

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A./TA/ NO. 54.....2009
R.A./CP/NO.....2015
E.P./M.P./NO.....2015

MP 70/2009

1. Order Sheets.....5.....page.....1.....to 07 ✓
MP 70/2009 - 2 page 1 to 02 ✓
2. Judgment/ order dtd. 09.06.2010 page.....1.....to.....5 ✓
3. Judgment & Order dtd.....✓.....received from H.C. /Supreme Court.
4. O.A.54/2009.....page.....1.....to.....39 ✓
5. E/P/M.P.70/2009.....page.....01.....to.....11 ✓
6. R.A./C.P.....page.....to.....
7. W.S. 2015.....Page.....1.....to.....6 ✓
Add. W/S P.S. 1 to 6 ✓
8. Rejoinder.....page.....to.....
9. Replypage.....to.....
10. Any other paperspage.....to.....
11. Memo of appearance - 01 ✓

10/07/2015
SECTION OFFICER (JUDL.)

8.7.2015

FROM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 54 /2009

2. Miscellaneous Petition No

3. Contempt Petition No

4. Review Application No

Applicant(s) Smt. Rita Singh

Respondant(s) U.O.I. Koms

Advocate for the Applicant(s): Mr. J. Das
Mr. H.K. Das
Mr. S. Dey

Advocate for the Respondant(s): 6

CGSC

Notes of the Registrar	Date	Order of the Tribunal
------------------------	------	-----------------------

This application is in form
is filed/C.F. for Rs. 50/-
deposited vide IPO/BD
No. 396/385745
Dated 15.12.09

N. Sinha
24.3.09
Dy. Registrar
HS
24/3/09

	31.03.2009	Mr H.K.Das, learned counsel for the Applicant and Mr G.Baishya, learned Sr. Standing counsel for Govt. of India (on whom a copy of this Original Application has already been served) and perused the materials placed on record.
--	------------	---

Admit. Issue notice to the Respondents requiring them to file their reply by 15.05.2009.

Status quo of the Applicant as on today should be maintained by the Respondents until further orders.

Pendency of this O.A shall not stand on the way of the Respondents to consider the case of the Applicant to give her temporary status/regularization in service.

Central

24/3/09
Five Copies of Application
with envelope received
for issue notice to the
Respondents No 1 to 5.
A copy of the Application
served upon the Sp.CGSC.


HS
24/3/09

08/54/29 -2-

Copies of notices along with order dated 31/3/09 send to D/Sec. for issuing to resp. by regd. A/D post.

Contd.
31.03.2009

Send copies of this order to the Respondents along with notices and free copies of this order be supplied to the counsel appearing for the parties.



(M.R. Mohanty)
Vice-Chairman

Free copies of this order issuing to counsel for both the parties.

pg

15.05.2009 Mr H.K.Das, learned counsel for the Applicant is present. Mr G.Baishya, learned Sr. Standing counsel undertakes to file written statement course of the day.

Call this matter on 16.06.2009 for hearing awaiting rejoinder.


(M.R. Mohanty)
Vice-Chairman

Cons 6/4/09
D/No-1683 to 1682
and 1681 to 1682
D/- 13-4-2009

Memo of appearance filed by Mr. G. Baishya, Sr. C.A.

pg

20.4.09.

① Service is report 16.06.2009 Despite opportunity, no rejoinder has yet been filed by the Applicant.

14.5.09.

Call this matter on 14.08.2009 for hearing.

18.5.09

N/S filed by The Respondents through their lawyer Mr. G. Baishya, Sr. C.A. in the court on 15.5.09. Copy served.

18/5/09

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


(M.R. Mohanty)
Vice-Chairman

NO rejoinder filed

17.6.09
Send copies of this order to the Applicant and Respondents.
15/6/09

Page No 3

Case No 54/2003

Notes of the Registry

Date

Order of the Tribunal

Copies of order
dated 16/6/2003
sent to D/Sec.
for issuing to
applicant and to
all the respondents
by post,

Cert D/No - 3555 to 3560
19/6/09. Dt: 25.6.09

no wts filed.

9.9.09.

5
Page No 4

Case No OA 54/09

Notes of the Registry	Date	Order of the Tribunal

K.Das

Send copies of this order to the Respondents.

No
11/9/09

Copies of order dated 10/9/2009 send to D/Sec. for issuing to the respondents by post.

D/No- 10.9-09

D/ 25-9-04

No
24/9/09.

14.10.09

Additional No. of copies submitted to the Respondents

No
14.10.09

16.11.09

Additional copies submitted on behalf of Respondents.

No
16/11/09

10.09.2009

A written statement to the O.A. has been filed. Thereafter the O.A. was amended. Amended O.A. was sent to the Respondents by way of granting them opportunity to file addl. written statement.

No additional written statement has yet been filed by the Respondents. By way of granting opportunity to file additional written statement, one more chance is given to the Respondents to file additional written statement in this case. This case is adjourned to 15.10.2009.

Send copies of this order to the Respondents; who should take steps to file their addl. written statement, if any by 15.10.2009.

Call this matter on 15.10.2009.

No
(M.K.Chaturvedi)
Member (A)

No
(M.R.Mohanty)
Vice-Chairman

/PB/

15.10.2009

Despite opportunity, no additional written statement (to the amended portion of the O.A.) has yet been filed. On the prayer of Mrs. M.Das, learned Sr. Standing counsel for the Govt. of India, call this matter on 17.11.2009 awaiting additional written statement from the Respondents.

No
(M.K.Chaturvedi)
Member (A)

No
(M.R.Mohanty)
Vice-Chairman

/bb/

O.A. 54 of 2009

17.11.2009

On the written request of Mr. H.K. Das,
learned counsel for applicant case is
adjourned to December, 2009.

List this matter on

(Madan Kumar Chaturvedi
Member (A)

/pb/ *Rashty*

17.11.2009

On the written request of Mr. H.K. Das,
learned counsel for applicant case is
adjourned to December, 2009.

List this matter on 07.12.2009.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/pb/

7.12.2009.

Pleadings are complete. List for hearing

on 20.01.2010

(Mukesh Kumar Gupta)
Member (J)

/lm/

20.1.2010

On the request of Mr. H.K. Das,
learned counsel for Applicant case is
adjourned to 11.2.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

11.02.2010


List on 03.03.2010.


(Madan Kumar Chaturvedi)
Member (A)

/bb/

03.03.2010


On the request of learned counsel
for applicant adjourned to 09.03.2010.

 (Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/pb/

09.03.2010

Heard Mrs M. Das, learned Sr.
C.G.S.C. for the respondents, who contends
that the applicant was engaged through
contractor; no appointment letter was
issued; had not satisfied 240 days of
requirement in a year etc. For remaining
arguments of the applicant, list on
10.03.2010.


(Mukesh Kumar Gupta)
Member (J)

nkm


10.03.2010

Placing reliance on 2005 (1) GLT 201,
Union of India and another vs. Central
Administrative Tribunal and others, it was
contended that there is a marked difference
between the term 'regularisation' and
'temporary status.' Mr H.K. Das, learned
counsel for applicant, contends that his
relief clause whereby he seeks direction to
regularization with retrospective effect is
not pressed and he will confine his prayer
to the relief relating to the grant of
temporary status under the Scheme of
1993.


On the request of learned counsel for
applicant, list before the Division Bench on
31.03.2010.


(Mukesh Kr. Gupta)
Member (J)

W/S filed.


2.3.2010

W/S and Addl. W/S
filed.


8.3.2010

O.A. No.54 of 2009

31.03.2010 Mr. H.K. Das, learned counsel for Applicant appeared and prays for adjournment, which has not been opposed by other side.

