units also, subject to availability of vacancies.

13. For purpose of appointment as a regular Group 'D' official, the casual labourers will be allowed age relaxation to the extent of service rendered by them as casual labourers.

14. The casual labourers can be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

15. The engagement of the casual labourers will continue to be on daily rates of pay on need basis.

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16. The conferment of temporary status has no relation to availability of sanctioned regular Group 'D' posts.

17. No recruitment from open market for Group 'D' posts except compassionate appointments will be done till casual labourers with the requisite qualification are available to fill up the posts in question.

Further action may be taken in regard to the casual labourers by each unit, as per the above-said scheme. This issues with the approval of Ministry of Finance and concurrence of Integrated Finance, vide their Dy. No. 1282-FA/91, dated 10-4-1991.

[G.I., Dept. of Posts, Lr. No. 45-95/87-SPB. I, dated the 12th April, 1991.]

Clarification (1).— Further to Letter No. 45-95/87-SPB-I, dated 12-4-1991 (*Order 2 above*), it is hereby clarified that the scheme is effective from 29-11-1989 and hence the eligible casual labourers may be conferred temporary status and the benefits indicated in the above-said circular with effect from 29-11-1989.

2. Eligibility for weekly off to casual labourers continue to remain the same as before, viz., after 6 days of continuous work, they will be entitled to one weekly off. They will also be entitled for 3 paid National Holidays.

3. Leave salary to the casual labourers with temporary status will be paid at the rate of daily wages being paid to the casual labourers concerned.

4. Casual labourers who work in offices observing 5 days a week are not entitled to Paid Off on Saturday or Sunday. In other words, the weekly paid off after 6 continuous working days is permissible only to those Casual workers who work at the rate of 8 hours per day in establishments having 6 days a week.

5. The Scheme is also applicable to casual workers in the civil wing of this Department. It is not, however, applicable to any person working on casual basis in Group 'C' posts.

6. Vacancies of Casual labourers caused by their absorption in Group 'D' posts are not to be filled by recruiting fresh casual labourers. In other words, engagement of fresh casual labourers is not permissible as already reiterated time and again.

[G.I., Dept. of Posts, Lr. No. 45-37/91-SPB. I, dated the 5th June, 1991.]

Clarification (2).— Attention is invited to the Department of Per. & Trg., OM, dated 7-6-1988, as per which engagement of fresh full time casual labourers is not permissible. In the said OM, it has also been made clear that where the work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multi-functional post could be created for handling these items with the concurrence of Ministry of Finance. The possibility of creation of multi-functional posts in offices for discharging the items of work each of which does not justify a

full time post may be explored in the first instance. In case this is not found possible to entrust, part-time casual hands may be engaged as per the outlines contained in OM, dated 7-6-1988.

It is once again reiterated that the decision regarding engagement of fresh part-time casual hands should be taken with care and at a fairly high level so that the provisions of OM, dated 7-6-1988, are not diluted.

[G.I., Dept. of Posts, Lr. No. 45-111/90-SPB. I, dated the 13th January, 1992.]

Clarification (3).— 1. Casual labourers conferred with temporary status can accumulate leave up to a maximum limit of 240 days.

2. Such casual labourers may be allowed paid leave as and when they require, provided leave is available at their credit.

3. No substitute arrangements should be made on such occasions, since engagement of fresh casual labourers is not permissible.

4. Casual labourers conferred with temporary status are to be paid OTA at the existing OTA rates for casual labourers, if they are engaged for extra hours.

[G.I., Dept. of Posts, Lr. No. 45-26/92-SPB. I, dated the 28th October, 1992.]

Clarification (4).— 1. The Service Book of the casual labourers conferred with temporary status is required to be maintained as in the case of temporary Government employees.

2. Temporary status casual labourers are entitled to increment on par with the departmental officials on completion of one year of engagement for 240 days, i.e., the increment would be taken into account for calculation of wages with effect from 1-11-1990, for the casual labourers conferred with temporary status on 29-11-1989, if they have completed one year of service at least 240 days.

3. The services of temporary status casual labourers can be dispensed with in case of misconduct after giving due opportunity on the lines of those available to regular employees.

4. A ban on employment of casual labourers had been put to by the Government prior to 29-11-1989. Therefore, there should not be any casual labourer employed after 29-11-1989. If there are any, their full particulars may be furnished along with the circumstances under which they were taken and under whose orders.

5. Employment of substitutes against the leave vacancy or paid weekly off days of temporary status casual labourer is not permissible.

6. Casual labourers engaged in P & T dispensaries where the full working hours are less than 8 hours daily are not eligible for temporary status.

[G.I., Dept. of Posts, Lr. No. 45-56/92, dated the 1st March, 1993.]

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Manik Chanda

Advocate
Gauhati High Court

☎ : 2522998

Bye Lane - 7

Lachit Nagar

Guwahati - 781 007

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Ref. No.....

Date 5.9.06

Annexure-7

NOTICE

From:

Manik Chanda,
Advocate.

To.

The Commanding Officer,
Station Headquarter,
Hatigarh,
C/O 99 APO.

