

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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

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SECTION OFFICER (Judl.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 10/07
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Deben Ch-Sharma vs Union of India & Ors

Advocate for the Applicant(s) S.S. Samanta, Mr. B. Devi
H.K. Das

Advocate for the Respondent(s) CASE

| Notes of the Registry | Date | Order of the Tribunal |
|---|-----------|--|
| This application is in form is filed C. F. I. R. No.- G. deposited vide CPC/2002 No. 280/9.33.097 Date 10.1.07 <i>10/07 10/07 Ran.</i> | 11.1.2007 | <p>Present: The Hon'ble Shri K.V. Sachidanandan Vice-Chairman.</p> <p>There are five Applicants who were conferred temporary status in the year 1994 and were also subsequently regularized in the month of January, 2006. The grievance of the Applicants is that while regularizing their services the period that they had worked in temporary status capacity have not been reckoned for fixation of pay. Ms. B. Devi, learned counsel for the Applicants has brought my notice to the orders of this Tribunal passed in O.A. Nos. 350/2002 and 241 of 2003 whereby the benefits have been granted to similarly situated employees based on the Full Bench decision of the Tribunal passed in O.A. No. 524/2000.</p> |

✓

Contd. P/2

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OA. 10/2007

Contd.
11.1.2007

Notice & order sent
to D/Section for
issuing to R-1 to 3
by regd. A/D post
and another R-4 sent
to received by
hand.

Case D/No-107 to 110
17/01/07. Dt- 24/11/07

Ms.U.Das, learned Addl. C.G.S.C.
appearing for the Respondents submitted that
notice should be issued to the Respondents.
Accordingly, issue notice to the Respondents,
returnable by six weeks.

Considering the issue involved, I am of
the view that the O.A. to be admitted. Admit
the O.A.

Post on 22.02.2007.

Vice-Chairman

/bb/

26.2.07

Notice issued on 11-1-07. At the request of
Deemed counsel for the respondents four
weeks time is granted to the respondents
to file written statement. Post the matter
on 27.3.07.

Vice-Chairman

No W.S has been
filed.

26.3.07.

lm

27.3.07.

Counsel for the respondents prays
for further time to file written state-
ment. Let it be done. Post the matter
on 5.4.07.

Vice-Chairman

W.S filed by the
Respondent. page 1 to 8.
copy served.

(P.D.)

lm

5.4.2007

MS.U.Das, learned Addl.C.G.S.C. submitted
that reply statement, is being filed today.
copy served on representative of counsel for
the applicant. Registry is directed to
receive the same if otherwise in order.
post on 4.5.2007. In the meantime appli-
cant is at liberty to file rejoinder, if
any.

No rejoinder has
been filed.

3.5.07

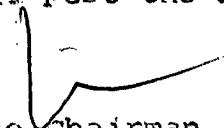
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bb

Vice-Chairman

4.5.07.

Counsel for the applicant has submitted that pleadings are completed. Post the matter on 12.6.07.

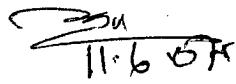


Vice-Chairman

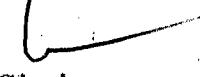
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No rejoinder has been filed.

12.6.07. Post the matter on 14.6.07.



11.6.07



Vice-Chairman

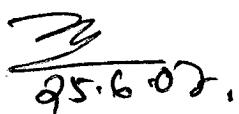
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14.6.2007

After hearing the parties for some time counsel for the parties submit that the matter is pending before the Hon'ble Gauhati High Court. Counsel for the applicant as well as the Respondents are directed to produce the copy of the stay proceeding of High Court on the next date.

Post on 26.6.07 for hearing.

No rejoinder filed



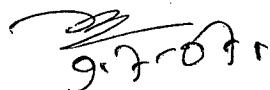
25.6.07



Vice-Chairman

/pg/

Rejoinder not filed.



9.7.07

26.6.2007

Learned counsel for the applicant has produced the copy of the Writ Petition and also the order of the Gauhati High Court suspending the order of this Tribunal dated 5.9.05 until further orders and submitted that the matter will come up for hearing shortly.

Post the matter on 10.7.07 for hearing. Learned counsel for the parties are directed to apprise the position day by day.



Vice-Chairman

/pg/

10.7.2007

Heard learned counsel for the parties. Judgment delivered in open Court kept in separate sheets.

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

Received

Abha Das
Add Chsc
16/7/07

bb

Vice-Chairman

Received for filing with the Hon'ble
Chairman of the Standing Committee on
Applications prior to starting of session 2007
Dr. Arvind Singh Bhatnagar
17/7/07
for the purpose of being considered by the
Committee on the subject of the
application for the grant of leave to the
Chairman of the Standing Committee on
Applications.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.10 of 2007

DATE OF DECISION: 10.7.2007

Sri Deben Ch. Sarma & 4 Others

.....Applicant/s

Ms.B.Devi

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

- Versus -

U.O.I. & Ors

.....Respondent/s

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

.....Advocate for the
Respondents

CORAM

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

1. Whether reporters of local newspapers may be allowed to see the Judgment?

Yes/No

2. Whether to be referred to the Reporter or not?

Yes/No

3. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ?

Yes/No

4. Whether their Lordships wish to see the fair copy of the Judgment?

Yes/No

Vice-Chairman

13/7/07

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 10 of 2007.

Date of Order: This, the 10th day of July, 2007.

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

1. Sri Deben Ch. Sarma
S/o Late Niladhar Sharma
R/o Vill. Taragaon (Nanaipar)
P.O: Chenglijhar via Sipajhar
Dist: Darrang, Assam.

2. Sri Dharma Ram Baishya
S/o Shri Rina Ram Baishya
R/o Vill:- Taramatha
P.O: Arikuchi
District: Nalbari, Assam

3. Shri Harinath Talukdar
S/o Late Puwaram Talukdar
R/o Vill: Athgaon
P.O: Hinguli via Baihata Chariali
Dist: Kamrup, Assam.

4. Shri Chitta Ranjan Mazumdar
S/o Late Basistha Mazumdar
R/o Vill. Taramatha
P.O: Arikuchi
Dist: Nalbari, Assam.

5. Shri Nirmal Saikia
S/o Late Ramesh Saikia
R/o Kailashpur near Siva Mandir
Udalbakra, P.O: Lalganesh
Dist: Kamrup, Assam.Applicants.

By Advocates Mr.S.Sarma, Ms. B.Devi & Mr.H.K.Das.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Mines
Shastry Bhawan, New Delhi.

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2. The Director General
Geological Survey of India
27, J.L.Nehru Road
Kolkata-16.
3. The Dy. Director General
Geological Survey of India
North Eastern Region
Shillong-793003.
4. The Director
Geological Survey of India
Technical Co-ordination Divn, (G)
R.G.Baruah Road, Lakshmi Nagar Path
Guwahati-781 005.

... Respondents.

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

O R D E R (ORAL)

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

The Applicants, five in number, are working as Group 'D' employees under the Geological Survey of India Department, Guwahati. Initially, they were appointed as casual labourers under the Respondents on various dates of 1987. Subsequently, the Applicants were granted temporary status w.e.f. 19.3.1993 by the Respondents vide order dated 26.6.1994 (Annexure-1) as per "Casual Labourer (Grant of Temporary Status and Regularisation) Scheme, 1993". Applicants claimed that by dint of their sincere and unblemished service they continued to serve under the Respondents and also earned



increments as such. Their services were regularized against Group 'D' posts vide orders dated 30.1.2006 and 25.1.2006 (Annexures 2 & 3 respectfully). But while regularising the services of the Applicants, the Respondents have fixed their pay again at their initial stage of the Group- 'D' posts not taking into consideration the increments that they have earned during their service as temporary status employee. The Applicants preferred various representations before the Respondents for ventilating their grievances but the same yielded no result in positive. Being aggrieved with the aforesaid action of the Respondents, the Applicants have filed this O.A. invoking Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 seeking the following main reliefs:-

- "8.1 To direct the respondents to re-fix the pay of the applicants taking into consideration the increment that they have earned during their service tenure as temporary status worker, and to pay the arrear salary and to pay interest on delayed settlement of the said dues.
- 8.2 To direct the respondents to pay interest on the arrear salary that was withheld @ 21% pa."

2. The Respondents have filed a detailed reply statement contending that pay scale of the Applicants on their regularisation in Group 'D' posts from contingent worker conferred with temporary status have to be fixed at the minimum of pay scale of Rs.2550-3200/- i.e., Rs.2550/- by virtue of the Govt. of India, DOP&T O.M. No.49014/4/97-Estt.(C) dated 29.1.1998 and the Director (P)'s, Geological Survey of India, Central Headquarter, Kolkata letter dated 8.3.1999. The O.M. dated 29.01.1998 states that as per the provisions of Casual Labourer (Grant of Temporary Status and Regularisation) Scheme, conferment of temporary status to the casual labourers is without reference to the availability of a Group 'D' post and despite conferment of temporary status they continue to draw wages on actual basis. The pay of casual labourer with temporary status on their regularisation against a Group 'D' post may, therefore, be fixed at the minimum of the pay scale of the relevant Group 'D' post. Therefore, the Respondents contended that the increments the Applicants had earned during the period of temporary status cannot be taken into consideration due to non-availability of sanctioned post. The representations

received from the Applicants were forwarded to the higher authorities at Kolkata for information and necessary action. Hence, the Respondents claimed that the Applicants have no case and therefore, the O.A. is liable to be dismissed.

3. I have heard Ms. B. Devi, learned counsel for the Applicants and Ms.U.Das, learned Addl. C.G.S.C. for the Respondents. Learned counsel for the parties have brought my attention to the various pleadings, materials and evidence placed on record. Learned counsel for the Applicants would argue that the action of the Respondents in fixing the pay of the Applicants in the minimum scale of pay by not taking the increments earned during their period of temporary status into account is bad both on facts and law which cannot be sustained. Learned counsel for the Respondents, on the other hand, persuasively argued that as per the direction issued in the O.M. dated 29.01.1998 since conferment of temporary status is without reference to the availability of regular Group 'D' post and they continue to draw wages on actual basis, their pay has to be fixed at the minimum of the basic pay on their regularisation.

