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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI - 5

(DESTRUCTION OF RECORD RULES, 1990)

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27/7/2015
SECTION OFFICER (JUDL.)

Parimal
27/7/2015

FROM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 49/2009

2. Mise Petition No /

3. Contempt Petition No /

4. Review Application No /

Applicant(s) Md Tajnur Ali

Respondent(s) M.O.I. 902

Advocate for the Applicant(s): M. Chanda, S. Nain
Ms. M. Dutta

Advocate for the Respondent(s): 6 C.G.S.C

Notes of the Registry	Date	Order of the Tribunal
1. Application is in torn envelope F for Rs. 50/- 6 p.m. P.D.D No. 39 G. 39 2793 Dated 22.2.09 W. S. 20.3.09 Dy. Registrar P.D.D 10/3/09	01/4/09	04/49/09

Petition's copy & for
summons are received
in plain envelope. Copy
received/served.

04/09/09

Next page

O.A.No.49/09
MP No.24/09
Interim Order
01.04.2009

01.04.2009 Heard Ms. Urna Dutta, learned Counsel appearing for the Applicant, and Ms. Manjula Das, learned Additional Standing Counsel for Govt. of India, and perused the materials placed on record.

2. Applicant claims that he was continuing to serve the Respondents, as a Casual Safaiwalla; when the Scheme dated 10.09.1993 of Department of Personnel & Training of Govt. of India came into force [granting Temporary Status/Regularisation to the casual employees continuing for more than one year by 10.09.1993. Since it is the case of the Applicant that he served as a Casual Safaiwalla under the Respondents for more than one year by 10.09.1003, he was entitled to get Temporary Status. Instead of granting Temporary Status to him, his casual engagements was discontinued [by the Respondents] after December 1993; for which the Applicant [along with other 8 Casual Safaiwallas] approached this Tribunal with O.A.No. 99 of 1997 and the said case was disposed of on 21.11.1997 with direction to the Respondents to consider the question of conferment of Temporary Status on the said Applicants within a specified time. By its communication dated 14.02.1998, the Respondents [by a cryptic & unreasoned order] intimated all the Applicants [of the said O.A.No.99/1997] that they "were neither found eligible nor covered under the provisions of the Scheme of 1993 for grant of Temporary Status". It is argued by Ms. Urna Dutta learned Counsel appearing for the Applicant, that the reason[s] for which the Applicant was found not eligible/not covered under the provisions of the Scheme of 1993 were not spelt out in the said communication dated 14.02.1998 and that, for the said ground alone, the communication

Ques. No. 6 (c)
20.12.07, B.L.
Ans. Pending
Date 14.02.10

dated 14.02.1998 is not sustainable in the touchstone of judicial scrutiny.

3. It is submitted by Ms. Urna Dutta, learned Counsel appearing for the Applicant, that four other similarly placed casual employees [under the present to 1993, not issued certificate from Respondents] approached this Tribunal in O.A.No.331 dated 09.08.2004 and obtained a direction, on 30.06.2005, to be considered for being engaged, on casual basis, as regular employees for filling up of sanctioned vacancies and, in consideration of the aforesaid direction, those Applicants were given casual engagements [on 02.12.2005] under the present Scheme of 1993 by the Respondents.

It is submitted, further, by Ms. U.Dutta, learned Counsel appearing on behalf of the Applicant, that though, currently, regular vacancies in Group-D on E.O.P. 2001 and other multi-crore posts are there under the Respondents and although the present claim of the Applicant is covered by the Scheme of 1993; he has not yet been given a casual engagement [with Temporary Status] by the Respondents; though several similarly placed persons have been/are being given casual engagements.

In the above premises, the Applicant has, on 02.07.2007, filed O.A. No. 5, in the present Application to quash the decision of the learned Addl. Standing Counsel for Govt. of India, dated 11.07.2007, turned down, virtually, the prayer of the Applicant for the grant of extension of time for filing of the prayer [dated 30.06.2007] of the Applicant made before the learned Addl. Standing Counsel [through his Advocate].

A copy of this Original Application has been supplied to Ms. Manjula Das, learned Addl. Standing Counsel for Govt. of India, who, at this preliminary hearing, raised the question of limitation. But the Applicant, in this case, while the learned Addl. Standing Counsel for Govt. of India has filed a petition [M.P.No.24 of 2009] for the grant of extension of time for filing of the prayer, the learned Addl. Standing Counsel for the Govt. of India has not yet approached the learned Addl. Standing Counsel for the Govt. of India. It is argued, on behalf of the Applicant, that since, under the Govt. Scheme of 1993, the Applicant

was to be conferred with Temporary Status; not giving him engagements [even on casual basis] amounts to a continuing wrong; especially when others are being given such engagements. That apart, "poor financial condition" of an unemployed person like the Applicant, has been shown to be the reason for delay in approaching this Tribunal.

7. Having given a preliminary hearing to the Counsel appearing for both parties and on perusal of the materials placed on record, a *prima facie* case is found out and this case is, accordingly, admitted; subject to question of limitation. Notices be, accordingly, issued to the Respondents [along with the copies of this O.A.No.49/09 and M.P.No.24/09] requiring them to file their Written Statement/Counter by 29th May 2009.

8. In the meantime, without prejudice to the rival claims of the parties that may be raised/to be adjudicated at the final hearing of this case, the Respondents should give casual engagements to the Applicant as against the vacant Group-D post under the Respondents.

9. While passing this above ad-interim order, liberty is hereby granted to the respondents to put up their objection, if any, to this ad-interim order and move for vacation/modification of said ad-interim order.

10. Send copies of this order to the Applicant and to all the Respondents [along with notices] in the address given in this O.A. and free copies of this order be given to the Counsel appearing for both parties.

*Received
01/04/09*
[Manoranjan Mohanty]
Vice-Chairman

cm

Memo of appearance
filed by Mrs. M. Dm,

Addl. CAGC

3/4/09

Notice copies duly
served on R.No. 1

04/9/09

- 6 -

29.05.2009 Mr. M. Chanda learned counsel

for the Applicant is present. He says that a copy of the written statement has already been supplied ^{to} him from the Respondent's side. But no such written statement is available on the records.

Registry to verify and to ^{bring} ~~give~~ on record ^{the w/s;} which is stated to ^{have} ~~been~~ recorded on 25.05.2009. Ms. Rimsim Bhasum, Advocate (representing the Respondent's side) undertakes to verify the matter from the Registry.

Call this matter on 18.07.2009 awaiting rejoinder, if any, from the Applicant.

lm

(N.D. Dayal)
Member(A)

(M.R. Mohanty)
Vice-Chairman

O.A. 49/09

18.06.2009

On the prayer of

Mr. M. Chanda, learned counsel for the Applicant, call this matter on 1st July 2009, awaiting ^{Rejoinder} ~~written statement~~ from the Applicant.

Rejoinder not filed.

lm.

(M.R. Mohanty)
Vice-Chairman

30.6.09

K. Das
Send copies of this order to the Applicant and to the Respondents.

REJOINDER

Copies of order dated send to D/Sec. for issuing to applicant and to the respondents by post.

D/No - 3722 to 3726

27/7/09 Dt: 3.7.09

01.07.2009 Mrs. U. Dutta learned counsel appearing for the Applicant is present. The Official Respondents are also represented in this case. Written statement has already been filed. Subject to legal pleas to be examined at the time of final hearing, this case is admitted and set for hearing to 28.08.2009.

Rejoinder, if any, may be filed in the meantime.

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

(M.R. Mohanty)
Vice-Chairman

lm/

No rejoinder filed

27.8.09

No ~~rejoinder~~ rejoinder filed.

15/10/09

10.12.09
No rejoinder filed

28.08.2009 On the prayer of counsel for both the parties, call this matter on 16.10.2009.

(M.K. Chaturvedi)
Member(A)

16.10.2009

(M.R. Mohanty)
Vice-Chairman

Call this matter on 14.12.2009.

(M.K. Chaturvedi)
Member (A)

lm/

(M.R. Mohanty)
Vice-Chairman

14.12.09
 Rejoinder
 filed in the
 Court by the
 Applicant

14/12/09

The case is ready
 for hearing.

22.01.2010

21.1.2010

The case is ready
 for hearing.

27.1.2010

/pg/

28.01.2010

The case is ready
 for hearing.

4.2.2010

filed for hearing to morrow at 10/02/2010

After written notice the hearing will

05/02/2010

05/02/2010
 10/02/2010
 17/02/2010

/pg/

Rejoinder has been filed to-day and
 copy of the same has already been served on
 the learned counsel for the Respondents. Learned
 counsel for the Respondents seeks time to take
 instructions on the said rejoinder.

List the matter on 22nd January 2010.

(Madan Kumar Chaturvedi)
 Member (A)

(Mukesh Kumar Gupta)
 Member (J)

On the request of Mr. M. Chanda,
 learned counsel for the applicant list on
 28.1.2010.

(Madan Kr. Chaturvedi)
 Member (A)

(Mukesh Kr. Gupta)
 Member (J)

Learned counsel for the Applicant,
 Mrs.U.Dutta seeks some time to peruse latest
 order passed by this Tribunal.

List on 05.02.2010.

(Madan Kumar Chaturvedi)
 Member (A)

(Mukesh Kumar Gupta)
 Member (J)

On the request of Mr M.Chanda,
 learned counsel for the applicant
 adjourned to 17.2.2010.

(Madan Kr. Chaturvedi)
 Member (A)

(Mukesh Kr. Gupta)
 Member (J)

17.02.2010 Heard learned counsel for parties.
For the reasons recorded separately, O.A. is dismissed. No costs.

Received copy
for Mrs. M. Dan,
Sr. C.G.S.C
P. le. Ramnath
16.03.10

nkm

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

22-3-2010
Judgement / Final order dated
17/2/2010 Prepared and
sent to the D/Section for
issuing the all the defendants
by post vide no - 678 & 681
dated 24-3-2010

IN THE GAUHATHI HIGH COURT
(THE HIGH COURT OF ASSAM; NAGALAND; MIZORAM AND
ARUNACHAL PRADESH)

WP(C) 5359/2010

Sri Ranjit Sankar Das,
S/o Late Sailaja Sankar Das,
Resident of L. D. Sarma Road, Tezpur,
District: Sonitpur, Assam

- Petitioner

- Versus -

1. The Union of India,
Represented by the Secretary,
Ministry of Defence,
Government of India,
New Delhi,

2. The Engineer-in-Chief,
Engineering Branch, MES,
Kashmir House,
New Delhi – 110 001,

3. The Chief Engineer,
M.E.S., Eastern Command,
Fort William, Kolkata – 21,

4. The Garrison Engineer,
M.E.S., Air Force,
P.O. Salonibari, Tezpur,
District: Sonitpur, Assam,

- Respondents

BEFORE
THE HON'BLE MR. JUSTICE I. A. ANSARI
THE HON'BLE MR JUSTICE PK MUSAHARY

Advocates present:

For the petitioner : Mr. A. Dasgupta,
Mr. S. C. Biswas,
Mr. P. Biswas,

For the respondents : Mr. T. Islam, CGC,

Amicus Curiae : Mr. U. K. Nair,

60 (3)
Date of hearing and judgement : 16.05.2013

Judgment and Order
(ORAL)

(Ansari, J)

Aggrieved by the order, dated 19.02.2010, passed, in Original Application (in short, 'OA') No. 49/2009, by the learned Central Administrative Tribunal, Guwahati Bench, dismissing the OA, the applicant, in the OA, has filed this writ petition, under Article 226 of the Constitution of India, seeking appropriate relief.

2. The material facts, giving rise to the present writ petition, may, in brief, be set out as under:

(i) The petitioner herein was appointed, in December, 1969, as a Sub-Overseer, in Military Engineering Service, and was promoted to the post of Superintendent (B&R), Grade-II, with effect from 10.11.1998, in the pay scale of Rs. 5,000-8,000/- . By Office Memorandum, dated 09.08.1999, issued by the Union of India, Department of P&T, the Post of Superintendent (B&R), Grade-I and Grade-II, were merged and came to be redesignated as Junior Engineer. The Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), introduced, by Office Memorandum, dated 09.08.1999, Assured Career Progression Scheme (in short, 'ACP scheme') for financial upgradation of those employees, who lacked promotional avenues, though they were, otherwise, eligible for promotion. In terms of the Scheme, one has to receive two financial upgradations, one on completion of 12 years and the other, on completion of 24 years, of

regular service. As the petitioner was not granted the second financial upgradation, he made a representation to the respondents/authorities concerned seeking redressal of his grievance. By a communication, dated 16.10.2001, the petitioner was informed by the respondents/authorities concerned that his claim had been examined by the Headquarters, but his case could not be considered as he had not cleared the departmental examination.

(ii) Acting upon the communication, dated 16.10.2001, aforementioned, the petitioner appeared in the departmental examination and passed the departmental examination. Thereafter, by his letter, dated 20.05.2004, the petitioner informed the respondents concerned about the fact that he had completed the requirement of passing of the departmental examination and he should, therefore, be granted the second financial upgradation. To the petitioner's dismay, he received a communication, dated 20.04.2004, intimating him that the benefit of second upgradation, under the ACP scheme, is available to only those junior engineers, who were holding degree or diploma in engineering and as he did not possess the requisite educational qualification, he would not be eligible to receive the second financial upgradation under the ACP Scheme.

(iii) The petitioner, then, made another representation, dated 17.05.2005, seeking second financial upgradation on the ground that he had completed more than 24 years of service and had also passed the

requisite departmental examination. While the representation remained pending, the petitioner superannuated on 31.01.2006.