*W/s and addl. W/s
billed by the respondents.*

List on 26th April 2010.

[Signature]
23.4.2010

[Signature]
(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/pb/

26.04.2010 proxy counsel for Applicant prays for adjournment. Counsel for Respondents has no objection for adjournment of this case.

List the matter on 28.4.2010.

[Signature]
(Madan Kumar Chaturvedi)
Member (A)

[Signature]
(Mukesh Kumar Gupta)
Member (J)

lm

28.04.2010

On the request of counsel for both sides case is adjourned to 24.5.2010.

W/s billed.

[Signature]
21.5.2010

[Signature]
(Madan Kr. Chaturvedi)
Member (A)

[Signature]
(Mukesh Kr. Gupta)
Member (J)

/pg/

24.5.2010

Mrs. M.Das, learned Sr.Standing Counsel for Respondents prays for adjournment which is not opposed by Mr.H.K.Das, learned counsel for Applicant.

List the matter on 7th June 2010.

W/s billed.

[Signature]
4.6.2010

[Signature]
(Madan Kumar Chaturvedi)
Member (A)

[Signature]
(Mukesh Kumar Gupta)
Member (J)

/Lm/

O.A.54/2009

07.06.2010

Heard Mr.H.K.Das, learned counsel for the applicant and Mrs.M.Das, learned counsel for the respondents. Reserved for orders.

Received copy.

H.K.D.
16/6/10

(Signature)
(Madan Kumar Chaturvedi)
Member (A)

(Signature)
(Mukesh Kumar Gupta)
Member (J)

/bb/

Received copy

for Mrs. M-Das, Sr. case

M.D.
8.7.10

09.06.2010

Judgment pronounced in open court, kept in separate sheets.

O.A. dismissed in terms of order. No costs.

(Signature)
(Madan Kumar Chaturvedi)
Member (A)

(Signature)
(Mukesh Kumar Gupta)
Member (J)

/bb/

Final Judgement
dated 9-6-2010
order has been
prepared & sent to
the B/section for
issuing to the all
Respondent by post.
an extra copy handed
over to Ld. Counsel
both party.

Memorandum 1502 to

dt- 14-7-2010 1506

(Signature)
13-7-2010

Clarification sought	Reply
6. Whether these orders are also applicable to the casual workers who have recently died and what benefits of gratuity/pensions, etc., will be available to them?	Kindly refer Para. 5, sub-paras. (v) and (vi) in D.P. & Trg., OM, dated 10-9-1993, in this connection.
7. Whether the deceased casual worker with temporary status will be paid for the accumulated leave?	No.
8. Whether wages of daily-rated workers covered under temporary status are to be prepared on Hand Receipt (at present these are being prepared on Hand Receipt) or on Form CPWA-58?	The existing procedure may be followed. As already made clear, even after conferment of temporary status, these workers continue to be casual workers.
9. Whether the leave accumulated in the account of the workers with temporary status in the 1st year shall be carried forward to the next year. If so, what will be its limit?	The matter is under consideration in consultation with D.P. & Trg. Necessary clarification will be furnished in due course of time.

9. Clarification on grant of temporary status and regularization of casual workers

With reference to O.M. No. 51016/2/90-Estt. (C), dated 10-9-1993, [Order (7) above], many references have been received from various Ministries/Departments, seeking clarifications on certain points relating to grant of temporary status to casual labourers.

2. Clarifications in respect of the points raised in the references are given below—

Point	Clarification
1. Whether the casual employees who were not initially engaged through Employment Exchange are entitled to the benefit of temporary status?	Since it is mandatory to engage casual employees through Employment Exchange, the appointment of casual employees without Employment Exchange is irregular. Hence, such casual employees cannot be bestowed with temporary status.

Point	Clarification
2. Whether temporary status could be granted to the part-time casual employees?	No.
3. Will the casual labourers initially engaged after crossing the upper age-limit prescribed for recruitment to Group 'D' posts be eligible for grant of temporary status?	No age-limit has been prescribed for grant of temporary status. However, for the purpose of subsequent regularization, the conditions regarding age and educational qualifications prescribed in the relevant Recruitment Rules will apply.
4. Will the wages of casual employees would be debited to the salaries sub-head of the establishment or to the contingent sub-head?	Since the casual employees on grant of temporary status would be entitled for wages on actual basis, their wages will have to be debited to the sub-head 'wages'.
5. Whether the casual employees working in administrative offices observing 5-days week would be entitled to the benefit of paid weekly off?	Since the facility of paid weekly off is admissible after 6 days of continuous work, this would not be admissible to casual employees working for 5 days in a week.
6. For the purpose of assessing leave entitlement, how should qualifying period be reckoned?	Qualifying period should be reckoned with reference to actual number of days duty performed ignoring days of weekly off, leave and absence, etc. All days of duty will be counted irrespective of intervening spells of absence, which do not constitute break in service.
7. Frequency at which leave will be credited.	Twice a year. On the 1st of January and 1st of July, credit will be afforded for the preceding half-year or fraction thereof, on a pro-rata basis at the rate of one day for every 10 days of work.

26

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.54 of 2009

DATE OF DECISION: 9.06.2010

Rita Singh

.....Applicant/s.

Mr.H.K.Das

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

- Versus -

U.O.I. & Ors.

.....Respondent/s

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

.....Advocate for the
Respondents

CORAM

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

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

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

Judgment delivered by


Hon'ble Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.54 of 2009

Date of Order: This, the 9th day of June 2010

HON'BLE MR.MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE MR.MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Smt. Rita Singh,
Resident of Barapathar
(Muslim Colony)
Shillong-2.

... Applicant.

By Advocate: Mr.H.K.Das

-Versus-

1. Union of India
Represented by the Secretary
Ministry of Information & Broadcasting
New Delhi-110 001.
2. The Director General
All India Radio
Akashvani Bhawan
Parliament Street
New Delhi-110 001.
3. The Station Director
All India Radio
Shillong-1.
4. The Deputy Director
All India Radio
Shillong-1.
5. The Assistant Director
All India Radio
Shillong-1.

... Respondents

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

ORDER**MUKESH KUMAR GUPTA, MEMBER (J):**

By present O.A. Smti Rita Singh seeks direction to the respondents to regularize her with retrospective effect with all consequential benefits after granting her temporary status in terms of Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Govt. of India of 1993. The case, as projected by the applicant is that she joined All India Radio in October, 1990 as a peon and since then working with utmost satisfaction of the concerned authorities. She has moved from pillar to post for redressal of her grievances, namely, regularization but of no avail. She fulfills all the criteria mentioned in the scheme of 1993 as she was in employment when the scheme came into force and had worked more than 240 days in a year. She has rendered virtually two decades of service as on date and despite her representation made, she continues to suffer.

2. Shri H.K.Das, learned counsel appearing for the applicant, during the course of hearing, pointed out that she is registered with Employment Exchange vide No.W.5416/92 and drew our attention to various certificates evidencing her satisfactory service. Learned counsel further stated that he is not pressing the relief regarding regularization and would press prayer to the effect of grant of temporary status.

3. Placing strong reliance on **2005 (1) GLT 201, Union of India & Another v. Central Administrative Tribunal & Others**, it was emphasized that there is distinction between temporary status and regularization. It was also emphasized that though the respondents are in possession of

record, but needful had not been done even while filing the reply. Similarly, records have not been produced even during the course of hearing, emphasized learned counsel.