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4. I have given due considerations to the arguments, pleadings, materials and evidence placed on record. Now, the short question for consideration in this matter is as to whether the increments earned during the period of temporary status is to be reckoned or not for the purpose of re-fixing the pay of the Applicants on their regularisation. It is an admitted position that before regularisation the Applicants were conferred with temporary status w.e.f. 19.3.1993. In support of her contention, learned counsel for the Applicants has taken my attention to a decision of this Tribunal dated 5.9.2005 rendered in O.A. No. 350 of 2002 wherein similar issue has been dealt with elaborately. On going through the said decision it is clear that identical question came up for consideration before a Full Bench of the Principal Bench of the Tribunal in O.A. 524/2000 decided on 11.09.2001 (1997-2001 ATFBJ 318). The aforesaid Full Bench considered the following two questions:-

"i) whether the action of respondents in fixing the pay of applicants at the minimum stage of the pay attached to the post of Group 'D' on their regularisation in accordance with law and rules or not;



ii) whether the increments earned by applicants temporary status casual mazdoors have to be included while fixing their pay on their regularisation as Group 'D' employees"

After taking note of the views taken by two different Benches i.e., the Order dated 10.3.2000 of CAT Hyderabad Bench in O.A.1051/1998 (K.Rajajah and Another vs. U.O.I. & Ors), and the Order dated 29.11.2000 of CAT Principal Bench in O.A. No.1031/2000 (All India RMS and MMS Employees Union vs. U.O.I. & Ors) and the contention raised by the Respondents with reference to FRs 9(21), 22, 24 and 26(a) which relate to the procedure and methods of fixation of pay in the scale of pay, the Full Bench observed as under:-

"12. In our view, reliance by respondents on the FRs, and the distinction sought to be drawn between wages paid to a casual labourer with temporary status, and pay granted to a regular Group 'D' employee is misplaced, because they do not contemplate a situation such as the one before us, where daily rated casual labourers who continue in that capacity for considerable lengths of time, and are subsequently granted temporary status, are eventually regularized. Government is expected to be a model employer and a situation



should not be countenanced where as casual daily wage labourer with temporary status is compelled to suffer diminution in his emoluments, merely because he is regularised, or where his emoluments are made to fall lower than that of his junior who has not been regularized. It must be remembered that such acts of omission or commission on his part, but only because, for no fault of his own, he has attained sufficient seniority to be regularized. Furthermore, when all other facilities such DA, HRA and CCA have been extended to the casual labourers who had been granted temporary status vide Postal Department's letter dated 12.4.91, and other concession such as leave as admissible to regular employees; holidays as admissible to regular employees; counting of service for the purpose of pension and terminal benefits as in the case of temporary employees appointed on regular basis; Central Government Employees Insurance Scheme; G.P.F. Medical aid, L.T.C.; All advances admissible to temporary Group 'D' employees; Bonus etc. have been extended in terms of Postal Department letter dated 30.11.92 (Ann.A-2), it would be manifestly unjust and unfair to deny them the benefits of increments earned by them as temporary status casual labourers, while fixing their pay as Group 'D' employees."

The Full Bench ultimately answered the aforesaid to questions as follows:-



"16. In the result the reference is answered as follows:-

- (i) No
- (ii) Yes. To that extent DOPT's O.M. dated 29.1.98, in so far as it affects applicants in the present case, is quashed and set aside. However we make it clear that inclusion of such increments will by itself not entitle the beneficiaries to claim seniority on that basis."

In view of the above, this Bench of this Tribunal in O.A.350/2002 had passed the following order:-

"15. This decision of the Full Bench is followed by a Single Bench of this Tribunal in the order dated 08.04.2004 in O.A. No.241/2003. In the light of these decisions, particularly the Full Bench decision, reliance placed by the respondents on the Office Memorandum dated 29.01.1998 to deny the benefit of fixing the pay in the group 'D' posts in which, they are regularized without reckoning the increments already earned by them as casual labourers with temporary status immediately prior to such regularisation is illegal and unjustified. The Full Bench, it must be noted, has quashed and set aside the O.M. dated 29.01.1998. So long as the Full Bench decision stands the said order cannot be resurrected by issuing such an order again. In view of the above the 2002 DO(P&T) order relied on by the respondents also cannot stand. I accordingly hold that the pay of the applicants in the regularized post has to be fixed by reckoning



the increments already earned by the persons mentioned in annexure-A while they were working as casual labourers with temporary status on their regularisation to the group 'D' post. I, accordingly, direct the respondents to re-fix the pay of the said persons within a period of three months from the date of receipt of this order and arrears due to them be paid within a period of three months thereafter."

From the above decision of this Tribunal it is quite clear that the Full Bench vide its order dated 11.09.2001, referred to in the decision, had already set aside the O.M. dated 29.1.1998 which has been relied by the Respondents in this case. In view of the Full Bench decision, this Tribunal directed the Respondents to refix the pay of certain Applicants and to pay the arrears due to them within a specified time. Therefore, the Respondents cannot rely on the said O.M. dated 29.01.1998 which has become obsolete. In another decision dated 08.04.2004 passed in O.A.241/2003 this Tribunal directed the Respondents to fix the pay of the Applicants therein taking into account their increments already earned by them during their period of temporary status. Learned counsel for the Applicant submitted that the decision of the Full Bench was challenged before the Hon'ble Delhi High Court and the Hon'ble Delhi High Court

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vide its order dated 17.4.2006 passed in WP(C) No.11884/2005, WP(C) No11885/2005 & WP(C) No.11886/2005 upheld the judgment of the Full Bench. The operative portion of that order is reproduced below:-

"The learned counsel for the respondent has pointed out that on 02.09.2005 in OA No. 65/2005 a similar view was taken directing refixing the payment of the applicant by giving due weightage to the increments earned by him while working in the temporary status. The aforesaid judgment dated 02.09.2005 has been implemented. As per the order of Ministry of External Affairs dated 11.11.2005 the order of Hon'ble Supreme Court dated 04.08.2003 in SLP in CM No.11667/2002 dismissed the special petition against the order of the Hon'ble High Court of Kerala dated 15.02.2002 which order of Kerala High had taken the view in favour of the respondent. Since the view taken by the Kerala High Court has been affirmed by the dismissal of the Special Leave Petition by the Hon'ble Supreme Court we are satisfied that the view taken in the impugned judgement of the CAT is correct. In this view of the matter, there is no interference called for and the writ petition is accordingly dismissed and stands disposed of."

It is also submitted that order of this Tribunal dated 5.9.2005 passed in O.A. No.350/2002 was taken-

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up before the Hon'ble Gauhati High Court in WP(C) No.1769/2006 and the Hon'ble High Court vide its order dated 28.06.2007 passed in Misc. Case No.2390/2007 in WP(C) No.1769/2007 vacated the interim order dated 22.03.2006 whereby the operation of the judgment dated 05.09.2005 was stayed. Learned counsel for the Applicant would argue that mere pendency of the writ petition before the High Court against the order of this Tribunal will not per-se stall the benefit that has been granted to the Applicants. Therefore, direction may be issued to the Respondents to refix the pay of the present Applicants as that of O.A. No.350/2002. This Court could not find any decision debarring the Applicants from the benefit that have been granted to them only because writ petition is pending against the order of this Tribunal (earlier stay vacated).

5. Considering entire aspects of the case and the legal position, as discussed above, and the submissions made on behalf of both sides, I am of the view that mere pendency of the matter before the higher forum will not stand in the way in granting similar benefits to the Applicants especially when the earlier stay was vacated by the Hon'ble High



Court. Therefore, in my considered opinion, the Applicants are entitled to get their pay re-fixed by reckoning the increments already earned by them during the period of temporary status. Accordingly, I direct the Respondents to re-fix the pay of the Applicants by reckoning the increments they have already earned as temporary status conferred employee taking into consideration the observations made above within a period of three months from the date of receipt of this order. The Respondents are also directed to pay the Applicants the arrears salary due to them within the stipulated period mentioned above. However, it is made clear that the Applicants will not be entitled for any benefit of seniority.

The Original Application is allowed to the extent indicated as above. There will be no order as to costs.



(K.V. SACHIDANANDAN)
VICE CHAIRMAN

/BB/

10 JUN 2007

Guwahati Bench

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Title of the case : D.A. No. 10.....of 2007

BETWEEN

Deben Ch. Sharma & Ors..... Applicants.

AND

Union of India & ors..... Respondents.

SYNOPSIS

The applicants got their initial appointment under the respondents in the year 1987 on various dates. The respondents by an order dated 26.6.94 extended all the applicants with the benefit of temporary status w.e.f. 19.9.93. The said benefit of temporary status was extended to the applicants taking into consideration the scheme adopted by the Govt of India, Ministry of DOPT. in the name and style " Casual labourer (Grant of Temporary Status and Regularisation) Scheme introduced w.e.f. 01.09.1993.

The applicants by dint of sincere and unblemish service continued to serve under the respondents and as per the norms they earned the increments. The respondents having regard to the continuous satisfactory service of the

applicants, issued order dated 30.01.2006 and order dated 25.01.2006 by which the services of the applicants have been regularised against Group - D Posts. But the respondents at the time of regularising the services of the applicants, fixed the pay again at the initial stage of the Group-D posts, whereby the pay of the applicants have been reduced to the initial stage again. The increments that they earned during their service as temporary status worker, have not been taken into consideration while fixing their pay at the time of their regularisation. The applicants preferred several representations ventilating their grievances but same yielded no result in positive. Hence the applicants have come under the protective hands of this Hon'ble Tribunal seeking redressal of their grievances.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Title of the case : O.A. No. 10.....of 2007

BETWEEN

Deben Ch. Sharma & Ors..... Applicants.