(iv) Aggrieved by the fact that he had not been granted the second financial upgradation, though, according to the petitioner, he was entitled to receive such financial upgradation, the petitioner filed an Original Application (in short, 'OA'), in the Central Administrative Tribunal (hereinafter referred to as the 'learned Tribunal'), which gave rise to OA No. 162/2006. The said OA was disposed of by the learned Tribunal by order, dated 28.06.2006, directing the petitioner to make a comprehensive representation, to the respondent concerned, with corresponding direction to the respondents to dispose of the representation, if made by the petitioner, within the time limit specified by the order aforementioned.

(v) Following the order, dated 28.06.2006, aforementioned, the petitioner submitted his representation, dated 10.07.2006, whereupon the respondent made a speaking order, on 30.09.2006, rejecting the petitioner's said representation. Aggrieved by the rejection of his representation, the petitioner, again, approached the learned Tribunal by yet another OA, which gave rise to OA No. 49/2007, and it is the dismissal of his second OA, as already indicated above, which has caused the petitioner to file the present writ petition.

(vi) The respondents herein contested the OA by contending to the effect, *inter alia*, that the second financial upgradation could not be

granted to the petitioner due to the fact that the petitioner did not possess the essential educational qualification required for the purpose of his promotion to the next higher post.

3. Before proceeding further, it also needs to be noted that with the merger of the post of Superintendent (B&R) Gr-I and Superintendent (B&R) Gr-II and redesignation thereof as Junior Engineer, the qualification, required to be possessed by a junior engineer, for the purpose of promotion to the next higher post of Assistant Engineer, was prescribed as either a degree in civil engineering with 3 (three) years of service or diploma in civil engineering with 5 (five) years of service. The petitioner did not, admittedly, hold either a degree or diploma in civil engineering.

4. Merely because of the fact that the petitioner had passed the procedural examination, he was, according to the learned Tribunal, not entitled to the second financial upgradation, when he did not possess the requisite educational qualification and, with the conclusion, so reached, the learned Tribunal dismissed the OA filed by the petitioner. Aggrieved by the dismissal of his OA, as already indicated above, the petitioner is, now, before us with this writ petition made under Article 226 of the Constitution of India.

5. We have heard Mr. A. Dasgupta, learned counsel for the writ petitioner, and Mr. T. Islam, learned Central Government counsel,

appearing for the respondents. We have also heard Mr. U. K. Nair, learned counsel, who has appeared as *amicus curiae*.

6. Appearng on behalf of the petitioner, Mr. Dasgupta, learned counsel, has submitted that there is a gulf of difference between ACP Scheme and promotion inasmuch as ACP Scheme is made available to an employee on completion of requisite period of service irrespective of the fact as to whether he is entitled to promotion or not. The learned Tribunal, according to Mr. Dasgupta, learned counsel, has fallen in error in taking the view that the educational qualifications, which were required for a person to receive promotion, were also the qualifications required for receiving financial upgradation in terms of the ACP scheme.

7. We find ourselves completely unable to agree to the submissions, so made by Mr. Dasgupta, learned counsel, inasmuch as the ACP scheme is a device to make financial upgradation available to a person, who is, otherwise, eligible for promotion, but cannot be promoted, because of the fact that the promotional post is not vacant. However, a person, who is not fit for promotion either because of his lack of educational qualifications, or because of adverse remarks in his service report, or any other reason, cannot be treated entitled to receive ACP even if he has already completed the length of service, which may stand prescribed for being entitled to receive ACP.

8. Situated thus, we find ourselves wholly in agreement with the learned Tribunal's conclusion that merely because of the fact that the petitioner had passed the procedural departmental examination, or that he had completed the requisite length of service, he would not be entitled to the second financial upgradation, when he did not possess the required minimum educational qualification inasmuch as he neither held a degree in civil engineering nor a diploma in civil engineering, which were the necessary qualifications, required to be possessed by a junior engineer, for becoming eligible to be promoted to the post of Assistant Engineer, i.e., the next promotional post of junior engineer, which the petitioner herein came to hold by virtue of the merger of the post of Superintendent (B&R) Grade-I and Grade-II and redesignation of the post as Junior Engineer.

9. Because of what have been discussed and pointed out above, we do not find that the petitioner has been able to make out any case calling for interference with the impugned order, passed by the learned Tribunal, in exercise of this Court's extra-ordinary jurisdiction under Article 226 of the Constitution of India. The writ petition, therefore, fails and the same shall accordingly stand dismissed.

10. Before parting with this writ petition, we, however, make it clear that it will remain open to the petitioner to take recourse to appropriate provisions of law for the purpose of redressal of his grievance with

which he approached the learned Tribunal in the two rounds of litigations as mentioned above.

11. No order as to costs.
12. Let the learned *amicus curiae* be paid a sum of Rs. 5,000/- for his valuable assistance rendered to the Court.

Sd/- P.K. MUSAHARY
JUDGE

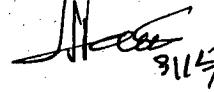
Sd/- I.A. ANSARI
JUDGE

Memo No. HC.XXI..... 21. 6.46 - 100

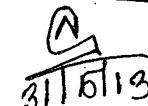
Copy forwarded for information and necessary action to:- R.M.Dtd..... 31/6/13

1. The Union of India, represented by the Secretary, Govt. of India, Ministry of Defence, New Delhi.
2. The Engineer-in-Chief, Engineering Branch, MES, Kashmir House, New Delhi-110001.
3. The Chief Engineer, MES, Eastern Command, Fort William, Kolkata-21.
4. The Garrison Engineer, MES, Air Force, P.O. Saloni Bari, Tezpur, dist.- Sonitpur, Assam.
5. The Registrar, Central Administrative Tribunal, Guwahati Bench, Bhangagarh, Guwahati-5.

By order



Deputy Registrar (I.M.)
Gauhati High Court, Guwahati.



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18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.No.49 of 2009

With

M.P.No.24 of 2009

DATE OF DECISION: 17.02.2010

Md. Tajnur AliApplicant(s)

Mrs U. Dutta Advocate(s) for the
Applicant(s)

- Versus -

Union of India and others Respondent(s)

Mrs M. Das, Sr. C.G.S.C. Advocate(s) for the
Respondent(s)

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

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



Member()

2

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.49 of 2009

With

M.P.No.24 of 2009

Date of Order: This the 17th day of February 2010

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

**Md. Tajnur Ali,
S/o Md. Mamat Ali,
Village- Pub Sahani,
P.O. & P.S. - Rangiya,
Dist.- Kamrup, Assam.**

..... Applicant

By Advocate Mrs U. Dutta

- versus -

1. **The Union of India, represented by the
Secretary to the Government of India,
Ministry of Defence,
South Block, New Delhi-110001.**
2. **The Additional Director General
Staff duties (DSGE), General Staff Branch,
Army Headquarters, DHQ,
New Delhi-110011.**
3. **Administrative Commandant
Pury Kaman Mukhalaya,
Headquarters, Eastern Command (GS SD),
Fort William, Kolkata-700021.**
4. **Administrative Commandant
Station Headquarters,
C/o 99 APO/Rangiya-781354.**

..... Respondents

By Advocate Mrs M. Das, Sr. C.G.S.C.

.....

ORDER (ORAL)MUKESH KUMAR GUPTA, JUDICIAL MEMBER

In this second round of litigation, Md. Tajmür Ali seeks following reliefs:

"8.1 That the Hon'ble Tribunal be pleased to declare that the applicant being similarly situated retrenched safaiwala like the applicants of O.A.No.331/2004 also entitled for engagement/re-engagement against the existing vacancy of conservancy safaiwala under the respondent No.4

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to engage the applicant as conservancy safaiwala, in the existing vacant posts in the light of the decision rendered by this Hon'ble Tribunal in O.A.No.331/2004.

8.3 Costs of the application."

2. M.P.No.24/2009 has been filed seeking condonation of delay. As the same has not been opposed by the respondents, the said M.P.No.24/2009 is allowed. Delay is condoned.

3. On earlier occasion, he had approached the Tribunal alongwith 9 others vide O.A.No.99/1997. He was applicant No.8 therein. Said O.A. was disposed of with another O.A. vide order dated 21.11.1997 directing the respondents to extend the benefit of the Scheme and to consider the question of conferment of temporary status and thereafter regularisation, if they were otherwise found eligible within the time limit prescribed therein.



4. Applicant's basic grievance had been that the said direction had never been complied with. Many juniors to him approached this Tribunal vide O.A.Nos.294/2004, 331/2004 and 45/2006 but, unfortunately, he did not join with the applicants therein and, therefore, suffered in terms of benefits extended to similarly situated persons. According to the applicant he initially joined as conservancy Safaiwala on casual basis under the administrative control of respondent No.4 in the year 1988 and was verbally terminated on 31.12.1993. Basing his entire claim on violation of Article 14, it was urged that applicant is entitled to relief. Ms U. Dutta, learned counsel for applicant, placing strong reliance on 2005 (1) GLT 201, Union of India & Another vs. Central Administrative Tribunal and others, it was contended that there was a clear cut distinction between the conferment of temporary status and regularization in the service. Acquisition of temporary status would not and will not give any right of regularization to casual workers, who have been given a temporary status. Such being the observation made in the aforementioned judgment, it was vehemently contended that the factum of termination vide order dated 25.10.1992 as projected in the reply filed by the respondents in present O.A. had never been made the basis for defence in the earlier round of litigation. No such order had been produced or annexed to reply filed in the earlier proceedings. Therefore, said plea is an afterthought and cannot be accepted, was the emphasis laid by learned counsel for applicant.

5. By filing reply, the respondents contested the claim made stating that applicant was initially engaged in February 1989 for a period of two months on daily wages for carrying out conservancies

✓
✓

and sanitation duties purely on temporary basis. Said work was casual in nature, seasonal and intermittent and he was engaged from time to time in stop-gap arrangement basis. He was terminated w.e.f. 01.11.1992 vide order dated 25.10.1992. In compliance of the direction of this Tribunal issued vide order dated 21.11.1997 while disposing aforesaid O.A.No.99/1997, applicant was not found eligible as he was not found covered under provisions of Scheme of DOPT O.M. dated 10.09.1993. Four persons who were assigned temporary status on 14.12.2002 approached this Tribunal vide O.A.No.331/2004, which was disposed of vide order dated 30.06.2005. Applicant being not similarly situated is not entitled to said benefit. In any case applicant is guilty of suppression of material facts and, therefore, he is not entitled to any relief, emphasized Mrs M. Das, learned Sr. C.G.S.C. for the respondents. It is further urged that at present there is no vacant post against which applicant could be engaged. Plea of res judicata was also raised during course of oral arguments.

6. We have heard learned counsel for parties, perused the pleadings and other material placed on record. At the outset we may note that in order to appreciate as to whether the respondents have raised the plea of applicant's termination w.e.f. 01.11.1992 and not as projected in present proceedings, we summoned the records of O.A.No.99/1997. On perusal of reply para 6 to said proceedings, we noticed that specific averment made by respondents that: applicant alongwith others "had left the casual service of conservancy safaiwala with effect from 01 November 1992 and accordingly their salary was paid upto 31st October 1992". Plea raised in earlier proceedings when examined with the plea raised in present proceedings, it would be

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established that there is no contradiction in the respondents' stand as projected. Rather we find consistency in the plea raised by the respondents. It is true that order dated 25.10.1992 as placed on record in present proceedings, was not either projected or placed on record earlier, but that itself would not lead to a situation where findings could be recorded against the respondents and in favour of the applicant that his services were not terminated. Thus, it is established that applicant had not been in engagement after 01.11.1992. The Scheme of temporary status and regularisation notified by DOPT O.M. dated 10.09.1993, which prescribed a condition that it will be applicable only when the casual labourer as in engagement on 01.09.1993. Applicant had been in engagement upto 01.10.1992. Admittedly, he had not been in engagement on the date when DOPT O.M. dated 10.09.1993 was issued. It may be for this reason that plea is now raised that he was not terminated on 01.11.1992 so that he could be brought within the four corners of said Scheme. This attempt made by the applicant certainly, cannot be accepted and has to be rejected. Though much can be said about his attitude in making an attempt to mislead this Tribunal on this aspect, but without going into this aspect any more, we may note the plea of violation of Article 14 had been resorted to in (2007) 11 SCC 92, U.P. State Electricity Board vs. Pooran Chandra Pandey, wherein decision of the two-Judge Bench of Hon'ble Supreme Court making observation that law laid down by seven-Judge Bench in Maneka Gandhi vs. Union of India, (1978) 1 SCC 248, that reasonableness and non-arbitrariness is part of Article 14 of the Constitution of India and Government must act in a reasonable and non-arbitrary manner would be applicable even in disengagement of casual labourer, had been overruled and not

approved by larger Bench of three-Judge Bench in (2008) 10 SCC 1, Official Liquidator vs. Dayanand and others, observing that limited issue which fell for consideration in Pooran Chandra Pandey (supra) was whether the daily-wage employees of the society, the establishment of which was taken over by the Electricity Board alongwith the employees, were entitled for regularization in terms of the policy decision taken by Board and whether the High Court committed an error while invoking Article 14 of the Constitution for granting relief to the writ petitioner by invoking Article 14 of the Constitution for granting relief to the writ petitioners. It had no occasion to make any adverse comment on the binding character of the constitution Bench judgment in State of Karnataka vs. Umadevi, (2006) 4 SCC 1, and thus held that the plea of violation of Article 14 cannot be made applicable to such cases. Therefore, we have no hesitation to hold that the applicant's basic and principle contention raised in the present case that his disengagement as well as non-engagement after the judgment of O.A. is violative of Article 14 has no basis and cannot be sustained in law. We may note that this Bench vide order dated 22.01.2010 in T.A.No.3/2009 and series, P.C. Borah and others vs. Union of India and others had observed that after the judgment of Hon'ble Supreme Court in (2009) 5 SCC 193, Pinaki Chatterjee and others vs. Union of India and Others, the scheme evolved by the Central Government, "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993, cannot be enforced by a judicial forum. Said judgment is binding on this Bench with all force, being a legal precedent on the subject.