4. Contesting the claim laid by filing reply as well as additional reply, it was stated that she is a part time worker, paid on the basis of works she rendered, and thus, not entitled to regularization. She was not engaged in terms of any advertisement following normal recruitment process. Moreover, she was never engaged continuously. She was engaged only when work was available, purely on casual basis on daily rate. She was not in continuous service in any year. Furthermore, since August, 2003, she has been engaged through approved contractor on contractual basis and it is the contractor who paid her wages. Only one representation has been received, which was considered and her request was not exceeded. Mere continuing in part time daily wage basis does not create any vested right of regularization.

5. Smti. M.Das, learned counsel for the respondents emphasized that as per DOP&T clarification dated 12.07.1994, casual employees, who had not been engaged from Employment Exchange is not entitled to benefits of temporary status. She was engaged through back door. She was neither sponsored by the Employment Exchange nor engaged through advertisement. No proper selection process had been undertaken. Thus, applicant is entitled to no relief. It was also emphasized that no appointment letter was issued.

6. We have heard learned counsel for the parties, perused the pleadings and other materials placed on record. At the outset, we may

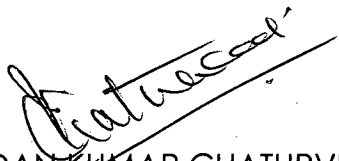


note that scheme of 1993 had been considered by Hon'ble Supreme Court in **2002 (2) A.T.J. 215, Union of India & Others v. Mohan Pal etc. etc.** wherein it was observed that said scheme is one time measure and not a ongoing scheme. Only those who satisfy the conditions prescribed vide para 4 of said scheme are entitled to grant of temporary status, which prescribed that on the date of issue of said O.M. a person who has rendered continuous service of at least one year i.e., 240 days (205 days in the offices observing five days a week) is alone entitled to temporary status. Apart from making a bald statement that she satisfies the requirement of said scheme, no details of her engagement have been placed on record. The respondents, we may note, have taken a specific stand that she was appointed as part time basis and not the full time casual labourer. Furthermore, she had been engaged in pursuance of no advertisement following normal recruitment process. We may also note from applicant's own averment that she had been engaged in October 1990 though her registration with the Employment Exchange as per communication dated 20.06.1994 is of the year 1992. Said communication had been addressed to the Employment Officer, Divisional Employment Exchange, Shillong, Meghalaya making a request that as she is working since 1990 on contract basis, her name be included in the list whenever interview is conducted for Grade IV post. In other words, it is fully established that she had not been recruited through Employment Exchange, as her registration with the concerned Employment Exchange was of later year. There in no rebuttal of various contentions raised by the respondents as no rejoinder was filed. Thus, the averment made by the respondents remains uncontroverted. The 1993



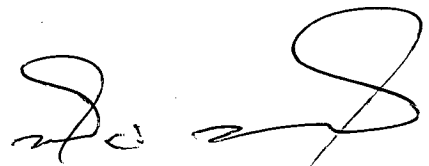
scheme is not applicable to part time casual worker. Rather, it is applicable to only those, who are full time casual labourers. Even if it is presumed, for the sack of argument that she had been engaged as full time casual labourer, even then, she has to satisfy that she fulfills the conditions prescribed vide 1993 scheme.

7. On examination of entire conspectus of the case, we are of the view that applicant has miserably failed to establish that she satisfies the requirement of scheme of 1993 even for grant of temporary status. In this view of the matter and finding no merits, O.A. is dismissed. No costs.



(MADAN KUMAR CHATURVEDI)
MEMBER (A)

/BB/

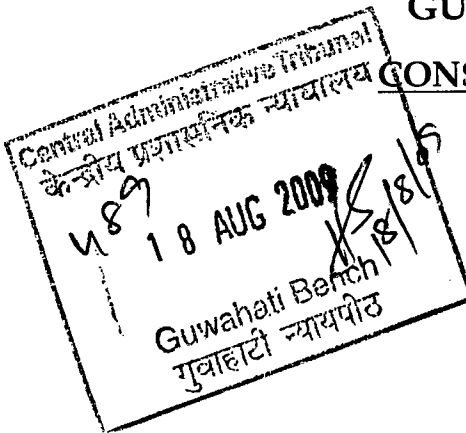


(MUKESH KUMAR GUPTA)
MEMBER (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

CONSOLIDATED O.A. No. 54 of 2009



Rita Singh.

...APPLICANT

- Vs -

Union of India & Ors.

...RESPONDENTS

S Y N O P S I S

The applicant who is a casual workers under the respondents have come under the protective hands of this Hon'ble Court by way of filing the present original application making a prayer for grant of temporary status and subsequent regularization in terms of the Scheme as circulated by Department of Personnel and Training in the name and style "**Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993**" w.e.f. 01.09.1993 for grant of temporary status on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must be in employment on or before 1.09.1993 and must have been engaged for a period of 240 days (206 days in the case of offices observing 5 days week) in a year.

That the applicants joined the service under the respondents as Peon in the month of October, 1990. Since then she is working under the respondents to the satisfaction of all concern. The applicant fulfills all the criteria mentioned in the aforesaid Scheme for regularization of her service under the respondents. The applicant submitted a representation dated 02.09.08 praying for regularization of her service. However, the respondents sat over the matter.

That after serving more than 240 days in a year as per the Scheme the action of the respondents in denying the benefits of the Scheme of 1993 to the applicant which is per se illegal and incurs interference of the Hon'ble Court. The applicants kept on pursuing the matter but same yielded no result in positive. The applicant who is now over aged for any Government jobs and has full grown family is facing tremendous hardship. Being aggrieved by such inaction on the part of the respondents the applicant has approached this Hon'ble Tribunal by way of filing the instant original application for redressal of her grievances.

Hence the present original application.

Filed by
Hridip K. Das.
18.8.09.

Received
for
G. Dasgupta
Sr. Clerk
U. Bhattacharya
18.8.09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

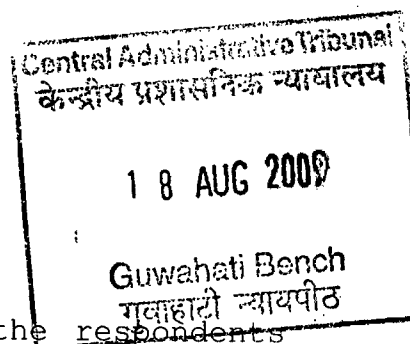
GUWAHATI BENCH :: GUWAHATI

OA No. 54 of 2009LIST OF DATES

- October,
1990 The applicant joined the service under the respondents as Peon.
- 02.04.93 Certificate of work issued by the Vice President, Shillong Cantonment Board, Shillong. [ANNEXURE- 2 Series] [Page- 10]
- 01.09.93 The Department of Personnel and Training has circulated a Scheme in the name and style "Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993" for grant of temporary status on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must be in employment on or before 1.09.1993 and must have been engaged for a period of 240 days (206 days in the case of offices observing 5 days week) in a year.
- 20.06.94 Certificate of work issued by the Programme Executive indicating the fact of he registration in employment exchange. [ANNEXURE- 2 Series] [Page- 11]
- 26.08.94 Forwarding letter pertaining to the regularization of the service of the applicant. [ANNEXURE- 3] [Page- 15]
- 21.10.97 Certificate issued by the Programme Executive recommending her service to be satisfactory. [ANNEXURE- 2 Series] [Page- 12]
- 22.06.99 Certificate issued by the Deputy Director, AIR, SAhillong recommending her service to be satisfactory. [ANNEXURE- 2 Series] [Page- 13]
- 03.08.00 Certificate issued by the Deputy Director, AIR, Shillong strongly recommending her case for appointment to the post of Safaiwala and also stating that she is working since last 10 years. [ANNEXURE- 2 Series] [Page- 14]
- 02.09.08 Representation submitted by the applicant praying for regularization of her services. [ANNEXURE- 1] [Page- 9]

Filed by

H. Das
18.8.09
Advocate



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

OA No. 54 of 2009

Rita Singh.