AND

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

I N D E X

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Filed by : Deben

Regn. No. :

File : d:\private\deben

Date : 10.1.07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act, 1985)

O.A.No. 10 of 2007

BETWEEN

1. Sri Deben Ch. Sharma
S/o Late Niladhar Sharma
R/o Vill.- Taragon (Nanaipar)
P.O. Chenglijhar via Sipajhar
Dist. Darrang, Assam.
2. Sri Dharmaram Baishya
S/o Shri Rina Ram Baishya
R/o Vill.- Taramatha
P.O. Arikuchi
Dist. Nalbari, Assam.
3. Shri Harinath Talukdar
S/o Late Puwaram Talukdar
R/o Vill. Athgaon
P.O. Hinguli via Baihata Chariali
Dist. Kamrup, Assam.
4. Shri Chitta Ranjan Mazumdar
S/o Late Basistha Mazumdar
R/o Vill. Tarmatha
P.O. Arikuchi
Dist. Nalbari, Assam
5. Shri Nirmal Saikia
S/o Late Ramesh Saikia
R/o Kailashpur near Siva Mandir
Udalbakra, P.O. Lalganesh,
Dist. Kamrup, Assam.

..... Applicants.

- AND -

1. Union of India represented by
Secretary to the Govt. of India,
Ministry of Mines, Shastry Bhawan,
New Delhi-110001.
2. The Director General
Geological Survey of India
27, J.L. Nehru Road,
Kolkata-16.

D.Shaurya

Filed by:-
The Applicant
through
Hridip Kr. Das.
SS
Advocate
10.1.07

3. The Dy. Director General
Geological Survey of India,
North Eastern Region,
Shillong-793003.
4. The Director
Geological Survey of India,
Technical Co-ordination Divn, (G)
R.G. Baruah Road, Lakshmi Nagar Path,
Guwahati-781005.

..... Respondents.

DETAILS OF THE APPLICATION

1. THE PARTICULARS AGAINST WHICH THIS APPLICATION IS MADE:

This application is directed against the action on the part of the respondents in not protecting the pay of the applicants from the time of their regularisation by calculating the increments they earned during their service tenure as Temporary status mazdoor.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants are citizen of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the cause of action and the reliefs sought for by the applicants in the present application is similar and the applicants in view of minimising the number of litigation as well as the cost of such litigation prays before the Hon'ble Tribunal to allow them to join together in a single application invoking Rule 4(5)(a) of the Central Administration Tribunal (Procedure) Rules 1987.

4.3 That all the applicants got their initial appointment as casual worker under the respondents during the year 1987 on various dates. After their initial appointment as casual worker they continued to hold the same and subsequently the respondents by an order dated 26.6.94 extended all the applicants with the benefit of temporary status w.e.f. 19.9.93. The said benefit of temporary status was extended to the applicants taking into consideration the scheme adopted by the Govt of India, Ministry of DOPT. in the name and style " Casual labourer (Grant of Temporary Status and Regularisation) Scheme introduced w.e.f. 01.09.1993.

A copy of the said order dated 26.06.1994 is annexed herewith and marked as ANNEXURE-1.

4.4. That the applicants beg to state that after getting the benefit of temporary status in terms of the aforesaid order dated 29.06.1994, w.e.f. 1.9.1993, they continued to enjoy the benefit of the said scheme and their pay were fixed at the initial stage of the prescribed Group-D scale, in terms of the said scheme. It is stated that by dint of sincere and unblemish service they continued to serve under the respondents and as per the norms they earned the increments. The applicants got the benefits of the scheme of 1993, pursuant to which they were granted the benefit of Temporary status w.e.f. 01.09.1993.

4.5. That the respondents having regard to the continuous satisfactory service of the applicants, issued order dated 30.01.2006 and order dated 25.01.2006 by which the services of the applicants have been regularised against Group - D Posts. Pursuant to the aforesaid orders the services of the applicants No 1,2 and 3 got regularised in Group- D posts w.e.f 06.12.2005 and the services of the applicants No 4 and 5 got regularised w.e.f. 01.02.2006 and 13.3.06.

Copies of the orders dated 30.01.2006 and
25.01.2006, are annexed herewith and
marked as ANNEXURE - 2 and 3.

The applicants crave leave of this Hon'ble Tribunal to produce the regularisation order of the Applicant No.5 at the time of hearing of the case.

4.6. That the respondents at the time of regularising the services of the applicants, fixed the pay again at the initial stage of the Group-D posts, whereby the pay of the applicants have been reduced to the initial stage again. The

increments that they earned during their service as temporary status worker, have not been taken into consideration while fixing their pay at the time of their regularisation.

4.7. That the applicants beg to state that they during their survive as temporary status worker earned 12 increments, in the pay scale of Rs 2550/- to 3200/- with the total emoluments as Rs 6821/- p.m. But at the time of regularisation the pay of the applicants have again been fixed at the minimum of the pay scale of Rs 2550/- to 3200/- with the total emoluments as Rs. 5357/-. By the process the applicants No 1, 2 and 3 has been losing an amount of Rs 1464/- pm in total and so far it relates to applicants No 4 and 5 they are losing an amount of Rs 1500/- p.m. The applicants ventilating the grievances preferred representations to the concerned authority. The applicants have filed identical representations on various dates i.e, on 17.3.2006 (Applicants No 1,2 and 3) and 16.03.2006 (Applicants No 4 and 5.)

Copies of one of such representations dated 07.03.2006 is annexed herewith and marked as ANNEXURE- 4.

4.8. That the applicants beg to state that the respondents have virtually reduced the pay of the applicants and to that effect no notices have been issued. Persons who are at present working as temporary status workers under the respondents are now drawing higher pay than the applicants. It is stated that the action on the part of the respondents

in reducing the pay at the time of regularisation without protecting the pay is illegal and arbitrary. The respondents in terms of the provisions contained in the FRSR ought to have protected the pay of the applicants counting the increment that they have earned during their service as temporary status worker.

4.9. That the applicants beg to state that identical controversy as indicated above arose in respect of the employees of the Department of Posts (in.O.A No 241/2003) as well as the employees of Automic Mineral Department, North Eastern Region, (in.O.A No 350/2002) before the Hon'ble Tribunal. The Hon'ble Tribunal relying on a decision rendered by the Full Bench of the Principal Bench of the Hon'ble Tribunal in O.A No 524/2000 decided on 11.09.2001, (Reported in Full Bench Judgment at 1997 - 2001 ATFB 1 - 318), allowed the above noted OA No. 241/03 and OA No. 350/02 vide judgment and order dated 8.4.04 and 5.9.05 respectively.

The judgments and order dated 5.9.2005 (in O.A No. 350/2002) and 08.04.2004 (in O.A No 241/2003) are annexed herewith and marked as ANNEXURE- 5 and 6.

4.10. That the applicants beg to state that the ratio laid down in the aforesaid judgments and orders (Annexure 5 and 6) surely covers the issue involved in the present OA and as such they are entitled to the reliefs regarding the refixation of pay taking into consideration the increment that they have earned during their service as temporary status.

4.10. That the applicants beg to state that having found no reply to their representations, they submitted identical reminders to the respondents indicating the similar cases that were decided by the Hon'ble Tribunal. However, as on date nothing has been done so far in those matters and the applicants are continuously suffering from the irregular and illegal action on the part of the respondents. It is bounded duty of the respondents to extend the benefit that has already been extended by the Hon'ble Tribunal while addressing to the identical issue. When the law is settled by a Court of law, same is required to be implemented in respect of the similarly situated employees without requiring or forcing them to approach the Hon'ble Tribunal again and again.

That the applicants demanded justice but same has been denied to them and situated thus the applicants as a last resort have come under the protective hands of the Hon'ble Tribunal, praying for redressal of their grievances.

O

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents are illegal and arbitrary and as such same is liable to be set aside and quashed.

5.2. For that the respondents without any cogent ground have denied the benefit of pay protections to the present applicants and refused to take in to consideration the increments they have earned during their service as temporary status that too in violation of the provisions of

FRSR, and as such appropriate direction need be issued to the respondents to re-fix the pay of the applicants taking into consideration the increments that they earned during the service as temporary status worker and pay the arrear accordingly with interest.

5.3. For that the respondents have acted contrary to the settled law as laid down by the Hon'ble Tribunal in identical matters and as such they are liable for severe punishment for their willful and deliberate violation of the Hon'ble Tribunal.

5.4. For that in any view of the matter the action/inaction on the part of the respondents is not sustainable in the eye of law and liable to be set aside and quashed, directing the respondents to refixation of pay of the applicants taking into consideration the increment that they have earned during their service as temporary status.

The applicants crave leave of the Hon'ble Tribunal to place further facts as well as the grounds and settled law at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

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

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

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

8. RELIEF SOUGHT FOR:

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

8.1. To direct the respondents to re-fix the pay of the applicants taking into consideration the increment that they have earned during their service tenure as temporary status worker, and to pay the arrear salary and to pay interest on delayed settlement of said dues.

8.2. To direct the respondents to pay interest on the arrear salary that was withheld @ 21 % pa.

8.3. Cost of the application.

Group 'D'
9

D Sharma

8.4. Any other relief / reliefs as may be deemed fit and proper considering the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR.

That having regard to the facts and circumstances of the case the applicants at this stage does not pray for any interim relief, during the pendency of the case.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. :
2. Date :
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Sri Deben Chandra Sharma, son of late Niladhar Sharma, aged about 41 years, resident of Village- Taragaon (Nanaipar), P.O. Chenglijhar via Sipajhar, in the District of Darrang, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 4.6, 4.8, 4.11 are true to my knowledge and those made in paragraphs 4.3 - 4.5, 4.7, 4.9 - 4.10 are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

I am the applicant No.1 in the instant application and as such well convergent with the facts and circumstances of the case and also competent and authorised by the other applicant to sign the verification.