Sub: - Regularisation of services in Gr. 'D' vacancies with all consequential service benefits in the light of judgment and order dated 24.01.2001 in O.A. No. 398 of 2001 passed by the Hon'ble CAT, Guwahati.

My Clients: - (1) Sri Biriya Organg (2) Smti Sumitra Daimary, (3) Shri Durga Tosha, (4) Shri Rakhal Paul (5) Sri Binod Daimary (6) Md. Muslim Hussain (7) Shri Jagdev Prasad, (8) Shri Sukru Koya, (9) Smti Rupa Sutradhar, (10) Shri Deonath Lohar (11) Shri Jalandhar Tanti, (12) Shri Uday Ram Prasad, (13) Shri Surindra Tanti, (14) Shri Biswanath Karmakar, (15) Shri Jagadish Sushani.

All are working as casual labourer (Conservancy Safaitwala) on ad hoc at Station HQ, Hatigarh.

Dear Sir,

*Attested
M. Chanda
A.W.*

Manik Chanda

Advocate
Gauhati High Court

- 43 -

☎ : 2522998

Bye Lane - 7

Lachit Nagar 2

Guwahati - 781 007

Ref. No.....

Date... 5. 9. 06

Under instructions of my above named clients I am serving this Notice upon you for immediate regularization of temporary services of my above named clients, in the existing Group 'D' vacancies, in the Station Headquarter, Hatigarh, in terms of the judgment and order dated 24.01.2001 in O.A. No. 398 of 2001 passed by the Hon'ble CAT, Guwahati. It is pertinent to mention here that after the pronouncement of the judgment dated 24.01.2001, although you have granted temporary status to my clients but no steps were taken for regularization of their services in Group 'D' cadre. It is needless to mention here that there is specific direction in the judgment and order dated 24.01.01, more particularly in paragraph 4 of the said judgment as quoted below:

"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 regularization 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."

In view of the above direction passed by the learned CAT on 24.01.01, the respondent authorities are duty bound to regularise the service of the above named clients in Group 'D' cadre, but unfortunately no steps for regularization has been taken by the authority till date, as a result my above named clients are suffering irreparable loss and injury in their service prospect, more particularly

Manik Chanda

Advocate
Gauhati High Court

- 44 -

☎ : 2522998

Bye Lane - 7

Lachit Nagar

Guwahati - 781 007

Ref. No.....

Date... 5... 9... 06.....

in the matter of pay scale, promotion, increments, ACP benefits as well as in the matter of HRA, House building advance, LTC, D.A./ADA and also in the matter of retirement dues. Moreover, the above named clients are working in your establishment since 1978 onwards, as such their nature of work, duties and responsibilities are permanent in nature. Therefore, they cannot be denied regularization of their services with retrospective benefits, at least from the date of pronouncement of the judgment passed by the learned CAT in O.A. No. 298/1999 i.e. w.e.f. 24.01.2001 with all consequential benefits.

I therefore serve this NOTICE on you and urge upon you to regularize service of my above named clients with retrospective benefits, at least w.e.f. 24.01.2001 with all consequential benefits within a period of 30 days from the date of receipt of this NOTICE.

Thanking You.

(Signature)

(MANIK CHANDA)

बीमा नहीं NOT INSURED

लगाने गये डाक टिकटों का मूल्य रु

Amount of Stamps affixed Re. 22/-

सूचना नोटिफिकेशन

Received & Registered* S.S.C. S.1

पानेवाले का नाम

Addressed to

Ashen Thakurshani

Thakurshani

Signature of Receiving Officer

क्रमांक

No. 3038

प्राप्त किया

तारीख मीत

Date Stamp

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Annexure-8

Adhoc Station Headquarters Hattigor
c/o HQ 21 Mountain Artillery Brigade
PIN-926921
c/o 99 APO

759/31.5A/Q(PC)

23 September 2006

Mr. Manik Chanda
Advocate, Guwahati High Court
Bye Lane - 7, Lachit Nagar
Guwahati-07

REGULARISATION OF SERVICES IN GP -D VACANCIES WITH
ALL CONSEQUENTIAL SERVICE BENEFITS IN THE LIGHT OF
JUDGEMENT AND ORDER DATED 24.01.2001 IN OA NO
398 OF 2001 PASSED BY THE HONOURABLE
CAT, GUWAHATI

1. Refer your Notice dated 05 Sep 2006.
2. Presently there is a ban imposed by Government of India on recruitment of conservancy staff (Group D). Regularisation of services can only be considered as and when the ban is lifted and Group D vacancies are released by Ministry of Defence and instructions for recruitment to Group D cadre is received by this office.

Attested
By
Adm

JH/+



(S. Roy)
Colonel
Station Staff Officer
for Station Commander

केन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal
30 JAN 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

Filed by
Gaurav Singh
Sr. Clerk

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. No.124 OF 2007

Md. Muslim Hussain

...Applicant

-Versus-

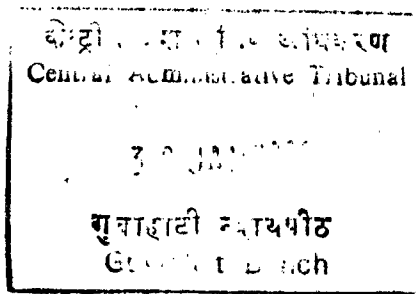
Union of India & Ors.