...APPLICANT

- Vs -

B.S.N.L & Ors.

...RESPONDENTS

INDEX

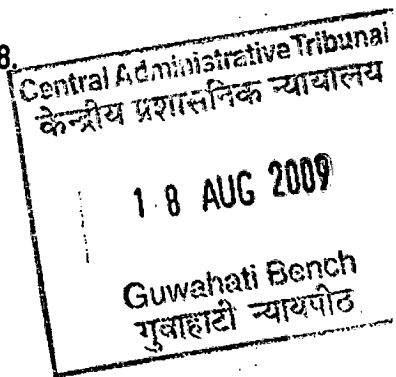
Sl. No.	Particulars	Page Nos.
1.	Synopsis	I
2.	List of dates.....	II
3.	Consolidated Original Application.....	1 to 8.
4.	Verification	9.
5.	Annexure- 1(Representation dated 02.09.08).....	10
6.	Annexure- 2 series (Recommendations).....	11 - 15
7.	Annexure- 3 (Letter dated 26.08.94).....	16
8.	Annexure- 4 (O.M. dated 01.09.93).....	17 - 21

9. ✓ Original Application - 22 - 39

10. W/S - 40 - 45

11. Addl. W/S - 46 - 50

Filed by
Himangshu K. Das
18.8.09.
Advocate

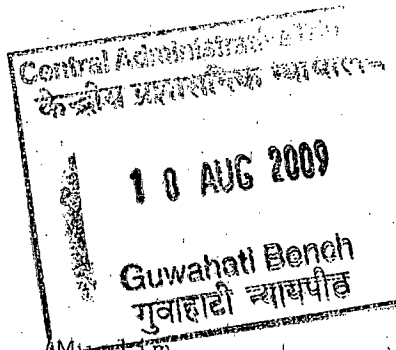


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

CONSOLIDATED O.A. No. 54 of 2009.

BETWEEN

Smt. Rita Singh,
Resident of Barapathar
(Muslim Colony), Shillong- 2.



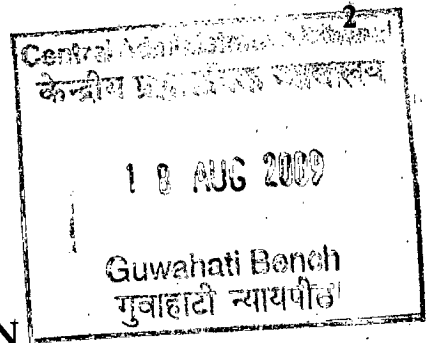
APPLICANTS

-Versus-

1. Union of India
Represented by the Secretary,
Ministry of Information &
Broadcasting, New Delhi- 110001.
2. The Director General, All
India Radio, Akashvani Bhawan,
Parliament Street, New Delhi-
110001.
3. The Station Director, All
India Radio, Shillong- 1.
4. The Deputy Director, All
India Radio, Shillong- 1.
5. The Asstt. Director, All
India Radio, Shillong- 1.

RESPONDENTS

Filed by:
The Applicant
through
Adv. G. S. Jha.
18.8.09.
Prita Singh



36
Rita Singh

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER(S) AGAINST WHICH THE APPLICATION IS MADE:

This application is made against not giving reply of the application dated 02.09.08 for regularization of casual service.

A copy of the representation dated 02.09.08 is annexed herewith as ANNEXURE- 1.

1. A. The present application is also made against the inaction on the part of the respondents for non consideration of the case of the applicant towards granting of temporary status and consequent regularization under the 'Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993.'

2. JURISDICTION OF THE TRIBUNAL:

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

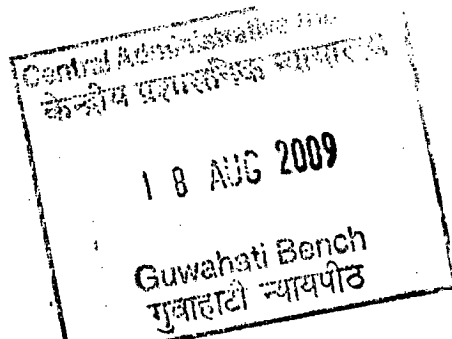
3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

4.1 That the applicant being a Citizen of India is entitled to all rights and privileges and protection granted by the Constitution of India.

4.2 That the applicants had joined the services of All India Radio, Shillong in the year Oct' 90 as a peon and her salary was Rs. 300 and since then she has been working

37
Ritesh Singh

to the post of peon since October' 1990 and her daily wages Rs. 70 and since then she has been working to the utmost satisfaction of the authority concerned as on today.

4.3 That the applicant states that the applicant has been approaching to the superior authorities of the department from time to time for regularization of his service and to avail all the services benefits as provided under law and she had worked more than 18 years till now without any break in service and any adverse remarks in her service. At present she aged about 36 years.

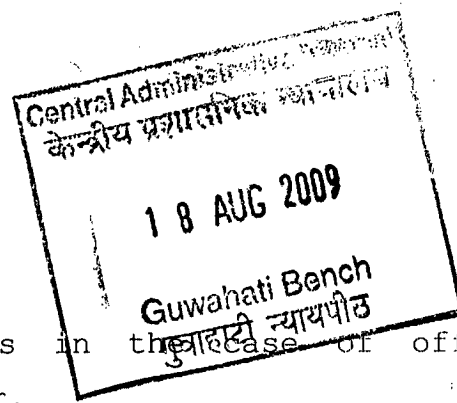
4.4 That the applicant moved from pillar to the post and knocked each and every doors of the respondents to get the redressal of her grievances. Instead in each and every approach she used to get a letter of recommendation.

Copies of the recommendations are enclosed herewith as **Annexure-2(series)**.

4.5 That in the month of August' 1994, the Asstt. Station Director, All India Radio, Shillong forwarded the service particulars of the applicant vide his letter no SHG/1(4)04-5 dated 26.08.94 but no result has come up till date.

A copy of the letter no. SHG-1(4)/94-5 dated 26.08.94 is enclosed herewith as **Annexure- 3.**

4.5. A That the applicant begs to state that the Department of Personnel and Training has circulated a Scheme in the name and style "**Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993**" w.e.f. 01.09.1993 for grant of temporary status on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must be in employment on or before 1.09.1993 and must have been engaged for a



period of 240 days (206 days in the case of offices observing 5 days week) in a year.

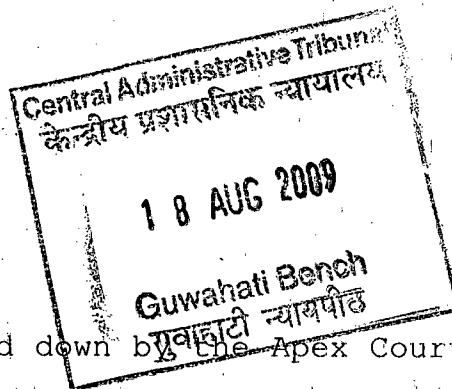
A copy of the Scheme of 1993 is annexed herewith and marked as **ANNEXURE- 4**.

4.5. B. That the applicant begs to state that the applicant is working under the All India Radio, Shillong since October'1990 i.e. for 19 years to the satisfaction of all concern. The applicant is a good and disciplined worker and the respondent organization is in need of the service of the applicant for their day to day requirement on regular basis. Therefore, instead of continuing to exploit her by keeping her as casual labourer for years together, the respondents ought to have sanctioned a regular post and regularize the applicant in their regular establishment as per the Scheme of 1993.