And I sign on this the Verification on this the 10th day of January of 2007.

Sri Deben Ch. Sharma

Signature.

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28
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GOVERNMENT OF INDIA
GEOLOGICAL SURVEY OF INDIA
NORTH EASTERN REGION
SHILLONG

No. /L-12034/CIRC/1/GEN/93-Rec. Dt. the June 194.

OFFICE ORDER

In compliance of D.G.T.C's OM. No. 51016/2/93-Rec. (C) dt. 10-09-93 forwarded by the Director (Admin.), Geological Survey of India, Calcutta vide letter No. 3766/L-12031/GW/Gen/86-91/CAD/Vol. II dt. 07.02.94, temporary Status is conferred on the contingent/casual workers of Geological Survey of India, North Eastern Region (as per list enclosed). with effect from 01-09-93.

2. Temporary Status would entitle the casual labourers to the following benefits (Reproduce below):-

(i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including D.A., HRA and C.C.

(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 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 this regularisation. They will not be entitled to the benefits of uncashment 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 regularisation.

(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 and are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Government Servants of their Department.

(vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only at the rates as 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 Dispute Act, they shall continue to be admissible to such casual labourers.

Contd ...P.2/

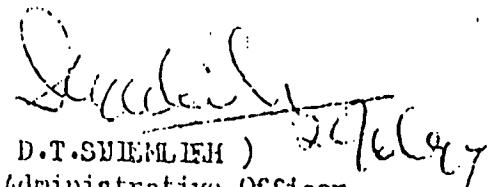
Signature
R/K (S)

Attested

Signature
Advocate

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.

All Head Offices in the North Eastern Region may maintain necessary records for each contingent/casual labourer who have been granted Temporary Status.


(D.T. SYIEMLEIH) X/6/94
Senior Administrative Officer

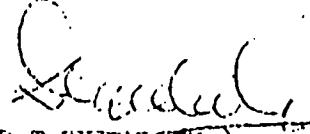
for Dy. Director General.

No.

/4-12034/CERC/1/MLR/93-Recd. Dt. the June 194.

Copy for information and necessary action to :-

1. The Director, Opm. TNC, /APC/MNC/RCD (Assam), G.S.I., N.E.R.
2. All Divisions/Sections, G.S.I., N.E.R., Shillong.


(D.T. SYIEMLEIH) X/6/94
Senior Administrative Officer

for Dy. Director General.

Sri Nirmal Saikia.

8/7/94

Sri Shuklendra Ram Baishya

8/7/94

Sri Noron Chandra Baishya.

8/7/94

Sri Kamala Sunita Das.

8/7/94

Sri Chittaranjan Nageswar

8/7/94

Sri Daben Sarmah. 12/7/94

Sri H. Mukherjee

28/7/94

GOVERNMENT OF INDIA

No /A-12031/4/90-Recd.

Dated, January, 2006.

OFFICE ORDER

On the recommendation of the Departmental Selection Committee, the Deputy Director General, Geological Survey of India, North Eastern Region, Shillong has been pleased to appoint the following Contingent worker with Temporary Status on regularization to the post of Cleaner in Geological Survey of India, North Eastern Region in the time scale of pay of Rs. 2550-55-2660-60-3200/-.

| Sl. NO. | Name and Designation | Date of joining | Details of sanction reference to the post. | Place of posting |
|---------|---------------------------|------------------|--|---|
| 1. | Shri Deben Chandra Sharma | 06.12.2005 (F/N) | Vide MOM letter No. 27/130/2004-M-II, dated 04.02.2005 | Temporarily posted in Opm. Assam |
| 2. | Shri Harinath Talukdar | -do- | -do- | -do- |
| 3. | Shri Dharma Ram Baishya | -do- | -do- | -do- |
| 4. | Shri Danny Narzari | 08.12.2005 (F/N) | -do- | Temporarily posted in Admn. Building, GSI, NER, Shillong. |
| 5. | Shri Gokul Ch. Brahma | 09.12.2005 | -do- | -do- |

They will be on probation for a period of 2 years with effect from the date of their appointment as Cleaner and their retention in the post for further period will be subject to the assessment of their work and conduct during the probationary period and their services is liable to be terminated without any notice and without any cause being assigned to them during the probation period.

Their appointment to the post is also subject to other terms and conditions stipulated in the offer of appointment letter issued to them.

The pay and allowances of the above appointee will be drawn under " Permanent Non-Plan Head"

Sej
(K. KHARMALKI)
Administrative Officer Gr. I &
H.O.O.
for Dy. Director General

No 6938 /A-12031/4/90-Recd.

Dated, 30 January, 2006.

Copy for information and necessary action to :

1. The Dy. Director General (P), Geological Survey of India, 27 J.L. Nehru Road, Kolkata-16.
2. The Director, Opm. Assam, GSI, NER, Guwahati.
3. The DDO, Cash Section, GSI, NER, Shillong.
4. The Pay and Accounts Officer, Pay and Accounts Office, GSI, NER, Shillong.
5. The A.O., Accounts-III, Cleaner, Opm. Assam, GSI, NER, Guwahati.
6. The Joining Report and Medical Certificate of Shri Danny Narzari and Shri Gokul Ch. Brahma, Cleaner are enclosed herewith.
7. The A.O., Contingent Cell/Budget/Internal Audit GSI, NER, Shillong.
8. The Store Officer, M-M Division/General Store, GSI, NER, Shillong.
9. C.R. file/Assessment file/Guard file.
10. Shri Deben Ch. Sharma, Cleaner, Opm. Assam, GSI, NER, Guwahati.
11. Shri Harinath Talukdar, Cleaner, Opm. Assam, GSI, NER, Guwahati.
12. Shri Dharma Ram Baishya, Cleaner, Opm. Assam, GSI, NER, Guwahati.
13. Shri Danny Narzari, Cleaner, GSI, NER, Shillong.
14. Shri Gokul Ch. Brahma, Cleaner, GSI, NER, Shillong.

MM
(K. KHARMALKI)
Administrative Officer Gr. I &
H.O.O.
for Dy. Director General

Attested

Deb

Advocate.

GOVERNMENT OF INDIA

H-12021/1/18782-Rat

Dated, the _____.

To :

Shri/Smti/Miss Chitra Ranjan Majumder,
Contingent Fund granted Job opening GSI,
Geological Survey of India

H.E.I.L.G.R.A.N.D.U. Geological Survey of India,
Lakshmi Narayan Path, Guwahati - 5.

Sub : Recruitment to the post of Cleaner
in the Geological Survey of India.

Subject to the production of the original documents hereinafter mentioned and to the acceptance of the contents hereof by the undersigned and also subject to the conditions set forth below, Shri/Smti/Miss Chitra Ranjan Majumder is offered a temporary appointment of Cleaner in the Geological Survey of India on a pay of Rs. 250-35-260-60-370/- plus dearness and other allowances at the rate admissible under, and subject to the conditions laid down in rules and orders governing the grant of such allowances in force from time to time.

2. The appointment is temporary, but likely to continue for an indefinite period.

3. Appointment carries with its liability to serve in any part of India.

4. He/She will have to remain on probation for 2 years in the first instance from the date of his/her appointment as Cleaner in the GSI. Retention in the post for further period will depend on assessment of his/her work during probationary period. This period may, however, be extended or modified at the discretion of the Government of India.

5. His/Her services may be terminated as follows :-

(i) At any time without notice during the probationary period.

(ii) At any time except during the probationary period on one Calendar month's notice in writing given to him/her by Government, if in the opinion of Government he/she proves unsuitable for the efficient performance of his duties.

(iii) At any time, without previous notice, if Government is satisfied on medical evidence that he/she is unfit or is likely, for considerable period, to continue unfit for the discharge of duties provided always that the decision of the Government that he/she is likely to continue unfit shall be conclusively binding on him.

(i.) At any time, without any previous notice, if he/she is found to be guilty of any insubordination, intemperance or other misconduct or of any breach of non-performance of any of the provisions of his conduct with the Government or of any rules pertaining to the breach of the public service to which he may belongs.

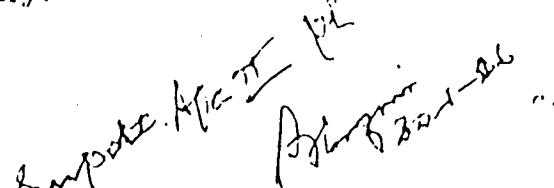
(v) By 1 (one) month's notice in writing at any time either by him or to the Government or by Government to him/her without cause assigned. Provided always that the Government may in lieu of any notice herein provided for, give him/her a sum equivalent to the amount of his/her pay for one month.

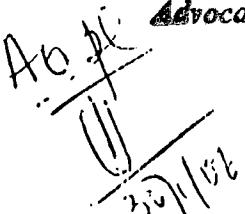
6. The appointment is subject to his/her being declared medically fit by a Competent Medical Authority and his/her character and conduct found satisfactory.

Attested



Advocate.




30/1/82

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7. He will have to give a declaration of his marriage in the prescribed form and in the event of his having more than one wife living, the appointment will be subject to his being exempted from the enforcement of the requirement in his behalf.

8. He will have to take an oath of allegiance to the constitution of India in the prescribed form.

9. Other conditions of his service will be governed by the relevant rules and orders in force from time to time.

10. He should produce the following :-

- (i) Original Matriculation and other certificates of educational qualifications together with attested copies thereof and any other documents as an evidence of age.
- (ii) One character certificate in the enclosed form from the Head of Educational Institution last attended by him/her and a similar certificate from his employer, if any, duly attested by the Stipendiary 1st Class Executive Magistrate, District Magistrate or S.D. Magistrate or their higher authorities.
- (iii) All the forms.

11. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have willfully suppressed any material information, he will be liable to removal from service and such other action as Government may deem necessary.

12. No travelling allowances will be allowed for joining the appointment.

13. He/She should acquire the minimum 30 words per minute in typing within six months from the date of his/her joining, failing which he/she will not be entitled to increment quasi-permanency/permanency etc.