....Respondents

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Received
on 28/01/08
Mulla



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO.124 OF 2007

Md. Muslim Hussain

...Applicant

-Versus-

Union of India & Ors.

....Respondents

The written statement filed on
behalf of the Respondents above
named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statement made in paragraph 1 of the instant application the Respondents beg to state that Adhoc Station Headquarters letter No. 759/3/54/Q(PC) dated 23 September, 2006 is based on the following Government Office Memorandums:

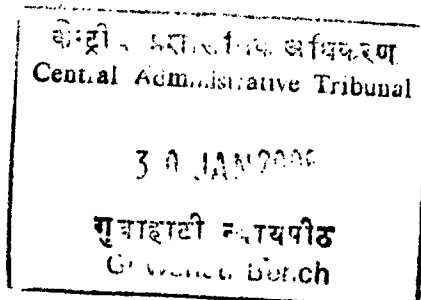
Ministry of Finance, Department of Expenditure Memorandum No. 7(3)/E(Coord)/99 dated 05 Aug 1999 which imposes a ban on creation of Plan & Non Plan posts and emphasises the need to strictly enforce the existing ban.

Office of the CGDA West Block V. RK Puram, New Delhi letter No. AT/11/2008(PC)/9/02 dated 08 July

Contd...P/-

Filed by

Colonel Shri Ben Carson Dny
The enough
28.01.08 546350



[2]

2003 addressed to all PCDA/CDA advising them to strictly enforce the existing ban on creation of Plan and Non Plan posts. The letter also clarifies that the ban/reduction of manpower is applicable to vacant posts including conservancy staff. Ministry of Defence also advised the Army Headquarters not to recruit any conservancy staff/safaiwala.

Joint Secretary (E/PG) & CVO, Ministry of Defence DO letter No. 1603/02/D(Apptts) dated 09 June 2003 addressed to Adjutant General, Army Headquarters, New Delhi further elaborates the austerity measures to be adopted by reducing manpower and its applicability to conservancy staff as well. It also explained that, how the Ministry of Finance, Department of Expenditure vide their letter No. 7(3)/E(Coord)/99 dated 05 Aug 1999 had imposed a ban on filling up of vacant posts. The letter further advises that the Ministry of Defence can not unilaterally create any posts including plan posts.

Integrated Headquarters of Ministry of Defence (Army), Addl. Dte Gen LWE/Pol(Contts), Quarter Master General Branch DHQ PO New Delhi letter No. 39732/Pvt/Consy/Pol (Contts) dated 19 March 2007 advised formulation of instructions/procedure for out sourcing conservancy services in the Indian Army Units/Formations.

The photo copy of memorandum & letters are annexed herewith and marked as Annexure-1,2,3,4 & 5 respectively.

Contd...P/-

Colonel Shrikanth Chandra Ray

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal 30 JAN 2004 गुवाहाटी न्यायपीठ Guwahati Bench

[3]

2. That with regard to the statement made in paragraph 2 and 3 of the instant application the Respondents have no comment.

3. That with regard to the statement made in paragraph 4.1, 4.2 & 4.3 of the instant application the Respondents have no comment.

4. That with regard to the statement made in paragraph 4.4 of the instant application the Respondents beg to state that the Departmental actions to grant temporary status was taken up in earnest by the Army and due to sustained efforts, the applicants were granted temporary status in September, 2003. That the Army has been complying with the order is very evident in the Order of the Tribunal dated 21 March, 2002.

As far as leave entitlement is concerned the conservancy safaiwala are authorised one day leave for every 10 days of work.

A copy of the order dtd. 21.3.02 is annexed herewith as Annexure - 6.

5. That with regard to the statement made in paragraph 4.5 of the instant application the Respondents have reiterate the statements made in the above paragraphs.

Contd...P/-

Colonel Suben Chandra Roy

केन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

[4]

6. That with regard to the statement made in paragraph 4.6 of the instant application the Respondents beg to state that all the benefits pertaining to Basic Pay, DA, HRA, CCA including increment are being given to the conservancy safaiwalas with temporary status apart from the leave of one day for every 10 days of work as enunciated in the DOP & TM No. 51016/2/90-Estt(C) dated 10 September, 1993.

7. That with regard to the statement made in paragraph 4.7 & 4.8 of the instant application the Respondents beg to state that Regularisation and Availability of GP D Posts. Conferment of temporary status does not automatically imply that the casual labourers would be appointed as a regular GP "D" employees within any fixed time frame. Since there is a ban on recruitment as elaborated in Deptt. of Expenditure, Ministry of Finance Memorandum No. 7(3)/E(Coord)/99 dtd. 05 August, 1999 and CGDA Letter No. AT/112008(PC)/9/02 dtd. 08 July 2003, the process of recruitment cannot be initiated.