4.5. C That the applicant begs to state that the applicant fulfills all the criterions mentioned in the Scheme of 1993 for granting of temporary status and subsequent regularization thereof. The applicant was in employment on the date when the Scheme of 1993 came into force and each and every year since 1990 she has worked more than 240 days. Therefore, the respondents failed to take into consideration the scope and spirit of the Scheme of 1993 and are denying the benefits of the said Scheme to the applicant.

4.5. D That the applicant begs to state that the respondents have failed to take into consideration the law laid down by the Apex Court in the case of reported in (2006) 4 SCC 1 [Secretary, State of Karnataka and others -VS- Uma Devi(3) and others] in Para- 53, Wherein the Apex Court has directed to regularize the service of those casual labourers who have rendered service of more than 10 years without any interference of Court as one time measure. Therefore, the applicant having completed 19 years of service in duly sanctioned post under the respondents

Prateek Singh

*Prite Singh*

squarely comes under the law laid down by the Apex Court in the aforesaid judgment. Hence, the applicant is entitled for regularization of her service."

4.6 That the applicant states that the respondents with a view to deprive the fundamental rights as we Guaranteed under the law and pre-determined not to consider the case of the applicant despite of facts the applicant has rendered her service more than 10 years and non-regularization of the service of the applicant lead to suffering irreparable loss and injury but also the applicant will be deprived from the Principles of natural justice.

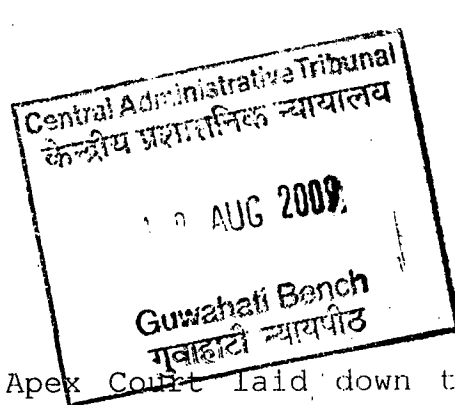
4.7 That the applicant apprehends that the respondent authority may appoint another person in place of applicant, though the applicant working as a casual labour in the respondent authorities as on today but her services are not regularized by the respondent, under such circumstances Your Lordships may interfere with the matter and direct the respondent authorities to regularize the service of the applicant for interest of justice.

5. GROUNDS FOR RELIEF(S) WITH LEGAL PROVISIONS:-

5.1 For that the applicant has already rendered more than 19 years services continuously under the establishment of the respondents who ought to have regularized the service of the applicant with monetary benefits instead of giving recommendations.

5.1. A For that the respondents have acted illegally in no granting temporary status under the Scheme of 1993 and denying consideration of the case of the applicant for regularization as per the said Scheme.

5.1. B For that the respondents acted in derogation of the law laid down by the Apex Court in Uma Devi's case. In

*With Sign*

Uma Devi's case in Para 53 the Apex Court laid down that casual workers of irregular nature who have completed 10 years of service without there being any interference of Court are to be regularized. Hence the respondents failed in totality in implementing the directions of the Apex Court in the case of the applicant and on this ground alone the Hon'ble Court can direct the respondents for regularization of service of the applicant.

5.2 For that the applicant has been denied justice and her case has not been considered in spite of the representation made by the applicant vide her application dated 02.09.08 not the reply of the applicant has been given till date.

5.3 For that the applicant has no any efficacious alternative remedy available other than knocking at the door of this Hon'ble Tribunal by filing instant petition.

5.4 For that the respondent at present sitting tight and remained unmoved deliberately and predominant not to consider the case of the applicant.

5.5 For that it is well settled provision of law, that if an employee continuously rendered service for more than 19 years, she is entitled for receive all the monetary benefits along with regularization of service. But in the case of applicant the respondents have not done so, as a result the applicant suffered gross injustice by the hands of the respondents. The Hon'ble Tribunal may be pleased to pass appropriate order directing the respondents to give the temporary status to the applicant with retrospective effect and monetary benefit thereon.

5.6 For that for non-regularization of applicant's service without regularization caused immense hardship and liable to be interfered by this Hon'ble Tribunal if not she will be deprived from legitimate clause and expectation considering the strength of her service, the respondents

are duty bound to consider for regularizing the service of the applicant retrospectively been facts for which the Hon'ble Tribunal may please to pass appropriate order to that effect.

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

The matter not previously filed or pending in other court. No application in pending in any other Tribunal or Court other than this Tribunal.

7. RELIEF(S) SOUGHT FOR:

In the premises, it is most humbly prayed that Your Lordships would be pleased to admit this petition, call for the records, an issue Rule, calling upon the respondents to show cause as to why-

7.1 A direction shall not be issued not be issued directing the respondents to regularize the service of the applicant with retrospective effect and consequential benefits there on shall not be provided.

7.1 A To direct the respondents to grant temporary status and regularize the service of the applicant as per the Scheme of 1993.

7.2 A direction shall not be issued directing the respondents to treat the applicant as a permanent employee with effect from the date of initial appointment.

7.3 And/or pass such order or orders as Your Lordships may deem fit and proper in the interest of justice and on perusal of record and after hearing the parties make the rule absolute.

18 AUG 2000
Guwahati Bench
18/8/00

41
P. K. Singh

8. INTERIM ORDER PRAYED FOR:

(i) Pending disposal of the case it may not be bar on the part of the respondents to consider the case of the applicant and this existing services of the applicant may not be disturbed.

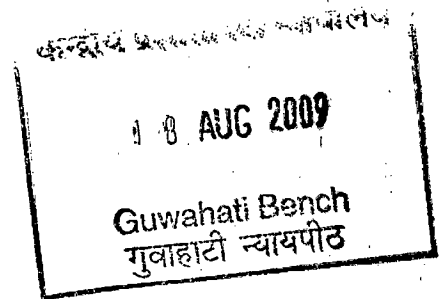
(ii) Pending disposal of this application Your Lordships may direct the respondent authorities not to oust the applicant from the post, which she is holding till now.

And for this act of kindness, the applicant is duty bound, shall ever pray.

10. The application is filed through Advocates.

11. PARTICULARS OF THE IPO:

(I)	IPO No.	:	
(II)	Date of Issue	:	
(III)	Issued from	:	
(IV)	Payable at	:	Guwahati

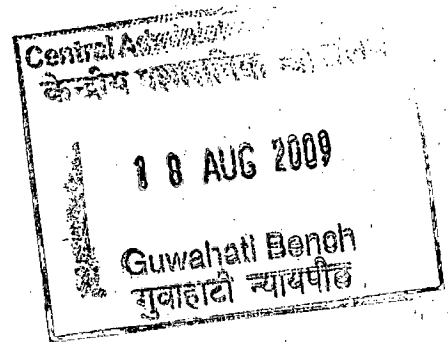


12. LIST OF ENCLOSURES:

As stated in the Index.

...Verification

Rita Singh



VERIFICATION

I, Smt. Rita Singh, aged about 36 years, presently working as Casual worker, All India Radio, Shillong and residing at Barapathar (Muslim Colony), Shillong- 2, Meghalaya, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 2.3, 4.1, 4.2, 4.3, 4.5 B, 4.5 C, 4.5 D, 4.6 and 4.7 are true to my knowledge, those made in paragraphs 1, 4.4, 4.5 and 4.5 A being matters of records are true to my information derived there from and the grounds urged are as per legal advice and rests are my humble submission before the Hon'ble Court. I have not suppressed any material fact.

And I sign this verification on this the 18th day of August, 2009 at Guwahati.