7. In view of the discussion made hereinabove we do not find any merit in the claim made by applicant and accordingly O.A. is dismissed. No costs.

Chaturvedi
(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER

Mukesh
(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

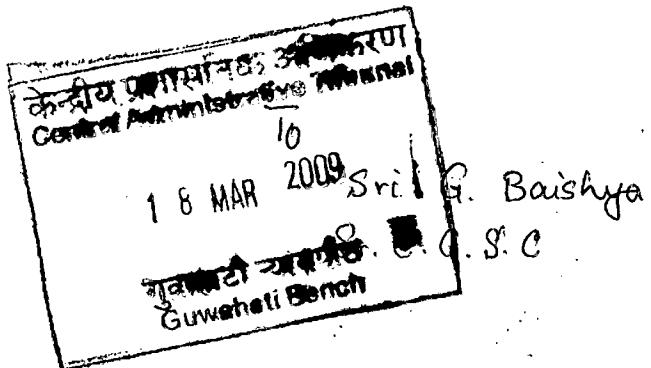
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NOTICE

From

U. Dutta

Advocate



Sir,

Please find herewith a copy of the misc. petition
M.P. NO. 24 /2009 in O.A. NO. 49 /2009, Md.
Tajnur Ali -vs- U.O. I Lors. which is being filed
today. Kindly acknowledge.

Received

G. Baishya
17.03.09

(G. Baishya)

Thanking you,
U. Dutta

18 MAR 2009

गुवाहाटी बाबत
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL Bench

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 49 /2009

Md. Tajnur Ali

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

1988- Applicant was initially appointed/engaged as conservancy Safaiwala on casual basis.

10.09.1993- Scheme

31.12.1993- Service of the applicant was terminated verbally on 31.12.1993.

21.11.1997- Applicant along with 8 other conservancy Safaiwala approached this Hon'ble Tribunal through O.A. No. 99/27 which was disposed of on 21.11.97 with a direction to the respondents to consider case of the applicants for grant of temporary status. (Annexure-1)

14.02.1998- Respondent No. 4 without assigning any reason rejected prayer of the applicant for grant of temporary status. (Annexure- 2)

25.02.2002- OA 294/2001

14.12.2002- Other similarly situated casual workers were granted temporary status by the respondents pursuant to the direction of this Hon'ble Tribunal in O.A. No. 294/2001.

2004- Four conservancy safaiwala who were initially appointed on casual basis along with the applicant had approached this Hon'ble Tribunal through O.A. No. 331/2004, praying for a direction of their re-engagement in service.

30.06.2005- Hon'ble Tribunal disposed of O.A No. 331/2004 with the direction to the respondents to consider those applicants for engaging them on casual basis in the 16 vacant posts of Safaiwala. (Annexure- 3)

02.12.2005- Respondents were pleased to re-engage the applicants of O.A. No. 331/2004. (Annexure- 4)

2006- Four other similarly situated casual workers who were initially engaged as casual worker along with the applicant had approached this Hon'ble Tribunal through O.A. No. 45/2006 (Md. Wahed Ali & Ors. -Vs- U.OI & Ors.), seeking a direction upon the respondents for their engagement/re-engagement under the respondents in the light of the direction passed in the judgment and order dated 30.06.2005 in O.A. No. 331/2004.

17.02.2006- Hon'ble Tribunal pleased to dispose of O.A. No. 45/2006 with the direction to those applicants to file comprehensive representations

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and the respondents were also directed to ~~disposal of~~ ~~disposal of~~ representations on merit with reference to the ~~judgement and order~~ dated 30.06.2005 in O.A. No. 331/2004. (Annexure- 5)

December, 2006- Applicants of O.A No. 45/2006 were re-engaged in service by the respondents.

Altogether 8 casual workers who were terminated from service along with the present applicant were re-engaged in service in compliance with the direction of this Hon'ble Tribunal in O.A. No. 331/2004 and in O.A. No. 45/2006. ✓

30.06.2007- Lawyer of the applicant sent a Notice to the Respondent No. 4, for reengagement/absorption of the applicant against the existing vacant posts. (Annexure- 6)

11.07.2007- Respondent No. 4 forwarded a copy of the letter dated 14.02.1998 to the lawyer of the applicant, but remained silent regarding reengagement of the applicant like other safaiwalas.

(Annexure-7)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to declare that the applicant being similarly situated retrenched safaiwala like the applicants of O.A. No. 331/2004 also entitled for engagement/re-engagement against the existing vacancy of conservancy safaiwala under the respondent No. 4.
2. That the Hon'ble Tribunal be pleased to direct the respondents to re-engage the applicant as conservancy safaiwala, in the existing vacant posts in the light of the decision rendered by this Hon'ble Tribunal in O.A. No. 331/2004.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to direct the respondents to consider the applicant as conservancy safaiwala as an interim measure against the existing vacancy till disposal of the original application.
2. That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar to appoint the applicant as conservancy safaiwala.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

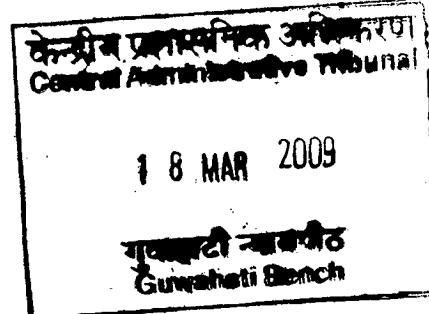
(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No. 49 /2009

Md. Tajnur Ali. : Applicant.

-Versus -

Union of India & Others. : Respondents.



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07.	5	Copy of the judgment and order dated 17.02.2006.	25-27
08.	6	Copy of Lawyer's notice dated 30.06.05	28-29
09.	7	Copy of the impugned letter dated 11.07.2007	30-31

10.

W/S

Filed by

M. Dutta

Advocate

Date

Sri Gyanendra Deka

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Filed by the applicant
through U. Datta, advocate
on 17.03.09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

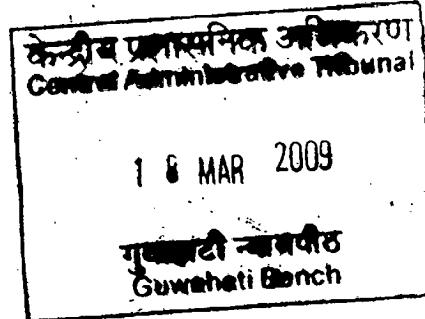
(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 49 /2009

BETWEEN:

Md. Tajnur Ali.

S/o- Md. Mamat Ali.
Village- Pub Sahani,
P.O and P.S- Rangiyा.
Dist- Kamrup, Assam.



...Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Defence, South Block.
New Delhi- 110001.
2. The Additional Director General
Staff duties (DSGE), General Staff Branch
Army Headquarters, DHQ P.O., New Delhi-110011.
3. Administrative Commandant,
Purv Karmen Mukhalaya,
Headquaters, Eastern command (GS SD).
Fort William, Kolkata-700021.
4. Administrative Commandant
Station Headquarters
C/o 99 APO, Rangiyा- 781354.

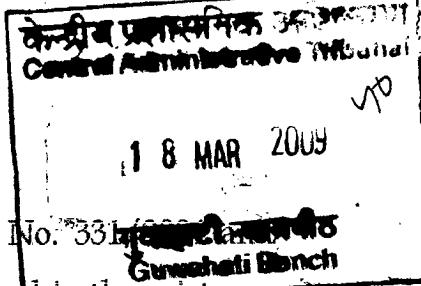
.... Respondents.

DETAILS OF THE APPLICATION

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

This application is made not against any particular order but praying for a direction upon the respondents to grant temporary status to the applicant as well as for a further direction upon the respondents to reengage/appoint the applicant immediately against the existing Group 'D' post of Conservancy Safaiwala since similarly situated Conservancy Safaiwala namely; Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil

নি গ্রেচুল এন্ড



Ghori, Md. Kadar Ali and others, applicants in O.A. No. 331/2004, and the applicants of O.A. No. 45/2006 who have been reengaged in the existence vacancy of Conservancy Safaiwala in the light of the Hon'ble Tribunal's judgment dated 30.06.05 passed in O.A. No. 331/2004.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that he has filed a separate Misc. Petition praying for condonation of delay in filing this Original Application.

4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant is a permanent resident of Village- Pub Sahani, P.O- Rangiya, Dist- Kamrup, Assam. He was initially appointed as Conservancy Safaiwala on casual basis under the administrative control of Respondent No. 4 (Administrative Commandant, Station Headquarters, Rangiya), Govt. of India, Ministry of Defence in the year 1988, thereafter, his service was terminated verbally on 31.12.1993. The applicant finally approached this Hon'ble Tribunal along with other Conservancy Safaiwala through O.A. No. 99/1997 (Md. Selimuddin Ahmed and 9 others), the said Original Application was contested by the respondents Union of India. However, the said O.A No. 99/1997 was finally decided by this Hon'ble Tribunal on 21.11.1997 with the direction to the respondents to extend the benefit of the Scheme to the applicants and consider the question of conferring temporary status to the applicants and thereafter regularization, if they are otherwise found eligible.

Dr. Gyanendra Singh

18 MAR 2009

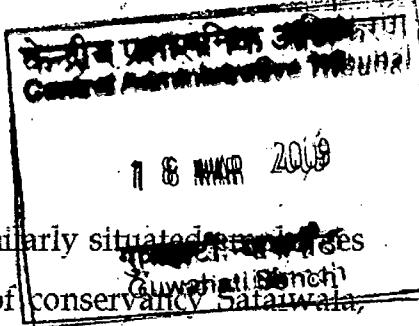
Copy of the judgment and order dated 21.11.97 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1.

4.3 That your applicant further begs to say that after receipt of judgment and order dated 21.11.1997 passed in O.A. No. 99/1997, the respondents vide letter No. 3004/1/CC-9/Q dated 14.02.98, it was informed to the applicant that his case for grant of temporary status cannot be granted.

Copy of the letter dated 14.02.98 is enclosed herewith and marked as Annexure- 2.

4.4 That it is stated that in terms of the judgment and order dated 21.11.1997, all the applicants of the O.A. No. 99/97 except the present applicant, have been subsequently granted temporary status and finally they have been reengaged in service. Thereafter in the month of December 2005 four other similarly situated casual safaiwala were re-engaged in service, following the direction passed by this Hon'ble Tribunal in O.A. No. 331/2004 dated 30.06.2005, wherein this Hon'ble Tribunal held that since there are 16 vacancies of Conservancy Safaiwala and the alleged ban will not stand in the way of making casual engagement and the Hon'ble Tribunal was pleased to pass direction upon the respondents in O.A. No. 331/2004 to consider reengagement of the applicants on casual basis against the 16 vacant post of Safaiwala pending decision on ban of recruitment of the Central Govt. of this posts of Safaiwala and question of regular absorption of those applicants to the Group 'D' posts namely the posts of Safaiwala has to be considered on the basis of seniority in the list of persons who are assigned temporary status on lifting the ban on recruitment. In terms of the aforesaid judgment and order dated 30.06.2005, applicants of O.A. No. 331/2004 namely; Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil Ghori and Md. Kadar Ali who are similarly situated employees to that of the present applicant have been reengaged in service in the month of December 2005 by the respondents. As such the applicant being similarly situated employee like those of Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil Ghori and Md. Kadar Ali also entitled to be reengaged in service in the similar manner with immediate effect, more particularly in

21.03.2009



view of the fact that when altogether 8 other similarly situated casual workers have been reengaged against the 16 vacancies of ~~conservancy Safaiwala~~, therefore, there is no difficulty to reengage and confer temporary status to the applicant in terms of judgment and order dated 21.11.1997 passed in O.A. No. 99/1997, more so the applicant has acquired a valuable and legal right in terms of the judgment dated 30.06.05 in O.A. No. 331/2004. A copy of the order dated 02.12.2005 engaging one of the applicants of O.A. No. 331/2004 is enclosed herewith, other similarly situated casual safaiwala were also re-engaged but the applicant has been denied of such benefit of re-engagement. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to grant temporary status to the applicant and further be pleased to direct the respondents to re-engage the applicant as Conservancy Safaiwala with immediate effect.

Copy of judgment and order dated 30.06.05 and order dated 02.12.05 are enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 3 and 4 respectively.

4.5 That it is stated that 4 other similarly situated casual workers namely; Md. Wahed Ali, Asuran Begum, Md. Salimuddin Ahmed, Shri Dharanidhar Das, who were initially engaged as casual worker along with the applicant had approached this Hon'ble Tribunal through O.A. No. 45/2006 (Md. Wahed Ali & Ors. -Vs- U.OI & Ors.), seeking a direction upon the respondents for their engagement/re-engagement under the respondent No. 4 in the light of the direction passed in judgment and order dated 30.06.2005 in O.A. No. 331/2004. Said O.A. No. 45/2006 was disposed of on 17.02.2006 with the direction to those applicants to file comprehensive representation within a period of two weeks and the respondents were also directed to dispose of the representations on merit with reference to the judgment and order dated 30.06.2005 in O.A. No. 331/2004 within two months from the date of receipt of the representation. However, those 4 applicants were also engaged/re-engaged by the respondents in the month of December, 2006 as Safaiwala in terms of the direction of this Hon'ble Tribunal in O.A No. 45/2006. As such it is evident that altogether 8 casual workers who were initially appointed along with the present applicant

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Gwalior Bench

were subsequently terminated from service like the present applicant but they were re-engaged in service in compliance with the direction of this Hon'ble Tribunal in O.A. No. 331/2004 and in O.A. No. 45/2006. As such the applicant being a similarly situated casual worker also entitled to be engaged/re-engaged like the applicants of O.A No. 331/2004 and O.A. No. 45/2006. Therefore the Hon'ble Tribunal be pleased to direct the respondents to engage/re-engage the applicant against any of the existing Group 'D' post under the respondents.