8. That with regard to the statement made in paragraph 4.9 of the instant application the Respondents beg to state that the letter based on the facts enumerated in Ministry of Finance letter No. 7(3)/E(Coord)/99 dtd. 05 August, 1999 and CGDA letter No. AT/11/2008(PC)/9/02 dtd. 08 July, 2003. It may be noted that the Defence

Contd...P/-

Colonel Suben Chandra Ray

30 JAN 2000

गुवाहाटी न्यायपीठ
Guwahati Bench

[5]

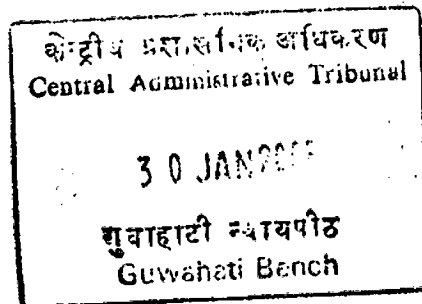
& Finance Ministry has advised out sourcing of conservancy services.

9. That with regard to the statement made in paragraph 4.10 of the instant application the Respondents beg to state that as per Casual Labourers (Grant of Temporary Status & Regularisation) Scheme, the said scheme was applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices. But this scheme is not applicable to casual workers in Railways, Department of Telecommunications and Department of Posts who already have their own scheme.

10. That with regard to the statement made in paragraph 4.11 of the instant application the Respondents beg to state that the present applicants filed a petition on 03 July 1998 to Secy. Govt. of India, ADG (SD) AHQ, Adm Comdt. East Comd. CO Stn HQ. SSO Stn. The first notice from court was received on 02 December 1999. It may be noted that the ban on recruitment of civilian staff was imposed vide Ministry of Finance, Deptt. of Expenditure Memorandum No. 7(3)/E(Coord)/99 dtd. 05 August, 1999. The cases of granting temporary status and regularisation of conservancy safaiwalas with temporary status in Station Headquarter Rangia pertains to cases prior to August, 1999 when the said ban was imposed. It is learnt that no regularisation has taken place after 1999.

Contd...P/-

Colonel Suben Chandra Ray



11. That with regard to the statement made in paragraph 4.12 of the instant application the Respondents have no comment.

12. That with regard to the statement made in paragraph 5.1 of the instant application the Respondents beg to state that the Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme is applicable to casual labourers employment with the Ministries/Departments of Government of India and their attached and subordinate offices. It is not applicable to casual workers in Railways, Department of Telecommunications and Department of Posts which have their own separate schemes.

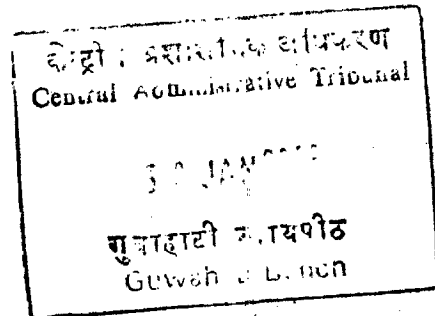
13. That with regard to the statement made in paragraph 5.2 of the instant application the Respondents beg to state that the Adhoc Station Headquarters Hattigor letter dated 23 September, 2006, stated the position on ban on recruitment of civilian employees.

14. That with regard to the statement made in paragraph 5.3 of the instant application the Respondents have no comment.

15. That with regard to the statement made in paragraph 5.4 of the instant application the Respondents

Contd...P/-

Colonel Shiben Chandra Ray



[7]

beg to state that recruitment to Group D vacancies are based on Government policy. The letters referred above clearly states that a ban on recruitment of conservancy safaiwala exists and has recommended-out sourcing of conservancy services.

16. That with regard to the statement made in paragraph 5.5 & 5.6 of the instant application the Respondents have no comment.

17. That with regard to the statement made in paragraph 5.7 of the instant application the Respondents beg to state that the regularisation/recruitment can be effected only when the ban on recruitment is lifted by the Govt. of India.

18. That with regard to the statement made in paragraph 5.8 of the instant application the Respondents have already reported above paragraphs. That the respondents further beg to state that the grounds set forth by the applicant are no good grounds and also not tenable in the eye of law and as such the instant application is liable to be dismissed.

19. That with regard to the statement made in paragraph 6,7 and 8 of the instant application the Respondents have no comment.

Contd...P/-

Colonel Giren Chandra Ray

३०.१२.२०१८

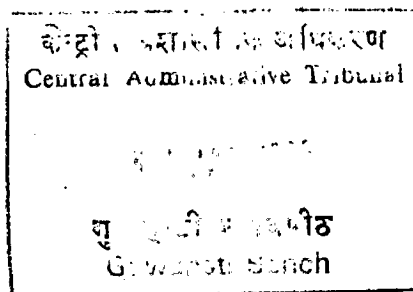
पु. ति. टी. न. यथीठ
Guwahati Bench

[8]

9. That with regard to the statement made in paragraph 9 of the instant application the Respondents beg to state that the contentions of the instant application are illegal, unlawful and ill founded and as such the applicant is not entitled to get any interim relief.

21. That the respondents beg to submit that the instant application has no merit and as such the instant application is liable to be dismissed.

Colonel Srikant Anand Singh



VERIFICATION

I, Colonel Shrikan Choudhury s/o Late Mojib Raza
aged about 50 years, R/o Guwahati
District KAMRUP and competent officer of the
answering respondents, do hereby verify that the state-
ment made in paras 2, 3, 5 - 21 are true
to my knowledge and those made in paras 1 & 4
being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon ble
Tribunal.