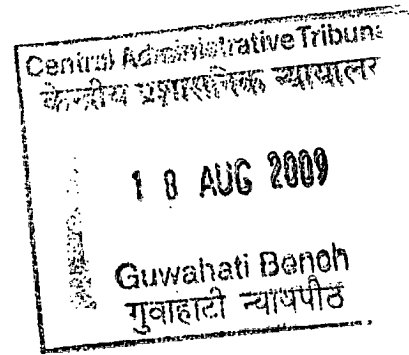
Rita Singh

APPLICANT

From,
Smt. Rita Singh,
Barapathar (Muslim Colony), Shillong-02.

To,
The Station Director,
All India Radio, Shillong-01.

Sub.: Prayer for regularization of Casual Service as Peon.



Sir,

Most respectfully, I beg to approach you with the following facts, with the hope that my prayer will meet justice at your end:-

1. That Sir, I was appointed as Peon in the status of Casual Service in the year Oct 1990. Since then I have been working in the Department to the utmost satisfaction of my superiors.
2. That I have already rendered more than 18 years of service under the Estt. of All India Radio, Shillong in the capacity of Casual works, but I have not been conferred temporary status in the light of "Casual Labours" grant of temporary status Rule 1965, which I am entitled to on the basis of my long service rendered to the Deptt.
3. That Sir, I have no other source of income except the meagre amount of wage which I am in receipt of from the Casual Service. As such, even after rendering 18 years of continuous service I am facing great financial stringency.
4. That Sir, in this connection, I further beg to submit that I have become overage and at present I am not legible for fresh recruitment.
5. That Sir, it will not be out of line to mention here that I got so many letters of recommendations for rendering sincere and faithful service to the Department. The copies of the same are enclosed herewith for your perusal.

In the light of the facts and circumstances stated above, I humbly pray that your honour be graciously pleased to consider my case and regularize me as a Casual worker and grant me temporary status in order to survive in these days of price-hike, and live a normal life

Thanking you,

Your's faithfully

Rita Singh

(Smt. Rita Singh)

02/9/05

Copy to:
The Station Director
All India Radio Station, Chandmari
Guwahati (Assam)

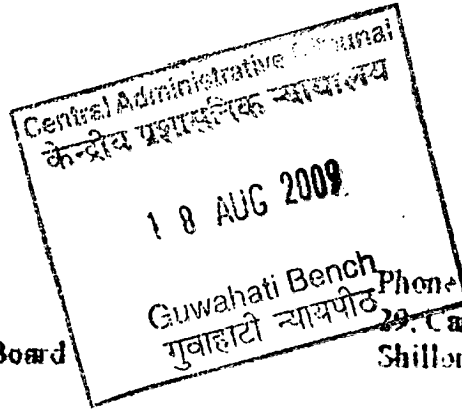
AH

Has

Ahoul

- 11 -

ANNR WR B 2 (Smt)
us



D. Prasad Goenka
Vice President
Shillong Cantonment Board

Phone 23939/22749
29, Cantonment,
Shillong - 793001

Date : 2nd April, 93

To whom it may concern

This is to certify Smt. Rita Singh, W/o. Shri Sumet Lal, aged about 23 years, is borne in Shillong residing at Pudgaon line Shillong (Cantt.) is known to me permanently. So far I know she bears good character. I wish her all success in life.

Sd/- D.P. Goenka
Vice President
Shillong Cantonment Board
Shillong

Attested

[Signature]

Attested

- 12 -

46

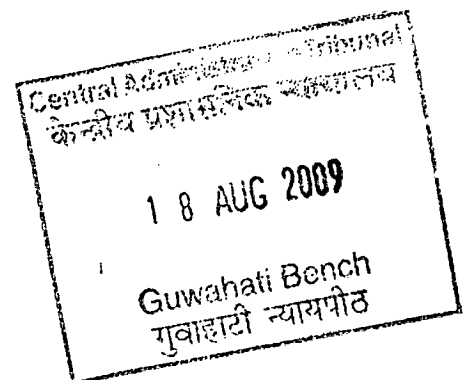
Government of India
All India Radio ::: Shillong

NO.SHC-29(5)/93-94/Part-II/

Dated, Shillong,
the 20th June '94.

To,

The Employment Officer,
Divisional Employment Exchange,
Shillong, Meghalaya.



Dear Sir,

This is for your kind information and necessary action that Smt. Rita Singh Casual Peon is working since October 1990 on Contract basis may kindly be included in the list and also whenever interviews conducted for IV Grade may please call for the name.

Her Registration No. is W.5416/92.

Thanking you.

Yours faithfully,

Programme Executive
For Station Director



- 13 -

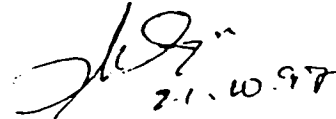
PROGRAMME EXECUTIVE
कार्यक्रम अधिशासी
ALL INDIA RADIO
भाकाशवाणी
SHILLONG-793 001
शिलांग
Gram : AKASHVANI

No. SHG-29(5)/97-98/ 6767 Dated, Shillong the 21-10-97

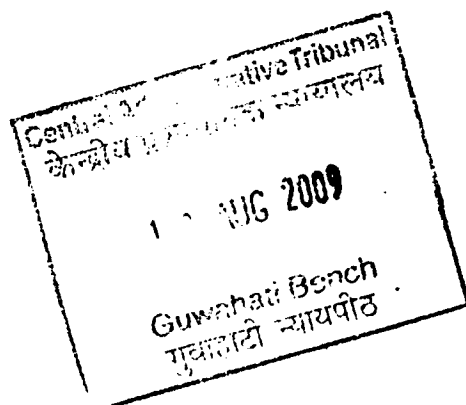
TO WHOM IT MAY CONCERNED

This is to certify that Smti Rita Singh had been working as a casual cleaner on casual basis in this office , All India Radio, Shillong for the last six years or so.

So far my knowledge is concerned, she had been performing her duty satisfactorily and nothing adverse is reported against her work. She bears a good moral character . I wish her all success in her endeavour.


21.10.97

(F. K. SANEMA)
PROGRAMME EXECUTIVE
FOR STATION DIRECTOR



C. Lalbiaktluanga, I.B.(P)S

DY. DIRECTOR



प्रसार भारती

PRASAR BHARATI

(BROADCASTING CORPORATION OF INDIA)

आकाशवाणी

ALL INDIA RADIO

शिल्लोंग

SHILLONG

मेघालय

MEGHALAYA

दिनांक

Dated 22 nd June '99

दूरभाष / Telephone

Gram : 'AKASHVANI'

Fax : 0364-224153

Pin : 793001

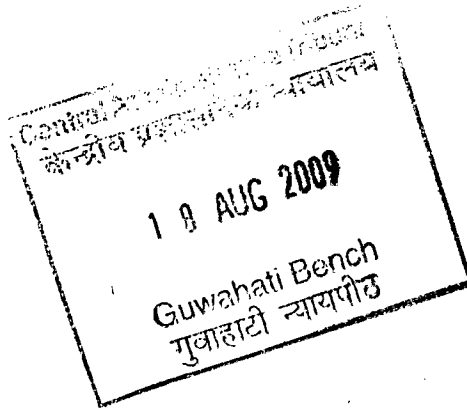
Tel : 224439 (O)

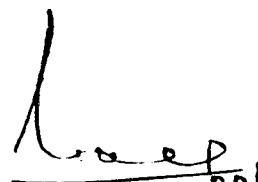
221563 (R)

TO WHOM IT MAY CONCERN

Smt. .Rita Devi Singh is known to me for the last years. Presently she is working in All-India Radio, Shillong as a Casual Peon. She is obedient and faithful in her work.