Copy of the judgment and order dated 17.02.2006 is enclosed herewith and marked as Annexure- 5.

4.6 That it is stated that similarly situated casual safaiwalas of O.A. No. 331/2004 and 45/2006 were disengaged from service along with the present applicant. They had approached this Hon'ble Tribunal for grant of temporary status as well for regularization as conservancy safaiwala like the present applicant. However, those disengaged casual workers were initially denied temporary status by the respondents like the present applicant but subsequently when they challenged the order of rejection of temporary status before this Hon'ble Tribunal, the respondent granted temporary status to those casual workers in the month of December, 2002 but they were denied engagement on the plea of ban on recruitment. Situated thus those casual workers again approached this Hon'ble Tribunal through O.A. No. 331/2004 and 45/2006 for their re-engagement in service. However, respondents in terms of the direction of this Hon'ble Tribunal re-engaged those applicants of O.A No. 331/2004 and O.A. No. 45/2006 in service in the month of December, 2005 and December, 2006. It is stated that applicant due to his poor financial condition could not approach this Hon'ble Tribunal after issuance of the letter dated 14.02.1998 whereas the similarly situated 8 disengaged safaiwalas have been re-engaged by the respondents in compliance with the order of this Hon'ble Tribunal in O.A. No. 331/2004 and 45/2006. However, after re-engagement of similarly situated 8 casual safaiwals in the year 2005 and 2006 fresh cause of action has arisen to the applicant to file this Original Application. As such applicant being a similarly situated casual worker

Sri: Gopalakrishna

18 MAR 2009

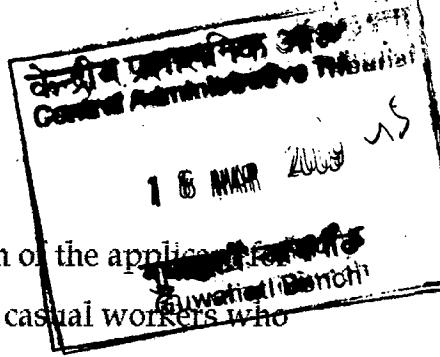
like those applicants of O.A. No. 331/2004 and O.A. No. 437/2006, ~~437/2006~~ ^{Guwahati Bench} entitled for grant of temporary status as well re-engagement under the respondents in terms of Article 14 of the Constitution of India.

4.7 That it is stated that your applicant also send a Lawyer's Notice dated 30.06.2007, through his Counsel to the Respondent No. 4, for grant of temporary status and for reengagement/absorption in service. In the said Lawyers' Notice it has been stated that in terms of the judgment dated 30.06.05 in O.A. No. 331/2004 similarly situated casual workers namely; Smti Asuran Begam, Md. Karimuddin, Md. Monzil Ghori and others, who were initially engaged along with the present applicant and subsequently disengaged by the respondents have been re-engaged as Safaiwala under the administrative control of respondent No. 4, following the direction passed by this Hon'ble Tribunal in O.A. No. 331/2004, as such the present applicant also entitled for grant of engagement/re-engagement against one of the existing vacancy.

Copy of Lawyer's Notice dated 30.06.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6.

4.8 That it is stated that the respondent No. 4 vide his impugned letter bearing No. 3004/1/CC-9/Q dated 11.07.2007 forwarded a copy of the letter dated 14.02.1998, whereby claim of the applicant for grant of temporary status was rejected following the judgment and order dated 21.11.1997 passed in O.A. No. 99/1997. As such the respondent No. 4 most mechanically rejected claim of the applicant for engagement/re-engagement in service as casual worker without discussion any of the grounds raised in the Lawyer's notice dated 30.06.07. Be it stated that in the Lawyer's notice dated 30.06.2007 it was specifically contented that the applicant being a similarly situated casual worker like Smti Asuran Begam, Md. Karimuddin, Md. Monzil Ghori and others who were engaged against existing vacancies deserves to be engaged/re-engaged as casual worker under the administrative control of respondent No. 4. But the respondent No. 4 vide his impugned order dated 11.07.2007 most mechanically

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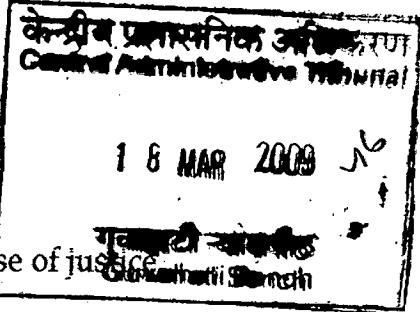
rejected claim of the applicant without discussing claim of the applicant of the engagement/re-engagement like the similarly situated casual workers who were engaged following the decision rendered by this Hon'ble Tribunal in the O.A. No. 331/2004, as such the impugned order dated 11.07.2007 is cryptic, arbitrary, illegal and the same has been issued in violation of Article 14 of the Constitution of India.

Copy of the impugned letter dated 11.07.2007 is enclosed herewith and marked as Annexure- 7.

4.9 That it is stated that the applicant is apprehending that the remaining 8 (eight) vacancies are available with the respondents may be filled up by the respondents at any point of time. Therefore, finding no other alternative applicant is approaching before this Hon'ble Tribunal praying for a direction upon the respondents to consider grant of temporary status to the applicant as well as to consider reengagement in view of the fact that the applicant is similarly situated casual workers who have been granted to them. It is relevant to mention here that Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil Ghori and Md. Kadar Ali have been granted temporary status vide letter bearing No. 3004/1/CC-19/Q dated 14.12.2002, No. 3004/1/CC-19/Q dated 14.12.2002, No. 3004/1/CC-19/Q dated 14.12.2002 and No. 3004/1/CC-17/Q dated 14.12.2002 respectively but such benefit has been denied to the present applicant but they were not re-engaged, as such those employees approached this Hon'ble Tribunal through O.A. No. 331/2004 praying for their re-engagement in service. However, they were re-engaged in service vide order dated 02.12.2005 in compliance with the direction of this Hon'ble Tribunal in judgment and order dated 30.06.2005 in O.A. No. 331/2004. Similarly applicants of O.A. No. 45/2006 were also re-engaged in service by the respondents in the month of December, 2006.

In the circumstances as stated above the Hon'ble Tribunal be pleased to direct the respondents to grant temporary status to the applicant and further be pleased to direct the respondents to reengage the applicant in the existing vacant post of conservancy Safaiwala.

SRI GYANESHWAR GUPTA



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

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

5.1 For that, the Hon'ble Tribunal has declared the applicant entitled for grant of engagement/re-engagement as casual worker in the existing vacancy under the administrative control of respondent No. 4.

5.2 For that, the applicant being a similarly situated casual worker also entitled for engagement/re-engagement like Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil Ghori, Md. Kadar Ali, Md. Wahed Ali, Asuran Begum, Md. Salimuddin Ahmed and Shri Dharanidhar Das, in view of the judgment and order dated 30.06.2005 passed in O.A. No. 331/2004 and dated 17.02.2006 in O.A. No. 45/2006.

5.3 For that, there are altogether 8 vacant posts of conservancy Safaiwala still available after re-engagement of Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil Ghori, Md. Kadar Ali, Md. Wahed Ali, Asuran Begum, Md. Salimuddin Ahmed and Shri Dharanidhar Das in view of the judgment and order dated 30.06.2005 passed in O.A. No. 331/2004 and dated 17.02.2006 in O.A. No. 45/2006.

5.4 For that, the impugned letter dated 11.07.2007 is a cryptic, arbitrary, and the same has been passed in violation of Article 14 of the Constitution of India.

5.5 For that, juniors of the applicant have been granted temporary status without considering the case of the applicant which is in violation of Article 14 of the Constitution of India.

5.6 For that, in the month of December 2005 and December 2006 Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Monzil Ghori, Md. Kadar Ali, Md. Wahed Ali, Asuran Begum, Md. Salimuddin Ahmed and Shri Dharanidhar Das have been reengaged in service as such the applicant has acquired a valuable and legal right for reengagement in service.

स्व. उमरुको द्वारा

18 MAR 2009

गुवाहाटी बैठकीठ
Guwahati Bench

5.7 For that, fresh cause of action has arisen to the applicant to approach this Hon'ble Tribunal after re-engagement of 8 similarly situated safaiwals by the respondents in the year 2005 and 2006.

5.8 For that, the applicant is apprehending that the 8 vacant posts of conservancy Safaiwala may be filled up by the respondents to deprive the present applicant.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

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

The applicants further declares that save and except O.A. No. 99/1997, he had not filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

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

A 8.1 That the Hon'ble Tribunal be pleased to declare that the applicant being similarly situated retrenched safaiwala like the applicants of O.A. No. 331/2004 also entitled for engagement/re-engagement against the existing vacancy of conservancy safaiwala under the respondent No. 4.

क्र. ३४३०८८ अ/सी

18 MAR 2009

गवर्नरी न्यायालय

8.2 That the Hon'ble Tribunal be pleased to direct the respondent to engage the applicant as conservancy safaiwala, in the existing vacant posts in the light of the decision rendered by this Hon'ble Tribunal in O.A. No. 331/2004.

8.3 Costs of the application.

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

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to direct the respondents to consider the applicant as conservancy safaiwala as an interim measure against the existing vacancy till disposal of the original application.

9.2 That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar to appoint the applicant as conservancy safaiwala.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	: 396 392793 ✓
ii)	Date of Issue	: 22.01.2009
iii)	Issued from	: G.P.O, Guwahati.
iv)	Payable at	: C.P.O, Guwahati.

12. List of enclosures.

As given in the index.

51 543026 07/09

केन्द्रीय प्रशासनिक अदायक अधिकारी
Central Administrative Tribunal

18 MAR 2009

गुवाहाटी न्यायालय
Guwahati Bench

VERIFICATION

I, Md. Tajnur Ali, S/o- Md. Mamat Ali, aged about 43 years, Village- Pub Sahani, P.O and P.S- Rangiya, Dist- Kamrup, Assam, applicant in the instant Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 7th day of March, 2009.

Md. Tajnur Ali

ANNEXURE-1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.98 of 1997

And

Original Application No.99 of 1997

Date of decision: This the 21st day of November 1997

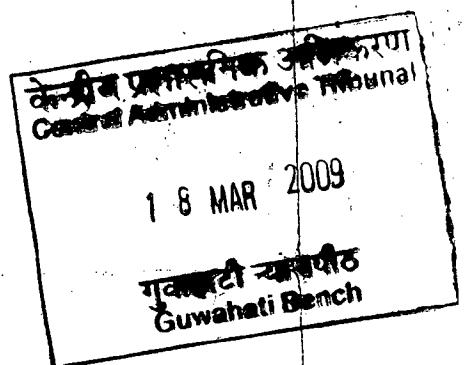
The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

O.A.No.98/1997

Peer Mohammed,
Village- Kanikuchi, P.O.- Rangia,
Kamrup, Assam.

O.A.No.99/1997

Md. Selimuddin Ahmed and 9 others



.....Applicants

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by
The Secretary of Defence,
Government of India, New Delhi.
2. The Additional Director General of Staff Duties (SPGE),
General Staff Branch, Army Head Quarters,
D.M.G.P.O., New Delhi.

3. The Administrative Commandant,
Head Quarter, Eastern Command,
Fort William, Calcutta.

4. The Administrative Commandant,
Station Head Quarter, Rangia,
C/o 99 A.P.O.

.....Respondents

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

.....

O R D E R

BARUAH.J. (V.C.)

Both the applications involve common questions of law and similar facts. Therefore, I propose to dispose of both the applications by this common order. Facts for the purpose of disposal of these applications are:

*Attested
Baruah
Gen*

The applicant in Original Application No.98/97 was appointed Conservancy Staff/Safaiwala in March 1990 under the Administrative Commandant, Station Headquarter, Rangia, through the Employment Exchange on daily wage basis at the rate of Rs.30 per day on No Work No Pay basis. His engagement was on periodic basis with artificial breaks. He was, however, disengaged from service from November 1993.

The ten applicants in Original Application No.99/1997 were appointed as Conservancy Staff/Safaiwala in the year 1991 under the Administrative Commandant, Station Headquarter, Rangia, through the Employment Exchange on daily wage basis at the rate of Rs.30 per day on No Work No Pay basis. Their engagements were on periodic basis with artificial breaks. They were, however, finally disengaged from service from March 1993.

2. All the applicants in both the applications had filed several representation before the Administrative Commandant, Rangia, for reappointment as Conservancy Staff/Safaiwala under Rangia Station Headquarter. However, their representations were rejected by the authority. Hence they have filed the present applications praying, inter alia, for direction to the respondents to reappoint them on regular basis in Group D posts with all consequential benefits including monetary benefits from the respective dates of their engagement.