14. He/She will be posted in the office of the Geologist, Geological Survey of India, New Delhi, If Shri/Smti/Kumari Isha Rayamajhi..... is willing to accept the above appointment on the terms and conditions as mentioned, he/she is requested to report for duty to the undersigned within 30 days from the date of issue of this memo.

Sd/-

K. K. H. R. M. A. L. K. I.
(Administrative Officer & Head of office)
for Deputy Director General (G)

6918

A-12021/1/12/12-Lest. Dated, the 05/11/08

Copy for information and necessary action to :-

The Director, A.S.I. Technical & Coordination Divn, Lakhnagar Path, Guwahati.
Shri Chitra Rayamajhi may please be allowed to join duty only after receipt of Medical fitness certificate and certificate of character from the Principal/Head of the Institution concerned.

Sd/-
K. K. H. R. M. A. L. K. I.
(Administrative Officer & Head of office)
for Deputy Director General (G)

ANNEXURE - 4

To

The Deputy Director General,
Geological Survey of India,
North Eastern Region,
Shillong-793003.

(Through proper channel)

Sub:- Fixation of pay on regularisation
from Temporary Status Group 'D'.

Ref:- Your office order No.6038/A-12031/4/90-Rectt.
dt. 30th January, 2006.

Sir,

With due respect I beg to state that I have been engaged in G.S.I, Guwahati as a contingent w.e.f. 19-9-87 and conferred with Temporary Status Group 'D' w.e.f. 1-9-93 as per your office order No.1437-1517/A-12034/CIRC/1/NER/93-Rectt.Dt.21-6-94. Further as per your office order referred above I have been regularised in the post of Cleaner w.e.f. 6-12-2005(FN).

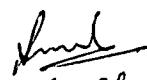
Before my regularisation to the post of cleaner I was allowed to draw pay @ Rs.3140/- with total emolument of Rs.6821/-p.m. after allowing 12 increment in the pay scale of Rs.2550-3200/- from the date of conferment of Temporary Status. But on my regularisation to the post of cleaner w.e.f. 6-12-2005 my pay has been fixed at the minimum of the pay scale at Rs.2550/- with total emolument of Rs.5357/- which found that I lose Rs.1464/- P.M. due to my regularisation.

The above fixation of pay is found to doing injustice to us, whereas in the confirmation of Temporary Status order Para-ii said to give the benefits of increment at the same rate of increment as applicable to a Group 'D' employee on completion of every one year service. In para-iii of the order said to allow the carryforward leave at credit on regularisation. In para-vi it said that after rendering three years continuous service after conferment of Temporary Status, the casual labourers would be treated on par with Temporary Group 'D' employees. As such my pay should not be reduced to a lower stage.

Therefore, I request you to kindly look into the matter and restore my pay @ Rs.3140/- in the pay scale of Rs.2550-3200/- w.e.f. 6-12-2005 on regularisation to the post of cleaner.

Yours faithfully,

Dated. 7-3-06.


(Deben Ch. Sharma,
Cleaner,
G.S.I, T.C.D(G), Guwahati.

Copy for information and necessary action to:-
1. The Secretary General, GSIEA-822, CWC, Jaipur.
2. The General Secretary, GSIEA-822, NER, Shillong.
3. The Secretary, GSIEA-822, R.G.D(A), Guwahati.


(Deben Ch. Sharma,
Cleaner,
G.S.I, T.C.D(G), Guwahati-5.

Attested



Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL *ANNEXURE - 5*
GUWAHATI BENCH

Original Application No. 350 of 2002.

Date of Order: This the 6th day of September 2005.

The Hon'ble Mr. Justice G. Silverajan, Vice Chairman.

1. The North Eastern Regional Atomic Mineral Workers Union, (NERAMWU), (Regn. No. 79 dated 19.5.1992) Affiliated to Regional Co-Ordination Committee, A.M.D. Complex P.O. - Assam Rifles, Nongmynsong, Shillong, Meghalaya, Represented by the President Sri Shyamal Chanda.

2. Sri Nandan Shah, General Secretary (NERAMWU) A.M.D. Complex, P.O. - Assam Rifles, Nongmynsong, Shillong, Meghalaya.

... Applicants

By Advocates : Mr. S. Sarma, Mr. U.K. Nair, Ms. B. Devi.

- Versus -

1. The Union of India, Represented by Secretary to the Government of India, Department of Atomic Energy, New Delhi.

2. The Chairman, Atomic Energy Commission, Mumbai.

3. The Chief Administrative and Accounts Officer, Government of India, Department of Atomic Energy, Atomic Mineral Division, Hyderabad - 6.

4. The Director, Atomic Mineral Department, Hyderabad.

5. The Regional Director, Atomic Mineral Department (AMD), North Eastern Region, Shillong - 11 (Meghalaya).

... Respondent

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

Arrested

Advocate.

ORDER

SIVARAJAN. I. (V.C.)

This application was filed by a union by name North Eastern Regional Atomic Mineral Workers Union (NERAMWU) affiliated to regional Co-ordination Committee, P.O. - Assam Rifles, Nomgmynsong, Shillong, Meghalaya represented by its president and by another Sri Nandan Shah, General Secretary of the said union. It is stated that the first applicant is the President of the Union and he represents the interest of all the 101 members of the union as reflected in annexure - A. They have originally filed this application on 10.10.2002 seeking for direction to the respondents to issue necessary order regularizing the services of the applicants with retrospective effect i.e., the date on which their immediate juniors were regularised with all consequential service benefits including arrear of salary. They also sought for direction to the respondents to modify the orders of regularisation in respect of persons Sl. Nos. 87 to 101 in the list and to make the same effective from the date when the services of their juniors were regularised with consequential service benefits. This application was subsequently amended by way of a consolidated application in October 2004. Apart from the relief sought initially, they also sought for direction to the respondents to modify the order dated 13.05.2003 making it effective with effect from 29.12.1990 and also for direction to the respondents to modify the identical impugned order dated 13.05.2003 so far it relates to pay protection of the applicants from the stage at Rs. 2960/- p.m.

2. The very same applicants had earlier filed O.A. No. 17/ 96. The said application was for direction to the respondents to regularize

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their services in view of the fact that they have been granted Temporary Status under a Scheme known as Casual Labours (Grant of Temporary Status and Regularisation) Scheme introduced with effect from 01.09.1993. The Tribunal taking note of the submission made by the respondents, that the process of regularisation of Temporary Status holders is going on, observed that the applicants will have to participate in the selection process for regularisation of their services if and when they are called upon to do so in order to avail of the benefits of regularisation provided in the scheme and also taking note of the fact that services of the applicants were utilized by the respondents for long period of time which indicates that the nature of work where they were engaged requires workers regularly and the fact that the respondents have since paid the applicants at regular scales of pay with effect from 01.10.1993, issued following directions :-

In the circumstances, the respondents can expedite the regularisation of the services of the casual workers if within a reasonable time they consider creation of relevant posts for accommodating the casual workers. We direct the respondents to initiate such consideration within 3 months from the date of receipt of this order and thereafter take appropriate decision.

With regard to grant of pay at the minimum of the pay scale for the period prior to 1.10.1993, the applicants were directed to make representations to the competent authorities and they were directed to consider the same and communicate a speaking order. Pursuant to the said direction the Administrative Officer - III in the Atomic Mineral for Exploration and Research, Government of India, Department of Atomic Energy issued a communication dated 16.02.1999 (Annexure - 2), wherein the proposal for creation of 706

[Signature]

posts for regularization of 689 casual workers and 17 worked charge employees was made and requested for sanction. The case of the applicants is that while the question of regularisation was thus pending with the respondents some of the casual labourers who had been assigned temporary status, who are juniors to the applicants were regularised ignoring the seniority. The applicants have produced a copy of the order passed by the Supreme Court in Civil Appeal arising out of SLP (C) Nos. 15619 and 15848 of 1994 dated 21.04.1995 (Annexure - 3). It is stated that on the lines of the Supreme Court decision, the applicants who are seniors to the persons whose services were regularised earlier must also be promoted from the date from which the appellants in the said SLP were directed to be regularised. The services of the persons mentioned in annexure - A at Sl. No. 87 to 101 were regularised prior to the filing of this O.A. while the services of persons at Sl. No. 1 to 86 were pending regularisation. However, during the pendency of this O.A. additional posts were created and the persons at Sl. No. 1 to 86 except one were regularised. It is in the above circumstances the consolidated application has been filed in 2004 and sought for direction to the respondents to modify the order dated 13.05.2003 making it effective with effect from 21.12.1990 which is the date on which parties involved in the SLP were directed to be regularised.

3. The applicants have also got a case that in the order for regularization of their services, their pay in the group 'D' posts was fixed at the minimum of scale i.e., at Rs. 2550/- as against sum of Rs. 2960/- which they were getting as casual labourer with temporary status at the time of their regularisation. According to them, when their services were regularised in group 'D' posts their pay should

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have been fixed with reference to the pay which they were getting prior to their regularisation. They in support relied on a decision of this Bench rendered in O.A. No. 241/2003.

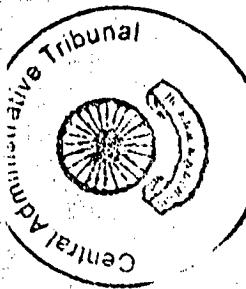
4. The respondents have filed written statement and additional written statement and the applicants have also filed rejoinders also. We have heard Mr. S. Sarma, learned counsel for the applicants and Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.