And I sign this verification on this 10 th day
of April 2007 at Guwahati.

Colonel Shrikan Choudhury
Signature

55-
-10-
Main Station Headquarters Nainital
o/o HQ 21 Mountain Artillery Brigade
PIN-926921
o/o 99 APO

Annexure-1

759/3/5A/Q(PC)

9/2 September 2006

Mr. Manik Chanda
Advocate, Guwahati High Court
Eye Lane -7, Lachit Nagar
Guwahati-07

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

30 JAN 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

**REGULARISATION OF SERVICES IN GP -D VACANCIES WITH
ALL CONSEQUENTIAL SERVICE BENEFITS IN THE LIGHT OF
JUDGEMENT AND ORDER DATED 24.01.2001 IN OA NO
398 OF 2001 PASSED BY THE HONOURABLE
CAT, GUWAHATI**

1. Refer your Notice dated 05 Sep 2006.
2. Presently there is a ban imposed by Government of India on recruitment of conservancy staff (Group D). Regularisation of services can only be considered as and when the ban is lifted and Group D vacancies are released by Ministry of Defence and instructions for recruitment to Group D cadre is received by this office.

(Sd/-)

Colonel

Station Staff Officer

of Station Commander

JH/*

Attended
Dus.
Advocate

New Delhi, 5th August, 1999

Office Memorandum

Central Administrative Tribunal

Guwahati Bench

Subject: Guidelines on Expenditure Management - fiscal prudence and austerity.

In continuation of this Department's O.M.No. 19(1)-E.II(A)/98 dt. 20th August, 1998 and 10th February, 1999 on the subject cited above, it has been decided to implement the following additional austerity measures with immediate effect:-

(1) Ban on creation of Plan and Non-Plan posts

The existing ban on creation of Non-Plan posts will continue and should be strictly enforced. Any unavoidable proposals for the creation of plan posts including Groups 'B', 'C' and 'D' posts shall continue to be referred to the Ministry of Finance (Department of Expenditure) for approval.

(2) Ban on filling up of vacant posts

Every Ministry/Department shall undertake a review of all the posts which are lying vacant in the Ministry/Department and in the Attached and Subordinate Offices, etc., in consultation with the Ministry of Finance (Deptt. of Expenditure). IAs will ensure that the review is completed in a time bound manner and full details of vacant posts in their respective Ministries etc., are available. Till the review is completed no vacant posts shall be filled up except with the approval of the Ministry of Finance (Department of Expenditure).

(3) 10% cut in posts

Those Ministries/Departments which have not fully implemented Government's decision to achieve 10% reduction in the number of posts (as on 1.1.92) shall implement the said decision immediately.

(4) Purchase of new vehicles

Purchase of new vehicles is banned until further orders. Exceptions will be allowed only for meeting the operational requirements of Defence, Central Para Military Forces, etc.

(5) 10% mandatory cut on Non-Plan non-salary expenditure

Every Ministry/Department shall make a 10% mandatory cut during the year (1999-2000) on Non-Plan, non-salary expenditure, i.e. on T.A, Office POL, O.T.A, honorarium, etc. No re-appropriation of funds to augment

Attended
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these heads of expenditure would be allowed during the current financial year. Austerity must be reflected in functions organised by the Govt. of India (meetings, conferences, inaugurations, etc.) and in furnishing of offices/offices at residences. The expenditure limit prescribed for these purposes shall be strictly enforced.

(6) Foreign Travel

Foreign travel funded by the Govt. of India, unless it is absolutely unavoidable, shall not be undertaken till the end of the current financial year.

(7) New expenditure proposals

No new expenditure proposals will be entertained during the current financial year except those announced in the budget.

(8) Expenditure on existing schemes/programmes

Any unavoidable increase in expenditure on existing schemes/projects shall be met out of savings; no additional funds will be provided for this purpose. Proposals for inter State transfer of funds in respect of schemes covering all the States will not normally be entertained.

2. All existing instructions on austerity/economy in expenditure issued by the Ministry of Finance (Department of Expenditure) from time to time shall be strictly enforced.

3. Secretaries to the Govt. of India and Financial Advisers are requested to ensure strict compliance of the above instructions.

(Signature)
(C.M. Vasudev)
Secretary to the Govt. of India

- To:
- All Secretaries to the Govt. of India (By name)
 - All Heads of Public Enterprises
 - All FAs (By name)
 - All Chief Secretaries of State Governments with the request that they may consider issuing similar instructions in respect of their State Governments.

के.ए. शर्मा और अन्य
Central Administrative Tribunal

गुवाहाटी न्यायाधीश
Guwahati Bench

No.AT/11/2008 (PC) 9/02
Office of the CGDA
West Block V, R.K. Puram,
New Delhi - 110 066.
Dated: 8th July 2003

To

ALL THE PCDA/CGDA

Sub: Recruitment of Conservancy Staff/Safaiwalas in contravention of ban on creation of posts.

As per Government of India, Ministry of Finance (Deptt. Of Expenditure) OM No.7 (3)/E (Coord)/99 dated 5th Aug 1999, the existing ban on creation of Non-plan posts will continue and should be strictly enforced. Further, any unavoidable proposals for the creation of plan posts including Groups 'B' 'C' & 'D' posts shall continue to be referred to the Ministry of Finance (Deptt. Of Expenditure) for approval.