18 MAR 2009

Central Administrative Tribunal
Guwahati Bench

3. Heard Mr A. Ahmed, learned counsel for the applicants and Mr A.K. Chouhdury, learned Addl. C.G.S.C., appearing on behalf of the respondents. Mr Ahmed submits that the present cases are covered by the decisions of this Tribunal, namely, the decisions of O.A.No.56 of 1994 dated 19.9.1995 and O.A.No.248 of 1994 dated 10.11.1995. By the said decisions the Tribunal directed the respondents to extend the benefit of the Casual Labourer's (Grant of Temporary Status and Regularisation) Scheme, 1993 (for short the Scheme), subject to their eligibility. According to Mr Ahmed the present applicants are similarly situated and so they are entitled to the benefit of the Scheme.

4. On Hearing the learned counsel for the parties and on perusal of the records, I am of the opinion that the present cases are covered by the decisions of this Tribunal passed in O.A. No.56/94 and O.A.No.248/94.

5. Accordingly, I dispose of the applications with the direction to the respondents to extend the benefit of the Scheme and consider the question of conferring temporary status to them and thereafter regularisation, if they are otherwise found eligible. This must be done as early as possible, at any rate within a period of two months from the date of.....

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

18 MAR 2009

गुवाहाटी बैचनिक
Guwahati Bench

केन्द्रीय प्रशासनिक अदायकार
Central Administrative Tribunal

18 MAR 2009

गुवाहाटी न्यायालय
Guwahati Bench

of receipt of this order.

6. Both the applications are accordingly disposed of. However, considering the facts and circumstances of the cases I make no order as to costs.

Sd/-Vice-Chairman

Certified to be true Copy

राष्ट्रीय अदायकार

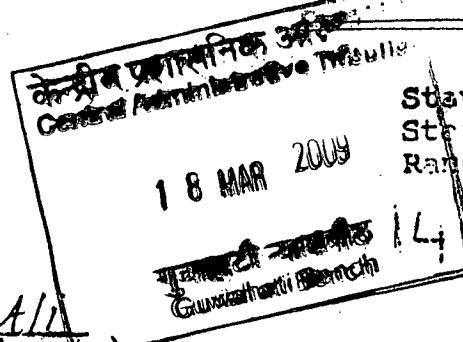
NKM

10/11/11
Rajendra Registrar (D)
Central Administrative Tribunal
Guwahati Bench

10/11/11
K. S. B.

ANNEXURE-2

3004/1/CC-9/Q



Md Tazzur A/I
(All affected applicants)

GRANT OF TEMP STATUS AS PER HON'BLE CAT JUDGEMENT/ORDER DATED 21 NOV 97

1. Please refer to the Hon'ble CAT Judgement/Order dated 21 Nov 97 passed on your application Number 98/97 and 99/97.
2. As per Hon'ble CAT Judgement/Order dated 21 Nov 97, your case was put up to the employing authority for their consideration. After detailed & deliberate consideration, the same has been rejected as you were neither found eligible nor covered under the provision of Scheme of 1993 for grant of temporary status. Hence your application in temp status as Station Headquarters, Rangiya can not be granted/offered.
3. This is for your info please.

Attested
Bulta
Adm


TAPS Yadav
Cal
Adm Comdt

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Original Application No. 331 of 2004.

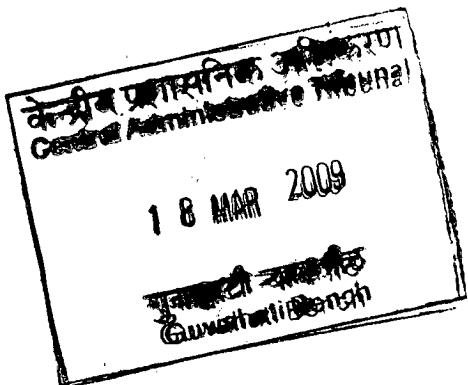
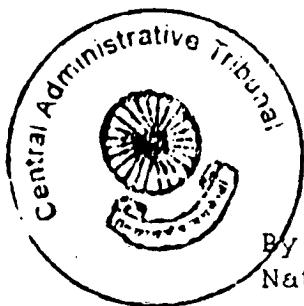
Date of Order: This, the 30th day of June, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

1. Md. Karimuddin Ahmed
S/O Naushad Ahmed
Village:- Berampur
P.O: and P.S: Rangia
Dist: Kamrup, Assam.
2. Md. Roshid Ali
S/O Late Rafique Ali
Vill and P.O: Udiana
Dist: Kamrup (Assam).
3. Sri Manzil Ghori
S/O Sri Azizan
Village and P.O: Changmaguri
District: Kamrup (Assam).
4. Md. Kadar Ali
S/O Late Channur Ali
Village and P.O: Kathia
District: Kamrup (Assam).

. Applicants.

By Advocates S/Shri M. Chanda, G. N. Chakraborty, S. Nath & S. Choudhury.



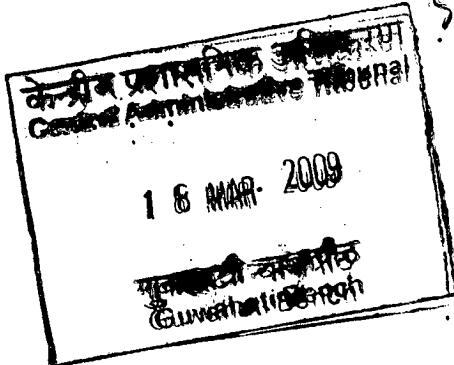
- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Defence
New Delhi.
2. The Additional Director General
Staff duties (DGSE), General Staff Branch
Army Headquarters, D.H.Q.
New Delhi.
3. Administrative Commandant
Purv Kaman Mukhalaya
Headquarters, Eastern Command
Fort William, Kolkata-70021

*Attested
Dutta
Adv*

2
4. Administrative Commandant
Station Headquarters
Rangia, c/o 99 APO.
Respondents.

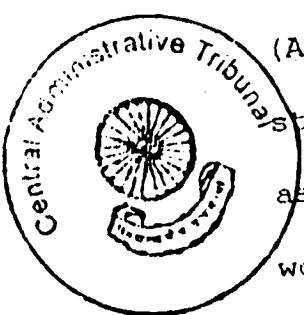
By Mr.M.U.Ahmed, Addl.C.G.S.C.



ORDER(ORAL)

SIVARAJAN, I.(V.C.):

The applicants four in number were engaged as casual labourers under the respondents. Pursuant to the directions issued by this Tribunal on 27.2.2002 in O.A.No.80 of 2001 the applicants were assigned temporary status as per communication dated 14.12.2002 (Annexure-II Series). Their entitlements were also stated in the said communication. The scheme for assigning temporary status and regularisation of casual workers is also produced as Annexure-II to the written statement. The applicants' case is that notwithstanding the assignment of temporary status to all the applicants as early as on 14.12.2002 they are not being engaged on casual basis nor being absorbed on regular basis in Group 'D' post. The applicants challenged the communication dated 20.4.2004 (Annexure-IV) wherein it is stated that as per DOP&T instructions Casual Labourers (Grant of Temporary Status) Scheme of Government of India, 1993 the engagement will be on daily rates of pay, need basis and availability of work and that provision of engagement irrespective of need



Sp

18 MAR 2009

-19-

and payment of minimum salary does not exist. It is also stated that presently it is not possible to employ the applicants in view of the ban on recruitment and that the applicants' contention that subsequent recruits have been employed is not correct. It is further stated that it will be ^{the} endeavour of the respondents to employ the applicants as soon as the ban on recruitment is lifted and the permission is granted by the Government to fill up the ^{vacant} posts.

2. The respondents have filed a written statement. In para 7 of the said statement it is stated as follows:-

"That with regard to the statements made in paragraph 4.6 of the application, the Respondents beg to state that the vacancies of conservancy Safaiwala in Rangiya and its satellite stations were assessed by a station board of officers depend upon the work load for a period of five years and the same is required to be concurred by Controller Defence Accounts. Present authorized strength of safaiwala is 100. As against the authorized, only 84 are posted. There is deficiency of 16 safaiwala. The new enrolment for these 16 posts can not be done due to ban on recruitment of conservancy safaiwala made by the Government of India (Copy of Army Headquarters letter No C/60288/GS/SD-7) Adm Civil dated 27 Sep. 2004 indicating the ban on recruitment is enclosed as Annexure 'I') As and when the Respondents receives the instructions for enrolment for the vacant posts, the same will be filled up."

It is further stated in para 9 as follows:-



for

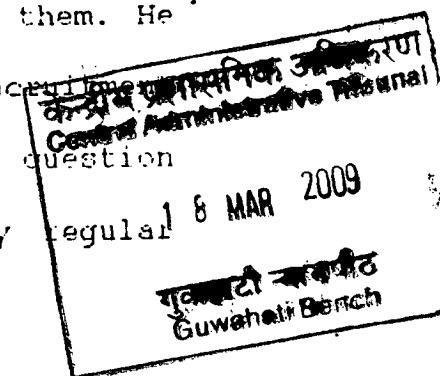
18 MAR 2009

"That allegation in para 5.1 of the OA is not correct. It is not baseless to state that large number of subsequent recruits, junior to the present applicants have been engaged/appointed and still working under the respondents. It is submitted that the seventeen personnel mentioned by the applicants in the OA are employed as per directions of the Hon'ble Tribunal."

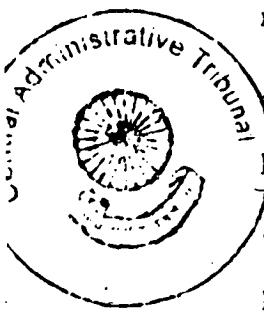
3. Heard Mr. M. Chanda, learned counsel for the applicants and Mr. M. U. Ahmed, learned Addl. C.G.S.C. appearing for the respondents. Mr. Chanda submitted that the applicants were assigned temporary status as early as on 14.12.2002 and that this Tribunal in the order dated 27.2.2002 (Annexure-I) issued clear direction to the respondents to consider the question of re-engaging the applicants in any casual vacancy for the time being. Counsel submits that notwithstanding this direction the respondents did not re-engage the applicants nor did they absorb the applicants in regular Group 'D' post even though vacancies existed in the department. Counsel also submits that the ban order was issued only in 2004 whereas the directions to re-engage the applicants were issued by the Tribunal as early as on 27.2.2002 and that the applicants were assigned temporary status on 14.12.2002. Counsel accordingly submitted that the respondents were not justified in not engaging the applicants on casual basis though not on regular absorption. Mr. M. U. Ahmed, learned Addl. C.G.S.C., on the other hand,

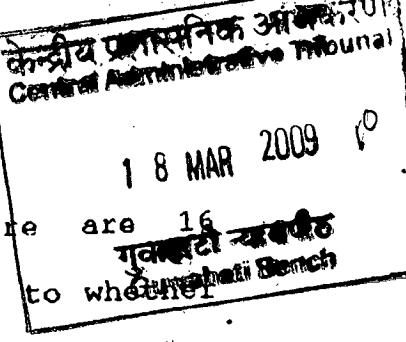
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submits that even after assignment of temporary status the applicants can be provided with work only when there is work of the nature earlier done by them. He also submitted that in view of the ban on recruitment imposed by the Central Government there is no question of any absorption of the applicants in any regular at present Group 'D' post/ even though vacancies do exist.



4. Admittedly, the applicants were assigned temporary status as early as on 14.12.2002. The Tribunal in the judgment dated 27.2.2002 passed in O.A. No. 80 of 2001 had issued direction to consider their claim for re-engagement in casual vacancies pending regular absorption in Group 'D' post. Respondents had not re-engaged the applicants nor absorbed them in regular Group 'D' post. It is an admitted case that 16 posts of Safaiwala are lying vacant. The said vacancies are not filled up solely for the reason that there is a ban on recruitment imposed by the Central Government. Respondents have stated that those vacancies will be filled up as soon as the ban is lifted and sanction is granted to fill up the vacancies. Regarding the contention of the applicants that the persons who were subsequently assigned temporary status have been engaged/appointed and are still continuing, it is stated, that the same was done as per the direction of the Hon'ble Tribunal.





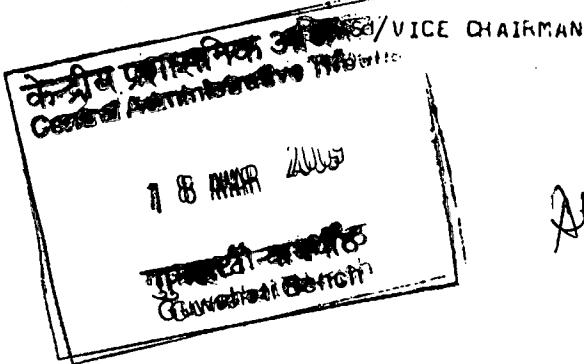
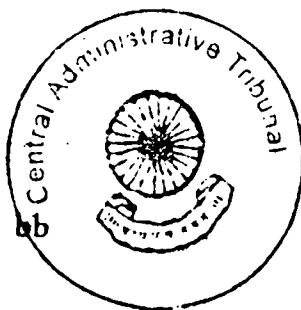
5. Now the fact remains that there are 16 vacancies of Safaiwala. It is not clear as to whether the ban on recruitment was there even prior to September, 2004 which disabled the respondents from engaging the applicants in the 16 vacancies of Safaiwala even on casual basis. Even though there is a ban on regular recruitment to the said posts, having regard to the fact that the work load of Safaiwalas was considered and the strength of Safaiwala was fixed at 100 and that at present there are only 84 persons appointed as Safaiwala, I am of the view that direction will have to be issued to the respondents to consider the case of the applicants' herein for engagement on casual basis in the 16 vacant posts of Safaiwala. The ban on recruitment imposed by the Central Government will not stand in the way of making casual engagement.