5. Mr. S. Sarma, counsel for the applicants submitted that the applicants have got service as casual labourers from various dates commencing from 30.11.1985 as stated in annexure - A and they have been assigned temporary status under the 1993 scheme with effect from 1.10.1993. Counsel submitted that there has been inordinate delay on the part of the respondents in regularizing the services of the applicant and persons junior to the applicants who are mentioned in the decision of the Supreme Court at annexure - 3 have been regularised ignoring their superior claim. Counsel submitted that the Supreme Court in similar circumstances had issued direction to regularise the services of seniors who are appellants in that case. Counsel submitted that the respondents are bound to extend the same benefits to the applicants also. Counsel pointed out that the appellants in the SLP case were promoted in 1990 and therefore the applicants' services are also liable to be regularised with effect from the said date. Counsel also submitted that the services of the applicants were regularised, the applicants at Sl. No. 1 to 86 except one with effect from 13.05.2003 only with prospective effect. He also pointed out that in the said order pay of the applicants have been fixed at Rs. 2550/-

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which is the minimum of the scale of pay of Rs. 2550-55-2660-3200/- whereas on the relevant dates the applicants were getting pay of Rs. 2960/- Counsel submitted that the said action of the respondents in fixing the pay at the minimum of the scale of pay of Group 'D' posts is illegal and unjustified. Counsel in support has relied on the decision of this Tribunal in O.A. No. 241/2003.

6. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents with reference to the additional written statement filed on 06.08.2005 submitted that the respondents with reference to the directions issued by this Tribunal in the order dated 05.01.1999 in O.A. No. 17/1996 took urgent steps for creation of additional posts taking into account the delay likely to occur in the matter of regularisation of the services as per vacancy which are likely to arise in future and by their earnest efforts they were able to create additional posts and had regularised the services of all the persons mentioned in annexure - A except one whose case is also under process. Regarding 15 persons who are stated to have been given regularisation earlier to the persons mentioned in annexure - A referred to in the Supreme Court judgment (1995) when the judgment was rendered by the Supreme Court and that they were only working on casual basis. He further submitted that casual labourers 13 in members were regularised only in 2003 and services of casual labour at Sl. No. 8 amongst the 15 persons were regularised in 5.8.1999 against the departmental circular. Counsel submitted that though the aforesaid circumstances were brought to the notice of the Supreme Court by way of Clarification Petition the same was dismissed. Counsel submitted that the case of all the persons concerned in the SLP were dealt with by reference to



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the Government orders issued prior to the 1993 scheme. He further submitted that though the applicants had filed O.A. No. 17/1996 and judgment was rendered on 18.01.1999 the applicant had no such case before the Tribunal. In the above circumstances, Mr. Chaudhuri submitted that even if the applicants had got such a case it is barred by principle of constructive res-judicata for the reasons that the Tribunal did not issue any direction in that regard in the year 1999. The Standing Counsel also submitted that in order to regularise the services of 101 persons, apart from other casual labourers who have been assigned temporary status there should be vacancies in group 'D' posts. He further submitted that vacancies for regularisation of the services of the 85 persons arose only by way of creation of additional posts in 2003 and therefore no question of regularizing the services of the persons concerned with retrospective from an anterior date.

7. Regarding fixation of pay in the minimum of the scale of Rs. 2550-3200/- Mr. Chaudhuri has brought to my notice an order of the Government of India, Department of Personal and Training O.M. No. 49014/4/97-Estt.(C) dated 29.01.1998 and circular dated 07.10.1999 issued by the Atomic Mineral for Exploration and Research giving effect to the Government memorandum and a communication dated 29.11.2002 issued by the DOPT and another communication dated 13.12.2002 issued by the Directorate (Annexures - R14 to R17) and submitted that in view of the said orders and circulars the pay of casual labourers with temporary status on their regularisation against group 'D' posts can be fixed only at the minimum of pay scale at the relevant group 'D' posts.

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8. I have considered the rival submissions. As on today all the 101 casual workers except one who had been assigned temporary status shown in annexure - A list have been regularised. Hence, the relief for regularisation of services of 101 persons shown in annexure - A list does not survive. Now, their only case is with regard to grant of retrospective regularisation with effect from 1990; which according to them, is the date on which some of the casual labourers who are juniors to them have been regularised as directed in the order of Supreme Court mentioned above. The other surviving contention is that when the casual labourers in annexure - A list were regularised in group 'D' post their pay in the said post was fixed without reckoning the increments which they earned while they were working as temporary status casual labourers.

9. First let me consider the claim of casual labourers mentioned in annexure - A list for retrospective regularisation from 1990 i.e., the alleged date from which some of their juniors are stated to have been regularised in group 'D' posts. Admittedly, the 101 persons mentioned in annexure - A list were assigned temporary status under Casual Labourer (Grant of Temporary Status and Regularisation) Scheme 1993. The said scheme does not provide any regularisation of their services in group 'D' posts within a particular time frame. Clause 8 of the Scheme only provides that 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 Personal & Training from amongst casual labourers with temporary status. The 101 persons in annexure - A list were assigned temporary status under scheme of 1993 with effect

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from 01.10.1993. By virtue of the assignment of temporary status they are entitled to various benefits available under the scheme including regularisation of their services as and when vacancies for the said purpose arises in accordance with seniority from the empanelled list.

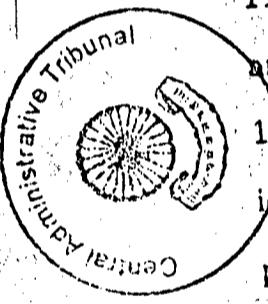
They cannot demand for regularisation of their services dehors the occurrence of vacancies set apart for them. The Union representing the 101 persons as already mentioned, had approached this Tribunal for regularisation of their services and the Tribunal after noting the fact that there will be considerable delay in regularizing the services of the casual labourers for want of sufficient vacancy in group 'D' posts thought fit to issue direction to the respondents to initiate steps within a stipulated period for creation of additional group 'D' posts to accommodate the casual labourers who are assigned temporary status. Based on the said direction the respondents initiated action and after elaborate correspondence the respondents could be able to create 475 grade 'D' posts in the cadre of Helper, Watchman and Security Guard in the scale of pay Rs. 2550-55-2660-60-3200/- and persons in the annexure - A list except one were regularised in the said vacancies by orders dated 13.05.2003 and 13.06.2003. In such circumstances all these persons should have been happy and content with the regularisation of their services in group 'D' posts at least in 2003.

10. Now the case of the applicant's is that the Supreme Court had considered the case of certain casual labourers who had challenged the action of the respondents in regularizing the services of certain juniors (15 persons) ignoring their seniority and the Supreme Court had directed that the appellants therein also must be regularised from the date from which those 15 persons were

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regularised. The same treatment, it is stated, must be given to these persons also. The Respondents, in their additional written statement had mentioned the names of all the 15 persons and gave the date of their engagement on daily wages. It is stated that the aforesaid 15 persons were not regularised at that point of time (1995) and that they were only working on casual basis. It is stated that the services of 11 persons amongst them were regularised only in 2003 and another person was regularised on 5.8.1999 against the departmental circular. The details of 3 persons were stated to be not known. Here it must be noted that the decision of the Supreme Court (Annexure -3) was rendered in 1995 with reference to the alleged regularisation made in 1990 prior to the introduction of the 1993 scheme under which 101 persons have been assigned temporary status. In other words, the Supreme Court decision was rendered with reference to the executive orders, which existed prior to the 1993 scheme.

11. The very same applicants, on behalf of 101 persons in annexure - A list agitated this matter before the Tribunal in O.A. No. 17/1996. If they had a case that their juniors have been regularised ignoring the seniority list they should have taken up the matter in that proceedings before this Tribunal. They do not appear to have taken such contention in the said application, nor such contention is seen stated in the order dated 05.01.1999 passed by the Tribunal in that case. The Tribunal, as already noted, had only issued direction to the respondents to take steps for regularisation of the services of the persons shown in annexure - A by creation of additional posts. In these circumstances, as contended by the respondents, principle of constructive res-judicata would apply and the respondents can be heard to say in this proceedings that they must be given retrospective



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regularisation from 1990 on which date their juniors have been regularised. Factually also even the persons referred to in the Supreme Court orders, most of them, were regularised only in 2003.

The applicants have no case that after the commencement of 1993 scheme any of the juniors of the persons shown in annexure - A list have been regularised in violation of the seniority list. The decision of the Supreme Court in the SLP in the above circumstances cannot be sought in aid of the applicants' case.

12. One another important circumstances is also relevant. In the earlier application, O.A. No. 17/1996 filed by the present applicants permission was granted by this Tribunal to the union to agitate the matter on behalf of 101 persons mentioned in annexure - A list. This is for the reason that all of them had a common cause, namely regularisation of their services in group 'D' posts since all of them have been assigned temporary status. In the present application the same union comes up with a prayer for retrospective regularisation. Even assuming that there were irregularities in the matter of regularisation only those persons who are affected by such regularisation can challenge the same. In the instant case 101 persons mentioned in annexure - A list were engaged as casual labourers during the period from 1985 to 1991. The 15 persons whose details are furnished in paragraph 4(f) of the additional written statement (who are involved in the SLP) were engaged from 1987 to 1992. Only those persons amongst 101 persons who were engaged prior to the 15 persons alone can, if at all, come up with a complaint that their seniority in the empanelled list of casual workers with temporary status had been overlooked. Here all the 101 persons, irrespective of the dates of their engagement are seeking the same relief. In other

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words, so far as retrospective regularisation based on the supercession of the seniors by juniors only persons who are actually affected by such supersession can have a grievance. Such an issue cannot be agitated by a union. For all these reasons, claim of 101 persons in the annexure - A list prosecuted by the applicants cannot be sustained. Hence, I decline to grant the relief of retrospective regularisation to the 101 casual labourers with temporary status in the group 'D' post to which all of them except one was regularised.

13. Coming to the case of 101 persons in annexure - A list that their pay on regularisation of their services in group 'D' post has been fixed at the minimum of scale of pay of Rs. 2550-3200/- ignoring the increments already earned by them, it appears that there is a strong point for them. The minimum of the scale of pay in group 'D' post is Rs. 2550/- in the scale of pay of Rs. 2550-55-2660-60-3200/-. All the 101 persons except one at the time of their regularisation in group 'D' posts were getting the pay of Rs. 2960/-. The respondents have contended that in view of the O.M. dated 29.01.1998 issued by the DOPT the pay of casual labourers with temporary status on their regularisation against the group 'D' posts has to be fixed at the minimum of pay scale of the group 'D' post. This is reiterated in the circular dated 07.10.1999 and in the Government order dated 20.11.2002.