2. Conservancy Staff/Safaiwalas are being recruited by Defence Formations on the authority of para 1205 & 1206 of Defence Services Regulations and the Army HQs are of the view that the category of Conservancy Staff are excluded from the purview of ban on creation of posts.

3. The matter regarding applicability of existing ban orders on recruitment of Conservancy Staff/Safaiwalas was referred to Ministry of Defence for their clarification. Ministry of Defence have since clarified that the instructions issued by the Ministry of Finance and DOP&T from time to time regarding austerity measures in reducing manpower are applicable to all vacant posts including conservancy staff. Ministry of Defence have advised Army HQs that the Conservancy Staff recruited in contravention of ban orders may be adjusted against the vacancies cleared by the Screening Committee. Army HQs have also been suggested that no new recruitment of Conservancy Staff/Safaiwalas be made hereafter and a case may be taken up with Ministry of Defence with reference to Conservancy Staff/Safaiwalas recruited after the issue of Government letter No.2 (1)/93-D (Appts) dated 10th May 1996 releasing Group 'C' & 'D' vacancies in lower formations of Army.

4. In view of the above clarification, suitable action may be rendered to the Station HQs and other lower formations under your audit jurisdiction to take up the matter with Ministry of Defence with reference to Conservancy Staff/Safaiwalas recruited after the issue of Government of India Ministry of Defence letter No.2 (1)/93-D (Appts) dated 10th May 1996.

For PCDA (WC) Chandigarh only: Your Office letter No.P/11/Tech/221-A dated 26.6.2002 will link the case

Jt. CGDA (Systems) has seen.

Please acknowledge receipt.

Attended
Dis-
Advocate

(Dr. Jai Pal Singh)
Dy.C.G.D.A. (AT)

Gautam Chatterjee,
Joint Secretary (JPG) & CVO
Tel: 2301 1553

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

30 JAN 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

रक्षा विभाग
नई दिल्ली-110011
GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
DEPTT. OF DEFENCE
NEW DELHI-110011
9th June, 2001

D.O. No. 1693/02/D(Appuls)

Dear Sir,

Please refer to D.O. letter No. 15972/3in HQ/Min. (Def) (b) dated 4th February, 2001 regarding non-payment of salary to the recently recruited Conservancy staff in Cant/Military Stations.

2. The matter has been considered in the Ministry. It has been found that the instructions issued by the Ministry of Finance and DOP&T from time to time regarding austerity measures in reduction of manpower are applicable to all vacant posts including conservancy staff. Ministry of Finance Department of Expenditure vide their letter dated 05.08.1999 had put a ban on filling up of vacant posts and applied 10% cut in posts and vide their letter dated 16th May, 2001, DOP&T issued instructions for minimization of direct recruitment of civilian posts where they conveyed that fresh recruitment is limited to 1% of total civilian staff strength. Accordingly, finalisation of an Annual Recruitment Plan for Gp. 'B', 'C' and 'D' is to be proposed by a Screening Committee headed by Secretary concerned.

3. The Committee of Secretaries had, at that time (on 22.2.1996), reviewed the requirement of conservancy staff and accordingly 213 posts of Safaiwala and 123 posts of Safaiwala were recommended based on the recommendations of the Committee. Moreover, under the existing provisions Ministry of Defence cannot unilaterally create any post including plan posts. Therefore, it is requested that the Government of India should consider the request for delegation of this power to Army HQ & lower formations or confining with the power of delegation in the past, Government of India.

4. I would also like to bring to your notice that the Screening Committee has cleared 100 vacancies meant for direct recruitment to civilian posts for the years 2000-2001 and 2001-2002. Therefore, the Conservancy Staff as referred in para 2 above may also be adjusted against the vacancies cleared by the Screening Committee. It is also suggested that new recruitment of Conservancy Staff/Safaiwalas be made henceforth and a case may be taken up with MO Defence for recruitment of Conservancy Staff/Safaiwalas recruited after the issue of Government letter in May 1996 for Group 'C' & 'D' vacancies in lower formation of Army. It is also suggested that to overcome the problem of cleanliness, hygiene etc other means like outsourcing may also be tried out.

Yours faithfully,
(Gautam Chatterjee)
Joint Secretary (JPG) & CVO
Min. of Defence
New Delhi-110011
Lt Gen A. Natarajan,
AVSM, VSM,
Adjutant General,
Army HQ, North Block,
New Delhi

CCD: Copy to : CGDA, West block-V, RK Puram, New Delhi-110066

attested
by
secretary

(Gautam Chatterjee)

23018877

Integrated HQ of MoD (Army)
Addl Dte Gen LWE/Pol (Cantts)
Quartermaster General Branch
DHO PO, New Delhi-110011

Annexure-5

39732/Pvt/Consy/Pol (Cantts)

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

Mar 07

HQ Central Command
LUCKNOW

30 JAN 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

FORMULATION OF INSTRUCTIONS/PROCEDURE FOR
OUTSOURCING OF CONSERVANCY SERVICES
IN INDIAN ARMY UNITS/FORMATIONS

1. The powers to enter into contract with private contractors for rendering conservancy services in units/formations of Indian Army have been delegated to Officers Commanding Stations vide Schedule XIII to MoD letter No. 89591/FP-1/1974/2006/D(GS-I) dated 26 Jul 06.