Accordingly, there will be a direction to the third respondent to consider the case of the applicants' for engaging them on casual basis in the 16 vacant posts of Safaiwala pending decision on ban recruitment in the said post imposed by the Central Government. This will be done within a period of three months from the date of receipt of this order and the decision taken thereon will be communicated to the applicants immediately thereafter. The question of regular absorption of the applicants to the Group 'D' post, namely, the post of

Sp

Safaiwala has to be considered on the basis of seniority in the list of persons who are assigned temporary status immediately on lifting the ban on recruitment.

The Original Application is disposed of as above. The applicants will produce this order before the concerned respondent for compliance.



17/1/06

Date of Application : 17/1/06

Date on which copy is served : 17/1/06

Date on which copy is received : 17/1/06

Certified to be true copy

17/1/06
Section Officer (J.D.)

C. A. T. C. (Central Bench)

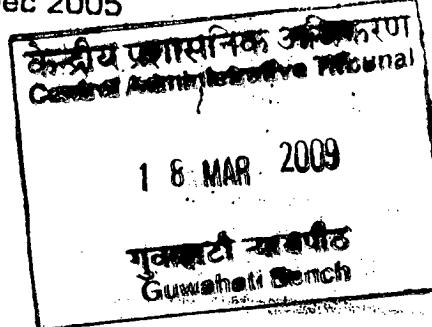
Guwahati

17/1/06

Station Headquarters
Rangia 781351

3004/APP/CL/4

02 Dec 2005



Md. Karimuddin Ahmed
S/O Naushab Ahmed
Vill- Berampur
Post- Rangia
Dist- Kamrup (Assam)

APPOINTMENT LETTER FOR CASUAL LABOURER

1. Please refer to the Hon'ble CAT decision dated 30 Jun 2005.
2. You are requested to report to this HQ for appointment as Casual Labourer, in accordance with the decision of Hon'ble CAT.
3. The terms and conditions of your service as Casual Labourer would be as per pay fixed by the Government of Assam, Office of the Labour Commissioner : ASSAM Guwanati- 16 letter No. ACL. 43/2004/840/ dated 07 Sep 2004 (unskilled workmen).
4. You are hereby informed and directed to report to undersigned alongwith the following certificates :
 - (a) Educational qualification certificate, if any.
 - (b) Recent colour passport size photographs three copies.
 - (c) Certificate of age from concerned District Registrar if educational qualification certificate is not held.
 - (d) Certificate on local/permanent address, from village Sarpanch / Panchayati/Municipality.
 - (e) Medical fitness certificate.

(N Bhardava)
Lt Col
Uma Adam Comat
for Stn Cdr

Attested
Bhutan
Adw

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

Original Application No. 45/06

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

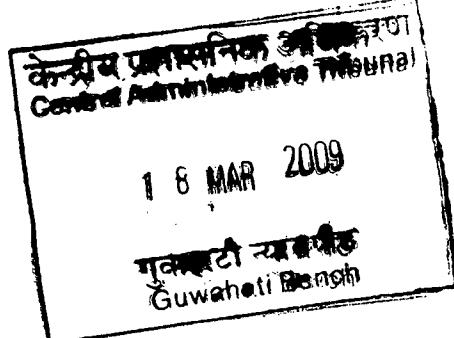
Applicant(s) Md. Wajid Ali & Ors

Respondents U.O.I. Govt

Advocate for the Applicant(s) M. Chanda, G.N. Chakrabarty
S. Nath

Advocate for the Respondent(s) M.P. A.K. Chaudhuri
Adv. C.G.S.C.

ANNEXURE-5



Notes of the Registry	Date	Order of the Tribunal



17.2.2006 Present: Hon'ble Mr.K.V.Sachidanandan,
Vice-Chairman

The applicants were initially appointed as Safaiwala on casual basis on different dates since 1989 but after serving a long period they were terminated in the month of November, 1993/May 1994. The applicants approached this Tribunal through O.A.Nos. 215 of 1998, 294 of 2001 and 7 of 2002 which were disposed of on 15.02.2001, 25.02.2002 and 12.06.2002 respectively with the direction to the respondents to consider the case of the applicants for grant of temporary status. Vide order dated 14.12.2002 the respondents were pleased to grant temporary status to the applicants but they were not engaged/ reengaged /appointed in

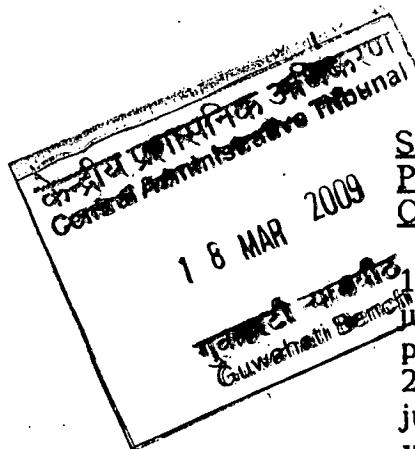
*Attested
With
Adv.*

Contd.

Contd.

17.2.2006

service by the respondents on the ground of ban on recruitment. The said order is reproduced below:-



"GRANT OF TEMPORARY STATUS AS A CASUAL LABOURER AS PER HON'BLE CAT JUDGMENT ORDER DATED 25FEB. 2002.

1. please refer to Hon'ble CAT judgment/order dated 25 Feb 2002 passed on O.A. No.294/2001.

2. In compliance with Hon'ble CAT judgment/order dated 25.Feb, 2002, you are hereby granted temporary status as casual labourer as provided for in Govt, of India DOPT OM No.510182/2/90-Estt(C) dated 10 Sept. 93.

3. It is relevant to clarify here that as per these Govt. orders the scheme for grant of temporary status as casual labour does not guarantee immediate regular employment. The employment as a casual labourer is made available to such an employee whenever the Estt needs to engage any casual labourer for a job of casual nature in accordance with the provisions of these Govt. orders. You will thus be provided employment as casual labourer if the Stn HQ needs to engage casual labourers for a work of casual nature. You will also be entitled to all the benefits which are admissible to a casual labourer with a temporary status under the provisions of the Govt. orders dated 10 Sep 93 during the period of employment as a casual labourer with a temporary status. As regards the provisions under the scheme regarding providing two group D posts out of three posts being filed by direct recruitment to the casual labourers with temporary status to employ on regular basis, you will be considered alongwith other casual labourers with temporary status against such an earmarked quota at the time of filling of Group D posts by direct recruitment after the ban on recruitment is lifted, and the permission is granted by the Govt. to fill the vacant posts."



Contd.

17.2.2006

Mr. M. Chanda, learned counsel for the applicants has brought my attention to the judgment and order dated 30.6.05 in O.A.No.331 of 2004 wherein identical persons have been reengaged as casual labourer. The counsel for the applicants is also praying for a similar direction. However, he submitted that he will be satisfied if the applicants are given liberty to file comprehensive representation before the respondents within a time frame. Mr. A. K. Chaudhuri, Addl. C.G.S.C. has no objection in this regard. I accordingly direct the applicants to file comprehensive representation within a period of two weeks from the date of receipt of this order. If any such representation is filed by the applicants, the respondents shall dispose of the same in merit with reference to the judgment/order dated 30.6.05 in O.A.No.331 of 2004 within two months from the date of receipt of the representation.

Application is disposed of as above at the admission stage itself. *In List*.

Sd/ VICE CHAIRMAN

Date of Application : 17.2.06
 Date on which copy is ready : 22.2.06
 Date on which copy is delivered : 22.2.06
 Certified to be true copy

22/2/06
 Section Officer (J.dl)
 C. A. T. Guwahati Bench
 Guwahati

22/2/06

Ref. No.....

Date..... 30/6/2007.....

NOTICE

From:

Manik Chanda,
Advocate.

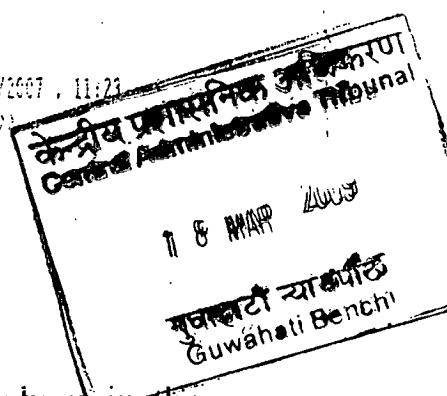
To.

The Administrative Commandant
Station HQ; Rangiya,
C/O 99 APO.

DEHRADUN (781007)
R.A. 1681
Counter No. 1, CP-Code: AUIT
TO THE ADM. COMMANDANT, RANGIYA
21.11.1997



Mr. K. G. Sharma,
SAC/ST. M., 21/6/2007, 11:23
(Have a nice day)



Sub: - Engagement Absorption of my client as casual labour in the terms of the direction passed in OA No. 99/1997 as well as in the light of the judgment and order dated 30.06.2005 passed in O.A. No. 331/2004 (Md. Karimuddin & Ors. -Vs- U.O.I & Ors).

My Client: - Md. Tajnur Ali, Son of Md. Mamat Ali, resident of village Pub Sahani, P.O- Rangiya, Dist- Kamrup, Assam.

Sir,

Under instructions of my client above named, I do hereby give you this Notice for re-engagement absorption of my client as per direction passed by the Hon'ble Central Administrative Tribunal vide it's judgment and order dated 21.11.1997 in O.A. No. 99/1997. In this connection I like to attract your notice to the fact that the Hon'ble Tribunal in it's aforesaid order, clearly directed you to confer temporary status to my client and thereafter to consider his regular absorption. But unfortunately, no step has yet been taken to re-engage him in service. It is quite clear from the subsequent order passed in the case of O.A No. 331/2004 (Md. Karimuddin

*Attested
Dulal
Adv*

Ref. No.....

Date.....

Ahmed and Ors -Vs- U.O.I & Ors.), where the learned Tribunal has specifically observed that there are 14 vacant posts still available and as such there is no justification for non-consideration of temporary status as well as re-engagement of my client above-named as per direction of the learned Tribunal, since you have recently absorbed some similarly situated persons against the vacant posts Viz: Smti Asuran Begam, Md. Karimuddin, Md. Monzil Ghori and others, who are similarly situated casual workers engaged with my above named clients. Therefore, being similarly situated my above named client deserves grant of temporary status and regularization since he has served in your establishment w.c.f. 1988 as Conservancy safaiwala.

I, therefore, serve this Notice and urge upon you to consider grant of engagement re-engagement of my above-named client in service against one of the existing vacancies of Conservancy Safaiwalla within 30 (thirty) days from the date of receipt of this Notice, failing which my client will have no other option but to approach the appropriate forum of law. Your decision in this regard may please be communicated to me or to my client directly within the earliest.

Thanking You.

Enclo:- Copy of the judgment and
Order dated 21.11.1997 in O.A. No. 99/1997.

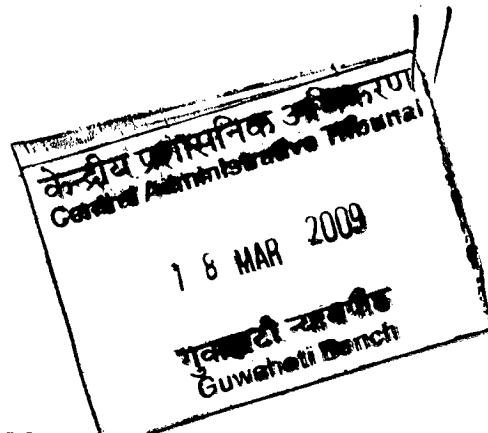

(MANIK CHANDA)

Stn HQ Rangiya
PIN-901182
c/o 99 APO

3004/1/CC-9/Q

Jul 2007

Manik Chanda,
Advocate
Guwahati High Court
Lachit Nagar, By Lane -7
Guwahati -781007



**ENGAGEMENT/ABSORPTION OF MD TAJNUR ALI AS CASUAL LABOUR
IN THE TERMS OF THE DIRECTION PASSED IN OA NO 99/1997 AS WELL
AS IN THE LIGHT OF THE JUDGEMENT AND ORDER DATED 30 JUN 2005
PASSED IN OA NO 331/2004 (MD KARIMUDDIN & ORS -V- U.O.I & ORS)**

1. Ref your notice dated 30 Jun 2007.
2. In this connection please refer Station Headquarters Rangiya letter No 3004/1/CC-9/Q dated 14 Feb 1998 addressed to Md Taznur Ali (photocopy enclosed)




(SG Roychowdhury)
Lt Col
Offg Adm Comdt

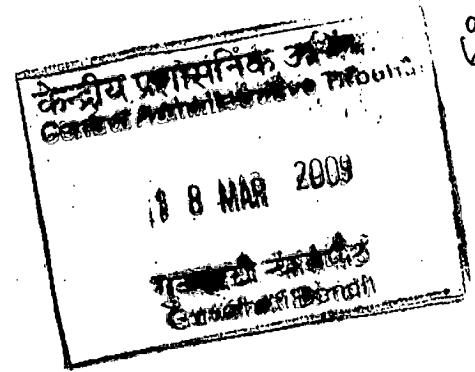
Enclosures : One.

Copy to :-

Md Taznur Ali
S/O Mammat Ali
Vill - Chiknibari, Post - Darkuchi
PS - Tulsibari, Dist - Kamrup

- For information.