14. Identical question with reference to the Government order dated 29.01.1998 came up for consideration before a Full Bench of the Principal Bench of the Tribunal in O.A. No. 524/2000 decided on 11.09.2001 (available at 1997-2001) ATFBJ 318. The Full Bench considered the following two questions: -

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(i) whether the action of respondents in fixing the pay of applicants at the minimum stage of the pay attached to the post of Group 'D' on their regularisation in accordance with law and rules or not;

(ii) whether the increments earned by applicants as temporary status casual mazdoors have to be included while fixing their pay on their regularisation as Group 'D' employees"

After taking note of the views taken by two different Benches (Order dated 10.3.2000 of CAT Hyderabad Bench in O.A. 1051/1998, K. Rajajah and Another Vs. U.O.I. & Ors. And Order dated 29.11.2000 of CAT Principal Bench in O.A. No. 1031/2000, All India RMS and MMS Employees Union Vs. U.O.I. & Ors.) and the contention raised by the respondents with reference FRs 9(21), 22, 24 and 26(a) which relate to the procedure and methods of fixation of pay in the scale of pay of the applicants, the Full Bench observed thus :

"12. In our view, reliance by respondents on the FRs, and the distinction sought to be drawn between the wages paid to a casual labourer with temporary status, and a pay granted to a regular Group 'D' employee is misplaced, because they do not contemplate a situation such as the one before us, where daily rated casual labourers who continue in that capacity for considerable lengths of time, and are subsequently granted temporary status, are eventually regularised. Government is expected to be a model employer and a situation should not be countenanced where a casual daily wage labourer with temporary status is compelled to suffer diminution in his emoluments, merely because he is regularised, or where his emoluments are made to fall lower than that of his junior who has not been regularised. It must be remembered that such acts of omission or commission on his part, but only because, for no fault of his own, he has attained sufficient seniority to be regularised. Furthermore, when all other facilities such as DA, HRA and CCA have been extended to the casual labourers who had been granted temporary status vide Postal Department's letter dated 12.4.91, and other concession such as leave as admissible to temporary employees; holidays as admissible to regular employees; counting of service for the purpose of pension and terminal benefits as in the case of temporary

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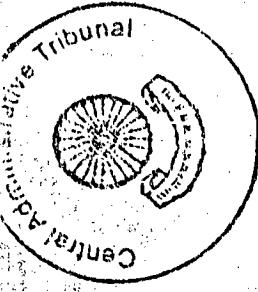
employees appointed on regular basis; Central Government Employees Insurance Scheme; G.P.F., Medical aid, L.T.C.; All advances admissible to temporary Group 'D' employees; Bonus etc. have been extended in terms of Postal Department letter dated, 30.11.92 (Ann. A-2), it would be manifestly unjust and unfair to deny them the benefits of increments earned by them as temporary status casual labourers, while fixing their pay as Group 'D' employees".

The Full Bench ultimately answered the aforesaid two questions as follows:

"16. In the result the reference is answered as follows:

| | |
|------|---|
| (i) | No |
| (ii) | Yes. To that extent DOPT's O.M. dated 29.1.98, in so far as it affects applicants in the present case, is quashed and set aside. However we make it clear that inclusion of such increments will by itself not entitle the beneficiaries to claim seniority on that basis." |

15. This decision of the Full Bench is followed by a Single Bench of this Tribunal in the order dated 08.04.2004 in O.A. No. 241/2003. In the light of these decisions, particularly the Full Bench decision, reliance placed by the respondents on the Office Memorandum dated 29.01.1998 to deny the benefit of fixing the pay in the group 'D' posts in which, they are regularised without reckoning the increments already earned by them as casual labourers with temporary status immediately prior to such regularisation is illegal and unjustified. The Full Bench, it must be noted, has quashed and set aside the O.M. dated 29.01.1998. So long as the Full Bench decision stands the said order cannot be resurrected by issuing such an order again. In view of the above the 2002 DO(P&T) order relied on by the respondents also cannot stand. We accordingly hold that the pay of the applicants in

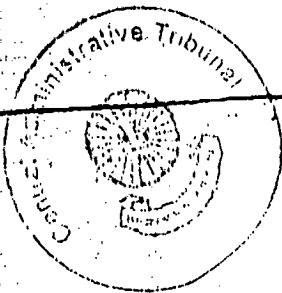


the regularised post has to be fixed by reckoning the increments already earned by the persons mentioned in annexure - A while they were working as casual labourers with temporary status on their regularisation to the group 'D' post. I, accordingly, direct the respondents to re-fix the pay of the said persons within a period of three months from the date of receipt of this order and arrears due to them be paid within a period of three months thereafter.

The respondents will consider the case of the remaining one person in annexure ^A list and pass appropriate orders regarding regularisation within four months.

The O.A. is disposed of as above.

sd/VICE CHAIRMAN



Date of Application : 12.7.05
Date on which copy is ready : 12.7.05
Date on which copy is delivered : 12.7.05
Certified to be true copy

12.7.05
Section C/16 (J.D)
C. A. T. C. Shati Bench

Guwahati

12.7.05
12.7.05

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 241 of 2003.

Date of Order : This the 8th Day of April, 2004.

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

1. Sri Harendra Nath Baishya,
2. Sri Aditya Deka,
3. Sri Aurabindo Kalita,
4. Md Unish Ahmed,
5. Md. Hussain Ali,
6. Md Khairul Hussain
7. Sri Humeswar Laskar,
8. Md Mahibuddin Ahmed,
9. Sri Lalmohan Das,
10. Sri Nareswar Bora,
11. Sri Surendra Namasudra.

...Applicants

All the applicants are presently working as Mail Man under the Senior Superintendent of Post Offices, RMS, Guwahati Division, Meghdoot Bhawan.

By Advocate Miss Usha Das.

- Versus -

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Communication, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Assam Circle, Meghdoot Bhawan, Guwahati-1.
3. The Superintendent of Post Offices, R.M.S., Meghdoot Bhawan, Guwahati-1.
4. The Head Record Officer, Accounts Department of Post, Guwahati-1.
5. Union of India, represented by the Secretary to the Govt. of India, Ministry of Personnel, Public Grievances and Pension, Deptt. of Personnel & Training, New Delhi.
6. Union of India, represented by the Secretary to the Govt. of India, Ministry of Finance, New Delhi.

..Respondents

By Shri A. Deb Roy, Sr.C.G.S.C.

O R D E R (ORAL)

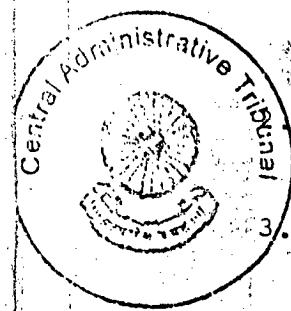
K.V.PRAHLADAN, MEMBER (A)

This application has been filed praying for a direction on the respondents to allow the applicants to draw salary in the Group-D cadre taking into consideration their earlier pay drawn as TSM.

Attested



Advocate



2. The applicants were appointed as Casual Worker in 1989 and subsequently they have been granted temporary status in 1992 and 1993 and their services were regularised in terms of the scheme. They have also been granted the benefit of fixation of pay in terms of 5th Central Pay Commission recommendations. But suddenly the respondents have issued the impugned order dated 11.9.2003 directing the recovery of alleged excess payment from the applicants. As the applicants have been posted against regular vacancies and earned their regular increments the action of the respondents is illegal and arbitrary. Miss U.Das, learned counsel for the applicants pointed out that as per F.R.22 (2) the pay of casual labourer with temporary status on their regularisation against a Group 'D' post may be fixed at the minimum of the pay scale of the relevant Group 'D' post and therefore the respondents issued the order dated 11.9.2003 at Annexure-D for recovery of the alleged excess amount paid to them. In this connection the Full Bench of the Principal Bench, New Delhi in O.A.No.524 of 2000 the Tribunal held as under :

"Furthermore, we find that both in regard to the Telecom Department, vide letter dated 23.7.93 (copy taken on record) as well as the Railway Board vide its letter dated 5.11.78 (copy taken on record) the pay of casual employees with temporary status, upon their regularisation, are required to be fixed taking into account the increments already earned by them. If in the Telecom Deptt. as well as in the Railway Ministry, increments earned as temporary status casual labourers are required to be included while fixing pay on their regularisation as Group 'D' employees a different yardstick cannot be applied to employees of the Postal Department such as the present applicants.

In this connection it is also important to note that the Postal Department themselves in their letter dated 30.11.92 have referred to the Hon'ble Supreme Court's judgment dated 29.11.89 in which it has been held that after rendering three years continuous service with temporary status, casual labourers would be treated at par

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with temporary Group 'D' employees of the Department of Posts and would, therefore, be entitled to such benefits as are admissible to Group 'D' employees on regular basis. As rendering of three years of continuous service with temporary status would entitle the casual labourer normally to be entitled to three annual increments and a Group 'D' employee is entitled to count the benefit of increment for purposes of pay fixation, this is yet another strong reason why temporary status casual labourers should be permitted to count the increments earned by them while fixing their pay at the time of the regularisation as Group 'D' employees."

3. In view of this order the Postal Department ought to have corrected its stand for granting the increments already earned by the applicants as temporary status casual labourer. Therefore, the impugned order dated 11.9.2003 is set aside and quashed and the respondents are directed to fix the pay of the applicants by taking into account their increments already earned by them as temporary status casual labourers. However, inclusion of the increments shall not entitle them any benefit of seniority.

With the above order the O.A stands disposed of. No order as to costs.