2. The instructions for outsourcing of services in Ministry or Department are contained in Rule 178 to 185 of General Financial Rules. Rule 178 of General Financial Rule provide that Minister or Department may outsource certain services in the interest of economy and efficiency and It may prescribe detailed instructions and procedures for this purpose.

3. As brought out in Para 2 above detailed Instructions and procedures are to be prescribed for the purpose of outsourcing of conservancy services. Considering the fact that majority of static formations are located within the jurisdiction of HQ CC the task of preparing draft SOP is entrusted to HQ Central. In case it is considered desirable, HQ CC may like to seek the opinion of other Commands.

4. While preparing the draft SOP the following Instructions/rules be kept in consideration :-

- (i) Rule 178 to 185 of General Financial Rules.
- (ii) Format for identifying various buildings (office building)/JCO/Ors married quarters, roads, open area, ballis etc which are required to be cleaned, frequency to be cleaned (ie once a year, twice a year, once in three months, once in a month, once a week, daily, and twice a day).
- (iii) Total labour force sanctioned by MoD to clean the above areas as on date.
- (iv) Format for giving details of existing staff held.

Attended
Dus
Advocate

- (v) Format to indicate area of responsibility of existing staff.
- (vi) Format to give full details of area of responsibility proposed to be handed over to the labourers of private contractors.
- (vii) Format to determine the minimum requirement of essential equipment/machinery/materials to clear the entire area.
- (viii) Format for determining the total cost of services to be outsourced (men, machinery and material).
- (ix) Various sections of contract labourer (Regulation and Abolition) Act 1970 and contract labourer (Regulation and Abolition) Central Rules 1971.
- (x) Format of tender document.
- (xi) Format of inviting of bids/tenders.
- (xii) Format of quotation/tender for submission by contractor.
- (xiii) Format of terms and conditions of tenders.
- (xiv) Format of agreement.
- (xv) Form of performance security bank guarantee bond.
- (xvi) Form of ESI Registration.
- (xvii) Form of Registration of EPF.
- (xviii) Format of payment of wages by contractor.
- (xix) Format of payment of ESI contribution by contractor.
- (xx) Format of payment of EPF contribution by contractor.
- (xxi) Format of satisfactory services to be given by user organisation.
- (xxii) Role of Station Health Officer.

-4-62-

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

30 JAN 2005

गुवाहाटी न्यायपीठ
Guwahati Bench

-3-

(xiii) Format for verification of character and antecedents of contractor/labour.

(xxiv) Format for payment of verification fee to concerned authorities

(xxv) Any other issue considered essential in the matter.

5. In view of position explained above, HQrs Central Command is required to prepare and forward the draft SOP duly vetted by legal branch of your for further examination and issue to all Commands by this HQrs.

6. This has the approval of the QMG

(Rajeev Datt)
Brig
DDG PPE
For QMG

Copy to

All Comds - For info, etc.

Form No. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

30 JAN 2002

गुवाहाटी न्यायपीठ
Guwahati Bench

ORDER SHEET

Contempt APPLICATION NO. 56 OF 2001 U.A. 398 of 1999.

Applicant(s) Smt. Sumitra Daimary & Ors.

Respondent(s) Major Navjet Singh.

Advocate for Applicant(s) Mr. M. Chanda and Mrs N.D. Goswami.

Advocate for Respondent(s)

Notes of the Registry

Date

Order of the Tribunal

21.3.02 Heard Mr. M. Chanda, learned counsel
for the applicant.

This Contempt Proceeding initiated on the score that the direction of the Tribunal dated 21.1.2001 in U.A. No. 398/99 has not been complied with. From the order annexed it seems that the Respondents considered the case of the applicant as per judgment of this Tribunal but refused to grant Temporary Status. Mr. M. Chanda, learned counsel for the applicant submitted that the Respondents deliberately disobeyed the order of the Tribunal for conferment of Temporary Status.

Apparently the order has been complied with. There is no question of defiance. If the order passed by the authority is not legal the applicant may challenge the same in a different proceeding, not in a Contempt Proceeding.

The C.P. thus stands dismissed. It is open to the applicant to file a fresh application questioning the decision of the Respondents on merits.

Section Officer (C)
मुख्य अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गुवाहाटी न्यायपीठ, गुवाहाटी

SO/ VICE CHAIRMAN

SO/ REGISTRAR (A)

Attested
By
Advocate

File in Court on..... 16.06.08

Court Officer.

Filed by the applicant through U. Dutta, advocate on 16.06.08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

In the matter of:-

O.A.No. 124 of 2007

Md. Muslim Hussain & Ors.

... Applicants.

-Versus-

Union of India and others.

.... Respondents.

-And-

In the matter of:-

Rejoinder submitted by the applicant against the written statement filed by the respondents.