*After std
Bertta
ASW*



Station Mukhyatala
Station Headquarters
Rangiyah-781 354

3004/1/CC-9/1

14 Feb 98

Md. Taznur Ali
(All affected applicants)

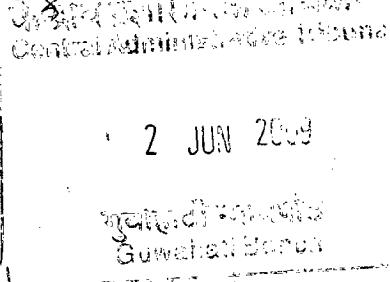
GRANT OF TEMP STATUS AS PER HON'BLE CAT
JUDGEMENT/ORDER DATED 21 NOV 97

1. Please refer to the Hon'ble CAT Judgement/Order dated 21 Nov 97 passed on your application Number 98/97 and 99/97.
2. As per Hon'ble CAT Judgement/Order dated 21 Nov 97, your case was put up to the employing authority for their consideration. After detailed & deliberate consideration, the same has been rejected as you were neither found eligible nor covered under the provision of Scheme of 1993 for grant of temporary status. Hence your application in temp status at Station Headquarters, Rangiyah, can not be granted/offered.
3. This is for your info please.

Yadav (Signature)

Yadav
(APS Yadav)
C1
Adm Comdt

*Attested
Butha
Adv*



File No: 2515109
The Respondents
Through Drs
Mengolohou T.
C.M.O. 2, 2009
25/5/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF:

O.A No. 49/09

Md. Taznur Ali

...Applicant

-Vs-

Union of India and ors.

...Respondents

-AND-

IN THE MATTER OF:

Written statement on behalf of

Respondents

(WRITTEN STATEMENT ON BEHALF OF RESPONDENTS)

I, Colonel P.K. Naithani, S/o Late Shri S.P. Naithani aged about 48 years, presently working as Administrative Commandant, Station Headquarters, C/o 99 APO, Rangia- 781354, do hereby solemnly affirm and state as follows:-

Received
Bhutta
25.05.09

1. That, I am the Administrative Commandant, Station Headquarters and have been impleaded as party Respondent No. 4 in the instant case. I have gone through the original application and have understood the contents thereof. I am conversant with the facts and circumstances of the case. I have been authorized to file this Written Statement on behalf of the other Respondents.
2. That, I do not admit any of the statements save and except which are specifically admitted hereinafter and the same are deemed as denied.

2 JUN 2009

गुवाहाटी बैच
Guwahati Bench

3. That before traversing various paragraphs of the present Original Application, the answering respondent would like to place the brief facts of the case.

BRIEF FACTS:

3.1 That the applicant was initially engaged in the year of February 1989 for period of 2 months on daily wages for carrying out conservancies and sanitation duties purely on temporary basis. The works of the applicant infact was casual nature, seasonal and intermittent. The applicant from time to time was engaged in stop-gap arrangements.

3.2 That the unit of the station is located in the field area and the requirement of conservancy safaiwala is decreased as and when units move out from the field stations for their operational commitments.

3.3 That the applicant was terminated w.e.f 01.11.92 vide order dated 25.10.92. Being aggrieved he alongwith others approached before this Hon'ble Tribunal vide O.A. No. 99/97. In the said case the Hon'ble Tribunal was pleased to dispose of the said O.A. vide decision dated 21.11.97 directing to the Respondents to extend the benefits of the Scheme and consider the questions of confirming temporary status to them and thereafter regularization; if they are otherwise found eligible.

3.4 That the Respondent Authority in compliance with the Hon'ble Tribunals order dated 21.11.97 considered the case of the applicants and convened a Board Officers meeting on 19.01.98. However, as the applicants of the said case including the present applicant were not found eligible as not covered under provisions of Scheme dated 10.09.93 for granting of Temporary Status, the case of the applicants were rejected. Accordingly, the same was intimated to the applicant's alongwith the present applicant vide letter dated 14.12.98 and he also received the same.

3.5. That in the year 2004, four(4) persons namely Karimuddin Ahmed, Md. Roshid Ali, Md. Manzil Ghori and Md. Kader Ali who were Casual Labourers and assigned temporary status on 14.12.02 under the Respondent approached before this Hon'ble Tribunal vide O.A. 331/04.

2 JUN 2009

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Guwahati Bench

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- 3 -
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The Hon'ble Tribunal after hearing was pleased to dispose of the case vide order dated 30.06.05 directing the respondents to consider the case of the applicants for engaging them on temporary basis in the 16 vacant posts of Safaiwala, pending decision on ban recruitment in the said post imposed by the Central Government.

3.6 That in compliance to the order dated 30.06.05 passed in O.A. 331/04 the Respondent Authority reinstated the applicants in the said case who had served for a period of 4 to 5 years each.

3.7 That Md. Wahed Ali, Asuran Begum, Md. Salimuddin Ahmed and Sri Dharanidhar Das who were the Safaiwala on casual basis approached this Hon'ble Tribunal vide O.A. no. 215/98, 294/01 and 7/02 and this Hon'ble Tribunal was pleased to dispose of the said case on 15.02.01, 25.02.02 and 12.06.02 respectively, with the direction to the respondents to consider the case of the applicants for grant of temporary status..

The Respondent Authority with due compliance of this Hon'ble Tribunal granted temporary status to the said four (4) applicants. However, due to the ban of recruitment they were not engaged/ re-engaged/ appointed in the service by the respondent due to ban of recruitment. Being aggrieved the said 4 applicants approached this Hon'ble Tribunals by filing O.A. No.45/06. The Hon'ble Tribunal after hearing was pleased to dispose of the said O.A. vide order dated 17.12.06 by directing the applicants to file a comprehensive representation. Further ordered if any such representation is filed by the applicants the Respondent shall dispose of the same on merit with reference to the Judgment/Order dated 30.06.06 in O.A. 331/04.

3.8 The Respondent Authority in compliance with order dated 17.12.06 considered the case of the applicants and found that all the 4 applicants served for 4 to 5 years each. Hence, they were re-instated.

3.9 That the applicant was infact engaged by the Respondent as Safaiwala in February 89 and from time to time he was engaged on stop-gap arrangement upto May 91. He was terminated from his engagement vide order dated 01.11.92 and he is not covered under the Scheme dated 10.09.98 for grant of temporary status.

2 JUN 2003

गुवाहाटी न्यायालय
Guwahati Bench

3.10 That the Controller of Defence Accounts, Guwahati conquered for employment of 85 employees and all the post are filled up by 85 employees of conservancies Safaiwala for the Station Headquarter, Rangia for a period of 5 years from August 2004 to July 2009 and at present there is no vacant post sanctioned by the Government of India.

3.11 The present application is also barred by Limitation. His case was considered by the Respondent Authority and as he was not found eligible as per the Scheme his prayer was not exceeded to and he was communicated vide letter dated 14.02.98 which was received by him and acknowledged the same. Further he suppressed the material fact that he was terminated from his service w.e.f 01.11.92 vide order dated 25.10.92. However in paragraph 4.2 by suppressing the fact he stated that he was verbally terminated on 31.12.93.

4. Reply to the facts of the case:

4.1 That with regard to the statements made in paragraph 4.1 of the application the humble answering respondent begs to offer no comment.

4.2 That with regard to the statements made in paragraph 4.2 of the application the humble answering respondent begs to state that the applicant was initially engaged in the year of February 1989 for period of 2 months on daily wages for carrying out conservancies and sanitation duties purely on temporary basis. The works of the applicant infact was casual nature, seasonal and intermittent. The applicant from time to time was engaged in stop-gap arrangements.

Infact, the unit of the station is located in the field area and the requirement of conservancy safaiwala is decreased as and when units move out from the field stations for their operational commitments.

Further, the applicant was terminated w.e.f 01.11.92 vide order dated 25.10.92. Being aggrieved he alongwith others approached before this Hon'ble Tribunal vide O.A. No. 99/97. In the said case the Hon'ble Tribunal was pleased to dispose of the said O.A. vide decision dated 21.11.97 directing to the Respondents to extend the benefits of the Scheme and consider the questions of confirming temporary status to them and thereafter regularization; if they are otherwise found eligible.

2 JUN 2003

गुवाहाटी न्यायपीठ
Guwahati Bench

Further, he suppressed the material facts that he infact was terminated from his service w.e.f 01.11.92 vide order dated 25.10.92. However in paragraph 4.2 of the O.A. by suppressing the fact he stated that he was verbally terminated on 31.12.93.

A copy of the said order dated 25.10.92 is annexed herewith and marked as Annexure-A.

4.3 That with regard to the statements made in paragraph 4.3 of the application the humble answering respondent begs to state that the Respondent Authority in compliance with the Hon'ble Tribunals order dated 21.11.97 considered the case of the applicants and convened a Board Officers meeting on 19.01.98. However, as the applicants of the said case including the present applicant were not found eligible as not covered under provisions of Scheme dated 10.09.93 for granting of Temporary Status, the case of the applicants were rejected. Accordingly, the same was intimated to the applicant's alongwith the present applicant vide letter dated 14.02.93 and he also received the same.

A copy of the said communication letter dated 14.02.93 is annexed herewith and marked as Annexure-B

4.4 That with regard to the statements made in paragraph 4.4 of the application the humble answering respondent begs to state that in the year 2004, four (4) persons namely Karimuddin Ahmed, Md. Roshid Ali, Md. Manzil Ghori and Md. Kader Ali who were Casual Labourers and assigned temporary status on 14.12.02 under the Respondent approached before this Hon'ble Tribunal vide O.A. 331/04.

The Hon'ble Tribunal after hearing was pleased to dispose of the case vide order dated 30.06.05 directing the respondents to consider the case of the applicants for engaging them on temporary basis in the 16 vacant posts of Safaiwala, pending decision on ban recruitment in the said post imposed by the Central Government.

That in compliance to the order dated 30.06.05 passed in O.A. 331/04 the Respondent Authority reinstated the applicants in the said case who had served for a period of 4 to 5 years each. In compliance with the

2 JUN 2009

গুৱাহাটী নথিপত্ৰ
Guwahati Bench

Hon'ble Tribunal's order dated 30.06.05 the Respondent forwarded the matter to the higher authority in the Army Headquarter for suitable directions. The Respondent Army Headquarter after considering the case of the applicants and found that Md. Karimuddin Ahmed, Md. Roshid Ali, Md. Manzil Ghori and M.d. Kader Ali who were the applicants in the O.A. 331/04 served for 4 to 5 years each and in pursuance of this the Hon'ble Tribunal's order re-instated the said applicants of the O.A. 331/04 as per term and conditions of the Government of India.

It is pertinent to mention here that the present applicant is not the applicant in O.A. 331/04.

Further, it is stated that the present applicant is not similarly situated with the other applicants. The said applicant's infact were granted temporary status on 14.12.02 and they approached before this Hon'ble Tribunal for permanent absorption on regular basis.

4.5 That with regard to the statements made in paragraphs 4.5. and 4.6 of the application the humble answering respondent begs to state that Md. Wahid Ali, Asuran Begum, Md. Salimuddin Ahmed and Sri Dharanidhar Das who were the Safaiwala on casual basis approached this Hon'ble Tribunal vide O.A. no. 215/98, 294/01 and 7/02 and this Hon'ble Tribunal was pleased to dispose of the said case on 15.02.01, 25.02.02 and 12.06.02 respectively, with the direction to the respondents to consider the case of the applicants for grant of temporary status.

The Respondent Authority with due compliance of this Hon'ble Tribunal granted temporary status to the said four (4) applicants. However, due to the ban of recruitment they were not engaged/ re-engaged/ appointed in the service by the respondent due to ban of recruitment. Being aggrieved the said 4 applicants approached this Hon'ble Tribunals by filing O.A. No.45/06. The Hon'ble Tribunal after hearing was pleased to dispose of the said O.A. vide order dated 17.12.06 by directing the applicants to file a comprehensive representation. Further ordered if any such representation is filed by the applicants the Respondent shall dispose of the same on merit with reference to the Judgment/Order dated 30.06.06 in O.A. 331/04. The Respondent Authority in compliance with order dated 17.12.06 considered the case of the applicants and found that all the 4 applicants served for 4 to 5 years each. Hence, they were re-instated.

2 JUN 2009

গুৱাহাটী ন্যায়পাঠ
Guwahati Bench

It is to be stated here that all said applicants in O.A. 331/04 and 45/06 were granted temporary status and thereafter re-engaged after considering their cases in pursuance of the Hon'ble Tribunal's orders.

The present applicant infact was not the applicant in the aforesaid cases. He was infact terminated vide order dated 25.10.92 and he was not found eligible for being granted temporary status.

4.6 That with regard to the statements made in paragraph 4.7 of the application the humble answering respondent begs to state that in response to the Advocates notice dated 11.07.07 the respondents replied to the said notice with a copy to the applicant by enclosing the letter dated 14.02.98 whereby the case of the applicant was rejected.

Copies of the reply letter dated 11.07.07 alongwith the letter dated 14.02.93 are annexed herewith and marked as Annexure-C1 and C2, respectively.

4.7 That with regard to the statements made in paragraph 4.8 of the application the humble answering respondent begs to state that the letter dated 14.02.98 was issued by assigning reasons that the applicant is not covered under the Provisions of Scheme for granting temporary status.

4.8 That with regard to the statements made in paragraph 4.9 of the application the humble answering respondent begs to state that only 85 posts were sanctioned by the Concurrence Authority i.e the Controller of Defence Accounts, Narangi, Guwahati for Station Headquarters, Rangia and there are no vacancies at present.

It is pertinent to mention here that earlier the applicants vide O.A. Nos. 215/98, 294/01, 7/02 and thereafter O.A. Nos. 331/04 and 45/06 approached before this Hon'ble Tribunal's. In pursuance of Hon'ble Tribunal's orders their cases were considered and accordingly they were re-engaged against the vacant posts.