I wish her success in life.



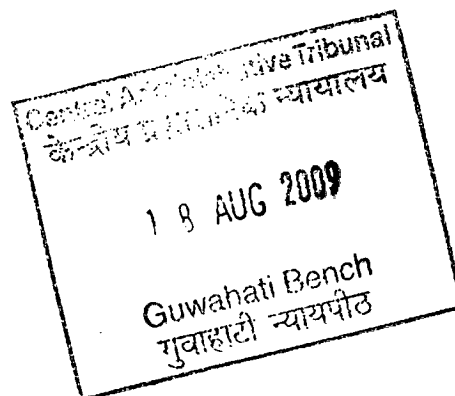

(C. Lalbiaktluanga)
Deputy Director,
All India Radio,
Shillong.

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
ALL INDIA RADIO:SHILLONG

Dated, 3rd August, 2000.

/TO WHOM IT MAY CONCERN/

Smt. Rita Singh daughter of Shri Manik Singh of Imphal (Manipur) is serving in ALL India Radio: Shillong as a Casual Peon/Safaiwala for the last 10 years. She is sincere and hard working and having a good moral character. I am strongly recommended her for appointment for the post of Safaiwala.



[Signature]
3/8
Deputy Director
All India Radio
Shillong

- 16 -

GOVERNMENT OF INDIA
ALL INDIA RADIO SHILLONG

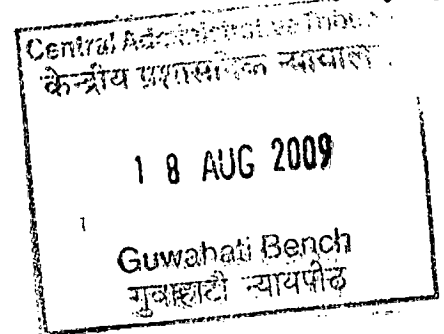
ANNEXURE-3

NO. SHG.-1(4)/94-S;

Dated, Shillong the 26th, August

To

The Director General,
All India Radio,
Akashvani Bhavan,
Parliament Street,
New Delhi-110001.



SUB;

CASUAL WORKERS OF ALL INDIA RADIO SHILLONG;

Sir,

With reference to Satellite Message of 25th, August'94, the requisite information is furnished below as desired.

1. Name of person engaged on casual basis: Smt. Rita Singh.
2. Date of birth: 5.12.71.
3. Educational Qualification: Read upto class VIII (Eight)
4. Post in which engaged: Peon.
5. Date of first Casual booking: October'90.
6. Total number of days worked as Casual: 12 months with a break after cve 7, 14 days till date.

Yours Faithfully,

sd/-
(K. LASUH.)

Asstt. Station Director.
For Station Director.

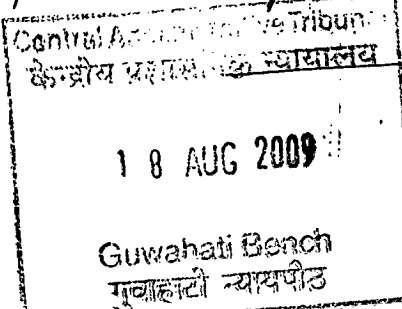
Attended

Hae

Advocate

- 17 -

ANNEXURE-~~1~~



Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel and Training)
OM No. S1016/2/90-Estt.(C) dated 10th September, 1993

(XVIII)

Subject : Grant of temporary status and regularisation of casual workers -
Formulation of a scheme in pursuance of the CAT, Principal
Bench, New Delhi, Judgement dated 16th Feb. 1990 in the case of
Raj Kamal & Others Vs UOI.

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government offices were issued vide this Department's OM No. 49014/2/86-Estt.(C) dated 7.6.88. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 16.2.90 in the writ petition filed by Shri Raj Kamal and Others Vs. Union of India and it has been decided that while the existing guidelines contained in OM dated 7.6.88 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Deptt. of Telecom, Posts and Railways may be regulated by the scheme as appended.

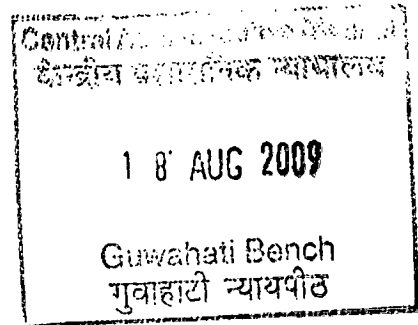
2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in OM dated 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/- Y.G. Parande
Director

Attested

[Signature]

Advocate



APPENDIX

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

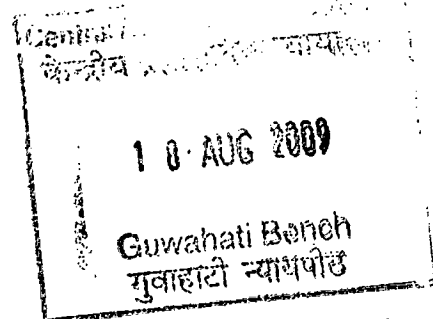
This Scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993."

This Scheme will come into force w.e.f. 1.9.1993.

This Scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

Temporary Status

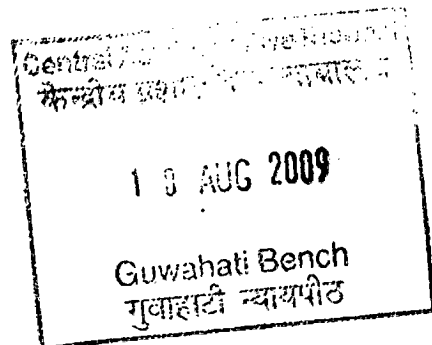
- i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (200 days in the case of offices observing 5 days week).
- ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.



- iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

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

- i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA
- ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro-rata way for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
- iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
- iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
- v) 50% of the service rendered under 'Temporary' Status would be counted for the purpose of retirement benefits after their regularisation.



- vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Govt. servants of their Department.
- vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.
- viii) No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.
7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.
8. Procedure for filling up of Group 'D' posts.
- i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of

-21-

Central Admin.

केन्द्रीय प्रशासनिक

18 AUG 2009

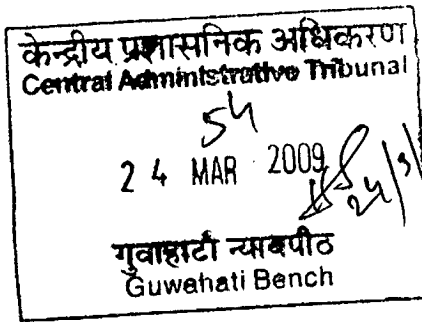
Guwahati Bench
गुवाहाटी न्यायपीठ

Illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

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

10. In future, the guidelines as contained in this Department's OM dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government offices.

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



22

58
Rita Singh

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL : GAUAHTI BENCH
GUWAHATI
(An application U/Section 19 of Adminstrative
Tribunal Act 1985).

Original Application No. 54 of 2009

Smt. Rita Singh

... Applicant

-VS-


Union of India & Others

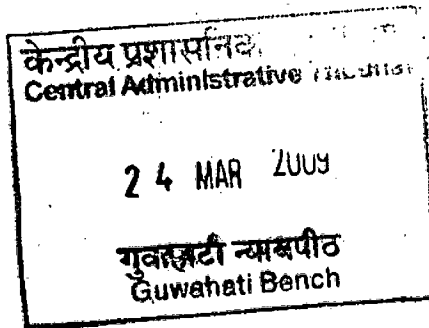
... Respondents.