The applicants above named most respectfully begs to state as under:-

1. That in reply to the statements made in para 1 of the written statement, the applicants beg to submit that the office memorandum dated 05.08.1999 issued by the Govt. of India, Ministry of Finance which has been referred and annexed to by the respondents has nowhere said about any ban on the regularization of the existing temporary status holders but it relates to ban on the creation of new posts only as future austerity measures which is not applicable in the instant case. Similarly, in CCDA's letter date 08.07.2003 as referred to by the respondents it has been remained under para 2 that the Army Headquarters are of the view that the category of conservancy staff are excluded from the category of conservancy staff are excluded from the purview of ban even on creation of posts and not to speak of regularization of the existing conservancy staff, more so under temporary status as in the instant case. As such the so called ban is not

Muslim Hussain

applicable in the instant case and the Government orders referred to by the respondents are not applicable in case of these applicants who were engaged way back in 1977 i.e. long before the said Govt. orders came into existence. This Hon'ble Tribunal after examining thoroughly the position of law and all related orders/notification on the matter, observed vide its judgment and order dated 24.01.2001 in O.A No. 398/1999 that the applicants are entitled for consideration of their case for granting temporary status and thereafter regularization under the "casual labourers (grant of temporary status and regularization) scheme, 1993" and directed the respondents accordingly to take necessary steps for granting of temporary status and regularization thereafter of the applicants. As such the plea of so called ban and denial of regularization of the services of the applicants are not sustainable and are violative of the directions passed by the Hon'ble Tribunal.

2. That the applicants categorically deny the statements made in para 4, 5, 6, 7, 8, 10, 13, 15 and 17 of the written statements and beg to submit that the so called ban as argued by the respondents have been imposed on the creation of new posts as a future austerity measure in respect of manpower which was enforced by the Govt. since 1998 and onward. But these applicants have been working since 1977 and discharging works of permanent nature and have further been granted temporary status in 2003 following the judgment and order dated 24.01.2001 in O.A 398/1999. In the said judgment dated 24.01.2001, this Hon'ble Tribunal clearly observed that the applicants are entitled for grant of temporary status and subsequent regularization under the aforesaid scheme. The respondents did not challenge the said judgment ever and rather complied with the same by granting temporary status to the applicants and only their regularization remains to be complied with in terms of the said judgment. As such, the judgment dated 24.01.2001 aforesaid has attained finality and the respondents after complying with the 1st part of the direction cannot

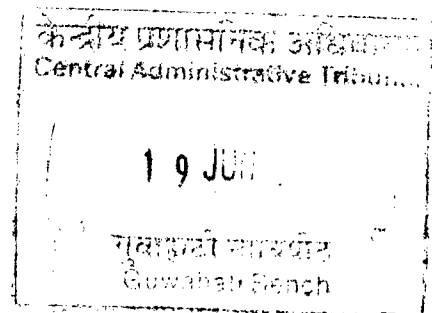
Mishin M. S. S. S.

refuse to comply with the remaining part of the direction contained in the said judgment now on the vague plea of a so called ban. It is evident from the relevant government orders and notifications that the alleged ban is on the creation of new posts and recruitment thereagainst and has no nexus to the regularization of those who have already been engaged prior to the imposition of ban and have been working since 1977 and even granted the temporary status and enjoying all benefits like that of regular employees. Further, when this Hon'ble Tribunal has adjudicated upon the case of these applicants and have passed direction for granting temporary status and regularization thereafter in respect of the applicants, the so called ban cannot stand as a bar in regularization of these applicants and as such the contention of the respondents are unsustainable, arbitrary and illegal.

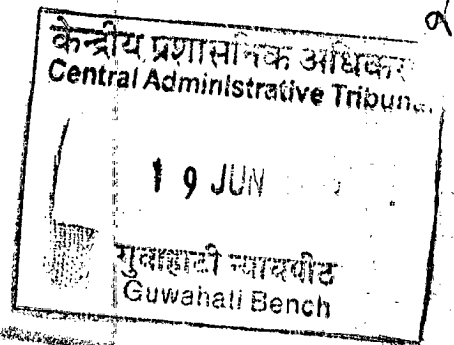
3. That the applicants deny the statements made in para 9 and 12 of the written statements and beg to state that the applicability of the scheme in question has already been examined by this Hon'ble Tribunal and keeping all such considerations in mind, the Hon'ble Tribunal has passed its direction and respondents do not have any right to repeat the same contentions.

4. That the applicants categorically deny the statements made in para 18, 20 and 21 of the written statements and further beg to submit that the grounds set forth in this application are based on facts and are in accordance with law and the applicants are entitled to get all the reliefs herein and the application is deserves to be allowed with costs.

5. That in the facts and circumstances stated above, the O.A deserves to be allowed with costs.



Amal K. Prasad



VERIFICATION

I Md. Muslim Hussain, S/o- Md. Ali, aged about ____ years, resident of Vill- Dola Padum, P.O- Thakurbari, P.S- Rangapara, Dist- Sonitpur (Assam), applicant No. 1 in the instant application duly authorized by the others to verify this rejoinder, do hereby verify that the statements made in Paragraph 1 to 5 are true to my knowledge and legal advice and I have not suppressed any material fact.

And I sign this verification on this the 14th day of June 2008.

Muslim Hussain