Sd/MEMBER(ADM)

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Section C/Tier (J)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

18/2/04

३ MAY 2007

गुवाहाटी नगरपालिका

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH

Original Application No. 10/2007

1. Sri Deben Ch. Sharma
S/o Late Niladhar Sharma
R/o Vill. – Taragaon (Nanaipar)
P.O. Chenglijhar via Sipajhar
Dist. Darrang, Assam.
2. Shri Dhanu Ram Baishya
S/o Shri Rina Ram Baishya
R/o Vill. – Taramatha
P.O.- Arikuchi
Dist. Nalbari, Assam.
3. Shri Harinath Talukdar
S/o Late Puwaram Talukdar
R/o Vill . Athgaon
P.O. Hinguli via Baihata Chariali
Dist. Kamrup , Assam .
4. Shri Chitta Ranjan Mazumdar
S/o Late Basistha Mazumdar
R/o Vill. Tarmath
P.O. Arikuchi, Dist. Nalbari,
Assam.
5. Shri Nirmal Saikia
S/o Late Ramesh Saikia
R/o Kailashpur near Siva Mandir
Udalbakra,
P.O. Lalganesh,
Dist. Kamrup, Assam.

----- Applicants

-Versus-

1. Union of India represented by
Secretary to the Govt. of India,
Ministry of Mines, Shastry Bhawan,
New Delhi- 110001.
2. The Director General
Geological Survey of India,
27, J.L. Nehru Road,
Kolkata- 16.
3. The Dy. Director General
Geological Survey of India
North Eastern Region,
Shillong- 793003.

Filed by

Khushibor Kharwale

Head of office
G.S.I.NER Shillong

Through
Ksh. Dass

4. The Director
Geological Survey of India,
Technical Co-ordination Division (G)
R.G. Baruah Road, Lakshimi Nagar Path,
Guwahati – 781005.

----- Respondents

And

IN THE MATTER OF :

The Written Statement for and on behalf of Respondents

The humble respondents most respectfully shewth :

1. That with regards to Para 1, 2, and 3, the Respondents beg to officer no comments.
2. That with regards to Para 4.1, 4.2, 4.3, 4.4 & 4.5, the Respondents beg to state that these are matter of records and hence no offer to comment.
3. That with regards to Para 4.6 the Respondents beg to state that the applicant's pay scale on their regularisation in the post of Cleaner from Contingent Worker conferred with Temporary Status have to be fixed at the minimum of pay scale of Rs. 2550-3200/- i.e. in Rs. 2550 in terms of Government of India, Department of Personnel & Training, O.M. No. 49014/4/97-Estt. (C) dated 29.01.1998.

A copy of Government of India, Department of Personnel & Training, O.M. No. 49014/4/97-Estt. (C) dated 29.01.1998 is enclosed and marked as Annexure- A.

4. That with regards to Para 4.7 the Respondents beg to state that these are matter of records. Further the respondents beg to state that in view of the Government of India, Department of Personnel & Training, O.M. No. 49014/4/97-Estt. (C) dated 29.01.1998 and the Director (P)'s, Geological Survey of India, Central Headquarter, Kolkata- 16 letter No. 797N/A-12031/CW/Wages/86-91/17D, Vol.-II dated 08.03.1999, the pay of Contingent Worker conferred with Temporary Status have to be fixed at the minimum of pay scale of Rs. 2550-3200/- i.e. in Rs. 2550.

A copy of Director (P)'s, Geological Survey of India, Central Headquarter, Kolkata- 16 letter No.797N/A-12031/CW/Wages/86-91/17D, Vol.-II dated 08.03.1999 is enclosed and marked as Annexure- B.

5. That with regards to Para 4.8 the Respondents beg to state that the respondents are ever duty bound to remain within the jurisdiction in their commission and has to effect the law, rules and regulation passed by the Government of India. The Government of India, Department of Personnel & Training, O.M. No. 49014/4/97-Estt. (C) dated 29.01.1998 states that as per the provisions of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, the conferment of temporary status, to the casual Labourers is without reference to the availability of a regular Group 'D' post and despite conferment of temporary status they continue to draw wages on actual basis. The pay of casual labourer with temporary status on their Regularisation against a Group 'D' post may, therefore, be fixed at the minimum of the pay scale of the relevant Group 'D' post.

Thus the increments earned during the period when the applicants were holding temporary status worker can not be taken into account due to non-availability of the sanctioned post.

6. That with regards to Para 4.9 & 4.10 the Respondents beg to offer no comments.

7. That with regards to Para 4.11 the Respondents beg to state that the representations received from the applicants has been sent to higher authorities at Kolkata for information and necessary action under Geological Survey of India, NER letter No. 3116/A-12021/1/18/87-Rectt., dated 10.11.2006.

A copy of Geological Survey of India, NER letter No. 3116/A-12021/1/18/87-Rectt., dated 10.11.2006 is enclosed and marked as Annexure - C.

8. That the application is bad for non-joinder/ misjoinder of necessary parties.

9. That the written statement is made bonafide and for the ends of justice.

10. That under facts and circumstances of the case and the provisions of law, the application is liable to be dismissed with cost as devoid of any merit and without any cause of action.

..... Verification

VERIFICATION

I, Shri Khlainbor Kharmalki, Administrative Officer Gr. I & Head of Office, Geological Survey of India, North Eastern Region, Shillong, Son of (L) L.S. Sawkmie, aged about 52 years, resident of Malki, Shillong- 793001, who is taking steps in this case, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in the Para 1, 2, 6 to 8 Para _____ are true to my knowledge and belief, those made in paragraphs 3, 4, 5, 7 being matter of records, are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 28th day of March, 2007 at Guwahati.

Khlainbor Kharmalki

DEPONENT *Head of office*
G.S.I. NER Shillong

8. Orders regarding appointment of the ~~ministers~~ constitution of Anomaly Committee at National level will be issued separately.

9. All Ministries/Departments are accordingly requested to take urgent action to set up the Anomaly Committees for settlement of anomalies arising out of implementation of the Fifth Pay Commission's recommendations, as stipulated above.

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G.I., Dept. of Per. & Trg., O.M. No. 49014/4/97-Estt. (C),
dated 29-1-1998

1. Pay to be fixed at the minimum of the pay scale when casual labourers with temporary status on regularization against a Group 'D' post

The undersigned is directed to say that references are being received in this Department seeking clarifications with regard to fixation of pay of casual labourers with temporary status on their regularization against a Group 'D' post.

2. As per the provisions of Casual Labourers (Grant of Temporary Status and Regularization) Scheme, the conferment of temporary status, to the casual labourers is without reference to the availability of a regular Group 'D' post; and despite conferment of temporary status they continue to draw wages on actual basis. The pay of casual labourer with temporary status on their regularization against a Group 'D' post may, therefore, be fixed at the minimum of the pay scale of the relevant Group 'D' post.

3. This issues in concurrence with the Ministry of Finance vide their I.D. No. 1675/E. III-A/98, dated 9-1-1998.

General.



भारत सरकार

GOVERNMENT OF INDIA

7

Annexure - B

सं/No.....

797N/A-12031/CW/Wages/86-91/17D, Vol.-II

प्रेषक/From

निदेशक (प्रशासन)

भारतीय भूवैज्ञानिक सर्वेक्षण

4, चौरंगी लेन

THE DIRECTOR (PERSONNEL)
GEOLOGICAL SURVEY OF INDIA
4, Chowringhee Lane

Telegram: GEOSURVEY

Phone: 29-6047

29-6052

29-6005

245-0031

कलकत्ता/Calcutta-16, 8th March 1999.

सेवा में/To

The Sr. Administrative Officer,
Geological Survey of India,
North-Eastern Region,
Shillong.

Mub : Regularisation of Contingent with Temporary Status in Group-'D' post - Clarification regarding pay fixation.

Ref : Your letter Nos. (1) 5583/A2034/CIR/NER/
Rectt. dated 2-2-98 & (2) 4072/12034/Cire/
1/NER/93-Rectt. dated 10-9-98.

Sir,

In response to your letter under reference on the above quoted subject, this is to inform you that the initial pay of the Government servant who is appointed from muster roll Contingent worker with temporary status to a regular Group-'D' employee in the scale of pay Rs.2550-3200/- be regulated at the minimum of the basic pay.

Yours faithfully,

1/CC and
5/3/99

(MIRA CHOWDHURY)
Administrative Officer,
for Director (Personnel).

No. _____/A-12031/CW/Wages/86-91/17D, Vol.-II Dt. ____/3/99

Copy to the Administrative Officer, Section-17B,
G.S.I. Calcutta for information only.

*APR 6
S. M. Chowdhury*

(MIRA CHOWDHURY)
Administrative Officer,
for Director (Personnel).

PER 2 AD/VI Section

GOVERNMENT OF INDIA

No. 3116 / A-12021/1/18/87-Recd.Dated, the 10th November, 2006.

From:
 The Deputy Director General,
 Geological Survey of India,
 North Eastern Region,
 Shillong.

To:
 The Director (Personnel),
 Geological Survey of India,
 4, Chowringhee Lane,
 Kolkatta - 700016.

Sub:- Regularisation of Contingent with Temporary Status in
 Group 'D' Post Clarification regarding pay fixation.

Sir,

As per your letter No.797N/A-12031(CW/Wages/86-91/17D.VOI.II,
 dated 08.03.99. It is stated that the initial pay of the Government Servant who is appointed
 from Muster Roll Contingent worker with Temporary Status to a regular Group 'D' employees
 in the Scale of Pay Rs.2550 - 3200/- be regulated at the minimum of the basic Pay.

However, we have received application from some officials requesting for
 protection of pay while fixing their pay after their regularisation. Copies of their
 applications alongwith enclosures are enclosed.

Therefore, this office may be advised for further necessary action.

Yours faithfully



(K. KHARMALKI)

Administrative Officer Grade - I
 & Head of Office,
 for Deputy Director General,
 GSI, NER, Shillong.

Enclosed :- As above.

cc