5. That the instant Original Application is barred by Limitation and has no merit at all and is liable to be dismissed.

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- 8 -

VERIFICATION

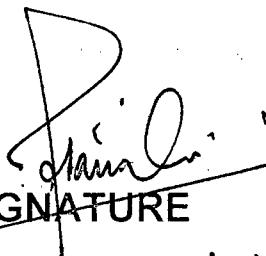
দেৱ-বৰীচৰ মুক্তিবাদী পক্ষ কেণ্টিলিজেন্স
Central Assam Legislative Tribunal

2 JUN 2009

গুৱাহাটী বিধুৰ বৰ্ষ
Guwahati Bench

I, Colonel P. K. Naithani, S/o late Shri S.P. Naithani aged about 48 years presently working as Administrative Commandant, Station Headquarters, C/o 99 APO, Rangia - 781354, do hereby verify that the statements made in paragraphs 1, 2, 3.2, 4.1 and 4.7..... are true to my knowledge and belief, those made in paragraphs 3.1, 3.3 to 3.11, 4.2 to 4.6 and 4.8.... being matters of records of the case are true to my information derived therefrom which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal,

And I sign this verification on the 12th Tuesday of May 2009 at Guwahati


Colonel P. K. Naithani
SIGNATURE
জন পি
Administrative Commandant
স্থানীয় ক্ষয়ান্ত্র

PRIORITY

Station Mukhyalaya

Station Headquarters

Rangira

केन्द्रीय प्रशासनिक
Central Administrative

25 Oct 92

2 JUN 2009

3704/1A(Sep)

(A.I. State/Unit/Concerned)

TERMINATION OF SERVICES - CONSY/SYMSA

1. Due to acute shortage of contingency funds the services of concerned staffs given below are terminated w.e.f 01 Nov 92.
The individuals will:-

21 Mtn. Div. Cmnd.

(a) Jaber Ali ✓
(b) Nurulhaq Ali ✓ - [] - Mali ✓
(c) Abdur Ali a/o Patmar Ali ✓
(d) Umash Chait Dac ✓
(e) Tahir Ali ✓
(f) Predeep Dac ✓
(g) Majnur Ali ✓
(h) Kartia Ch Dac ✓
(i) Jainur Ali ✓
(k) Jakkir Huseain X
(l) Selim Ali ✓
(m) Abdur Ali ✓
(n) Iqbal Ali ✓
(o) Bimal Ali ✓

21 Mtn. Div. Big Boat

(a) Kadir Ali ✓
(b) Atul Ch. Kishan X

21 Mtn. Div. P. & Unit

(a) Mohit Ali X
(b) Khaenoor Ali

13/61

PP

83

4

8

.....21

207 Mtn Bdg Camp

- (a) Aker Ali ✓
- (b) Tajuddin ✓
- (c) Achyut Haloi ✓
- (d) Meena Majbonchi ✓
- (e) Aysha Begum X

207 Mtn Bdg Stg Coy

- (a) Tekhur Ali

858 Fil Wksp coy

- (a) Arjun Barfosa ✓
- (b) Umakant Kumar ✓
- (c) Gopal Das ✓

TCP Chhagaon

- (a) Suron Nath ✓

21 Mtn Div Postal Unit

- (a) Mangal Chark ✓

2. They may be removed as soon as funds are made available.

3. To make up 50% of the following intor unit tsr are ordered :-

Ngoa Conney/Siwai

Present Unit

Tsr to

Halchhar Das

3 PUNJAB

321 Fd Adp

Pandit Ali

321 BME Bn

321 Fd Adp

Jallandhar Tanti

21 Mtn DOU

521 ASC Bn

Rakeshad Ali

Stg Camp

21 Mtn Div Prop

Mohabbat Ali

-do-

-do-

Sensui Ali

207 Mtn Bdg

-do-

Sarif Ali

207 Mtn Bdg

21 Mtn Div Postal Unit

Rajak Ali

8th IR Rangiy

21 Mtn Div Pro Unit

Panit Ali to remain with 321 fd
621 EXB get back fm funds
Fd funds to be given
some one to be placed

(One Grandson to be placed
by Govt Staff female)

(A)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUN 2019

गुवाहाटी न्यायालय
Guwahati Bench

The attendance of re-adjusted staff will be given by the
new units.

5. P. G. and books

Thapar
(V. Thapar)
C.O.I.
A.M. Comit
for Stn Odr

all

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2 JUN 2009

गुवाहाटी न्यायालय
Guwahati Bench

certified to be true

M.
25/5/09

Station Muktiya Laya
Station Headquarter
Rangliya, 781 701

11 Feb 98

2004/1/CC-9/1

Md. Tazmuz Ali
(All affected applicants)

GRANT OF TEMP STATUS AS PER HON'BLE CAT
JUDGEMENT ORDER DATED 21 NOV 97

1. Please refer to the Hon'ble CAT Judgement/Order dated 21 Nov 97 passed on your application Number 98/97.
2. As per Hon'ble CAT Judgement/Order dated 21 Nov 97, your case was put up to the employing authority for their consideration. After detailed & deliberate consideration, the same has been rejected as you were neither found eligible nor covered under the provision of Section 193 of 1993. for grant of temporary status. Hence your application in temp status at Station Headquarters, Rangliya can not be granted/offered.
3. This is for your info please.

SYNOPSIS (O/W)

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

2 JUN 2009

गुवाहाटी बायपीठ
Guwahati Bench

(APS Yadav)
C1
Adm. Head

Certified to be true

Md.
25/5/09

Annexure

C1
8

Stn HQ Ranglya
PIN-901182
c/o 99 APO

3004/1/CC-8/Q

Manik Chanda,
Advocate
Guwahati High Court
Lachit Nagar, By Lane -7
Guwahati -781007

य प्रशासनिक अधिकार
Central Administrative Tribunal

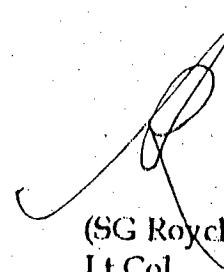
2 JUN 2009

गुवाहाटी न्यायालय
Guwahati Bench

**ENGAGEMENT/ABSORPTION OF MD TAJNUR ALI AS CASUAL LABOUR
IN THE TERMS OF THE DIRECTION PASSED IN OA NO 99/1997 AS WELL
AS IN THE LIGHT OF THE JUDGEMENT AND ORDER DATED 30 JUN 2005
PASSED IN OA NO 331/2004 (MD KARIMUDDIN & ORS -V- U.O.I & ORS)**

1. Ref your notice dated 30 Jun 2007.
2. In this connection please refer Station Headquarters Ranglya letter No 3004/1/CC-9/Q dated 14 Feb 1998 addressed to Md Taznur Ali (photocopy enclosed)

(p-44)


(SG Roychowdhury)
Lt Col
Offg Adm Comdt

Enclosures : One.

Copy to :-

Md Taznur Ali
S/O Mammat Ali
Vill - Chikubbari, Post - Darrkuchi
PS - Tulsibari, Dist - Kamrup

- For Information.

certified to be true
MD.
25/5/09

Station Mukhijya
Station Headquarters
Rangliya-781 353

3004/1/CC-9/10

14 Feb 09

Md. Tazwar Ali
(All affected applicants)

GRANT OF TEMP STATUS AS PER HON'BLE CAT JUDGEMENT/ORDER DATED 21 NOV 97

1. Please refer to the Hon'ble CAT Judgement/Order dated 21 Nov 97 passed on your application Number 93/97 and 99/97.
2. As per Hon'ble CAT Judgement/Order dated 21 Nov 97, your case was put up to the employing authority for their consideration. After detailed & deliberate consideration the same has been rejected as you were neither found eligible nor covered under the provision of Section 1993 of grant of temporary status. Hence your application in temp status at Station Headquarters, Rangliya, can not be granted/offered.
3. This is for your info please.

EX-10000

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

2 JUN 2009

गुवाहाटी बायपीठ
Guwahati Bench

(APS Yadav)
C1
Adm. 2009/10

certified to be true

Md.
25/5/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Received
on behalf
of Mrs. M. Das,
M. - C.G.S.C.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

10/15 14 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

C. B. Hazarika
14.12.09
Advocate

In the matter of: -

O.A. No. 49 of 2009

Md. Tajnur Ali.

-Vs-

Union of India and Others.

-AND-

In the matter of: -

Rejoinder submitted by the applicant in
reply to the written statements submitted
by the Respondents.

The humble applicant above named most humbly and respectfully state as
under: -

1. That the applicant has gone through the written statement filed by the respondents and has understood the contents thereof. The applicant denies the correctness of the averments made in the written statement save and except which are borne out of record.
2. That with regard the statements made in paragraph 4.2 of the written statement, the applicant denies the correctness of the same and begs to state that the termination order dated 25.10.1992 was not communicated to the applicant at any point of time, as such applicant was unaware of the said termination order dated 25.10.1992. Moreover, applicant was not disengaged from service on 25.10.1992 rather he was continuously working under the respondents on casual basis. On 31.12.1993, the applicant was verbally terminated as it is also reflected from the judgment dated 21.11.1997 passed in OA No. 99/2007. It is further stated that the order dated 25.10.1992 as annexed in the written statement was not produced before the Hon'ble Tribunal by the respondents in OA No. 99/1997 where

84
Filed by the applicant
through C. B. Hazarika, advocate
on 14.12.09

St: ୭୩୨୭୯୮ ୬୩୩୭

14 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

the present applicant was one of the applicant. It is also not stated by the respondents while passing the order dated 14.02.1998 that the applicant was terminated vide order dated 25.10.1992. Moreover, there is another Md. Tajnur Ali, S/o Late Year Ali, applicant of O.A. No. 44/2006 was under the engagement of the same respondents along with the present applicant, as such it is not clear from the letter dated 25.10.1992 whether it was passed in the name of the present applicant or in the name of the Md. Tajnur Ali, S/o Late Year Ali (applicant of OA No. 44/2006) since the respondents never communicated the order dated 25.10.1992 to the applicant or placed before the Hon'ble Tribunal in OA No. 99/1997. Therefore, the respondents cannot take the plea of the order dated 25.10.1992 to reject the benefit granted under the provision of scheme of 10.09.1993.

3. That the applicant categorically denies the contention made by the respondents in para 4.3 of the written statement. It is stated that the order dated 14.12.1998 issued by the respondents is totally vague and not sustainable in the eye of law since the reasons for which the applicant was not found eligible or not covered under the provisions of the scheme dated 10.09.1993 were not explained or spelt out at all.
4. That with regard to the statements made in paragraph 4.4 and 4.5 of the written statement the applicant begs to state that most of the similarly situated casual workers who were initially engaged with the present applicant and terminated later on were subsequently re-engaged by the respondents. It is stated that all of the applicants of O.A No. 99/1997 (except the present applicant) were re-engaged by the respondents when they approached this Hon'ble Tribunal later on in OA No. 331/2004 and 45/2006. Moreover, it is admitted by the respondents in their written statement that 8 other similarly situated casual employees under the present respondents approached this Hon'ble Tribunal subsequently and they were given casual engagement. As such applicant also entitled to similar benefit of engagement at least on casual basis like the 8 other casual employees.

It is crystal clear from the written statement filed by the respondents that those causal worker who have approached the Hon'ble Tribunal

स्ट: ५४३४२६ ८/१०/१८

14 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

as

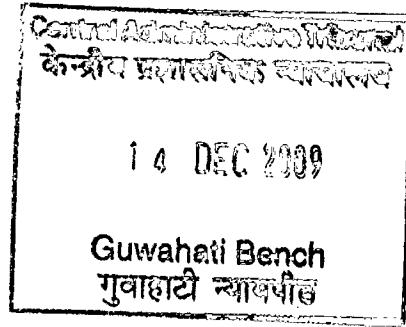
subsequently again for their re-engagement and for grant of temporary status only they were granted temporary status and absorbed against regular basis. Applicant being a poor unemployed person was not an applicant in OA No. 331/2004 and O.A No. 45/2006, therefore he was not found eligible for re-engagement and was not considered for grant of temporary status. The action of the respondents is therefore highly discriminatory, arbitrary and not sustainable in the eye of law. It is settled position of law that once a benefit is granted to some of the employees after they approached the Hon'ble Tribunal then the similarly situated employees are also entitled to the same benefit.

5. That with regard to the statements made in paragraph 4.6 and 4.7 of the written statement, the applicant reiterates that the statements made in the original application and further begs to state that respondent No. 4 most mechanically rejected the claim of the applicant for engagement/re-engagement in service as casual worker without any discussion of the grounds raised in the Lawyer's notice dated 30.06.07.
6. That with regard to the statements made in para 4.8 of the written statement, the applicant denies the correctness of the same and begs to submit that when altogether 8 other similarly situated employees have been re-engaged against the 16 vacancies of conservancy safaiwala, therefore there is no difficulty to re-engage and confer temporary status to the applicant in terms of judgment and order dated 21.11.1997 passed in OA No. 99/1997.

It is pertinent to mention here that in spite of interim order dated 01.04.2009 passed in OA No. 49/2009 (filed by the present applicant) whereby the Hon'ble Tribunal directed to give casual engagement to the applicant as against vacant Gr. 'D' post under the respondents but the respondents deliberately did not take any step to re-engage the applicant, which is willfully violation of the Hon'ble Tribunal's order and therefore contemptuous in nature.

7. That in the facts and circumstances as stated above, the original application deserves to be allowed with cost.

संवित्त दस्तावेज़



VERIFICATION

I, Md. Tajnur Ali, S/o- Md. Mamat Ali, aged about 43 years, Village- Pub Sahani, P.O and P.S- Rangiya, Dist- Kamrup, Assam, applicant in the instant Original Application, do hereby verify that the statements made in Paragraph 1 to 7 of the rejoinder are true to my knowledge, and I have not suppressed any material fact.

And I sign this verification on this the 14 day of December, 2009.

Md. Tajnur Ali