SYNOPSIS

That the applicant was appointed as peon in the status of Casual Service in the year 1990 since than the applicant have been working in the respondent authorities to the utmost satisfaction of the Superiors . That the applicant all ready rendered more than 18 years of service under the All India Radio , Shillong in the capacity of Casual Worker but till date her service was conferred as temporary status in light of " Casual Worker" till today. Although petitioner submitted several representation before the respondent authorities to regularise the service of the petitioner but till today it is not considered by the respondent authorities. Under such circumstances the present applicant before your Lordship praying for direction to the respondent authorities to regularise the service of the applicant .

Filed by


Advocate. Dt. 24/3/09



23

5

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL : GAUAHTI BENCH
GUWAHATI

(An application U/ Section 19 of Adminstrative
Tribunal Act 1985).

Original Application No. 54 of 2009
Smt. Rita Singh

... Applicant

-VS-

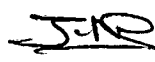
Union of India & Others

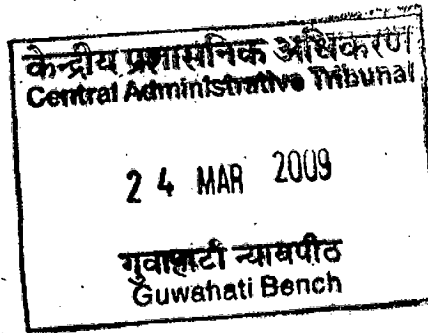
... Respondents.

LIST OF DATES

<u>Sl. No.</u>	<u>Dates</u>	<u>Particulars</u>	<u>Annexure</u>
1.	2/4/1993	Working Certificate issued by the Vice President , Shillong Cantonment Board Shillong	- 2(Series)
2.	20/6/1994	Working Order issued by Programme Executive .	- 2(series)
3.	26/8/1994	Forwarding letter pertaining to regularization of the service of the applicant.	- 3
4.	21/10/1997	Recommendation	- 2(Series)
5.	22/6/1999	Recommendation	- 2 (Series)
6.	3/8/2000	Recommendation	- 2 (Series)
7.	2/9/2008	Representation	- 1

Filed by

 Dt: 24/3/09
Advocate.



24

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL : GAUAHTI BENCH
GUWAHATI

(An application U/Section 19 of Administrative
Tribunal Act 1985).

Original Application No. 54 of 2009

Smt. Rita Singh

... Applicant

-VS-

Union of India & Others

... Respondents..

INDEX

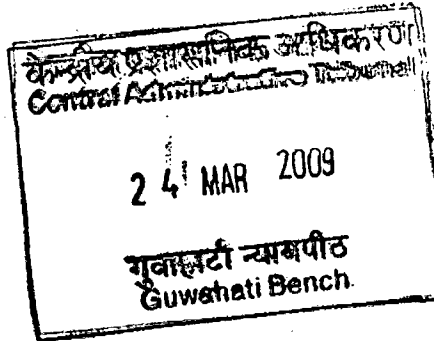
<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Original application	- 1 to 7
2.	Verification	- 8
3.	ANNEXURE - 1	- 9
4.	ANNEXURE - 2 (Series)	- 10 to 14
5.	ANNEXURE - 3	- 15

Filed by

J+Q

Advocate.

dt: 24/3/09



25

Filed by the
applicant through
Jyoti Das
Adv. Shillong

59

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL : GUWAHATI BENCH
GUWAHATI

Original Application No. 54 of 2009

Smt. Rita Singh

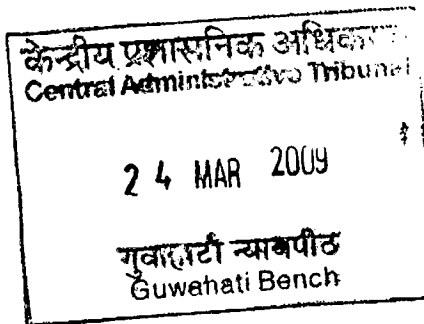
Resident of Barapathar

(Muslim Colony) Shillong-2 ✓

... Applicant

-VS-

1. Union of India
through the Secretary
Ministry of Information
And Broad Casting,
New Delhi- 110001. ✓
2. The Director General
All India Radio,
A Kashvani Bhawani,
Parliament Street,
New Delhi- 110001 ✓
3. The Station Director,
All India Radio
Shillong - 1. ✓
4. The Deputy Director
All India Radio
Shillong -1. ✓



2

5. The Asstt. Director
A. I. R. , Shillong -1. ✓

...Respondents.

1. Details of application

Particulars of the order against which the
Application is made.

This application is made against not giving reply
of the application dated 2.9.08 for regularization of
casual service.

A copy of the representation dated
2.9.08 is annexed herewith as
Annexure - 1.

2. Jurisdiction of the Tribunal.

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

3. Limitation

The applicant declare that this application is
filed within the period of limitation prescribed under
the administrative Tribunal Act' 1985.

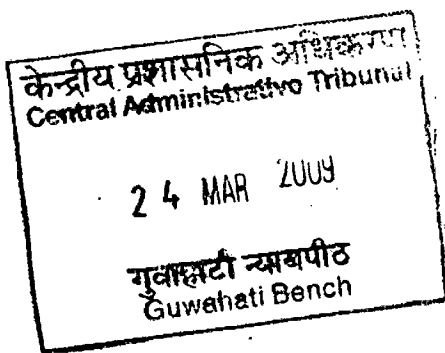
4. Facts of the Case.

4.1 That the applicant being a Citizen of India is
entitled to all rights and privileges and protection
granted by the Constitution of India.

26

60

Prit Singh



27

3

4.2 That the applicants had joined the services of all India Radio Shillong in the year Oct' 90 as a peon and his salary was Rs...300..... and since then she has been working to the post of peon since October, 1990 and his daily wage Rs....70.....and since then he has been working to the utmost satisfaction of the Authority concerned as on today.

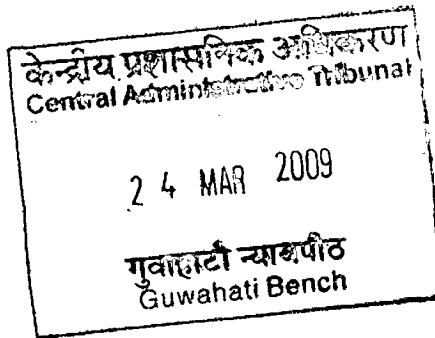
4.3 That the applicant states that the applicant has been approaching to the Superiors Authorities of the Department from time to time for regularization of his service and to avail all the services benefits as provided under law she , she had worked more than 18 years till now with out any break in service and any adverse remarks be her service. At present, he aged about 36....years.

4.4 That the applicant moved from pillar to the post and knocked each and every doors of the Respondents to get the redressal of her grievance . But proved fulfill. Instead in each and every approach she used to get a letter of recommendations.

(Copies of the recommendations are enclosed herewith as Annexure - 2 (Series)

4.5 That in the month of August, 1994, Asstt. Station Director., All India Radio , Shillong forwarded the Service particulars of the applicant vide his

Priler Singh



28

62

4

no.SHG/1(4)94-5 dated 26.8.94 but no result has come up till date.

Pitla Singh

(A copy of the letter No.SHG-1(4)/94-5 dated 26.8.94 is enclosed herewith as Annexure - 3)

4.6 That the applicant states that the Respondents with a view to deprive the fundamental rights as Guaranteed under the law and pre-determined not to consider the case of the applicant despite of facts the applicant has rendered her service more than 19 years, and non-regularization of the service of the applicant leads to suffering irreparable loss and injury but also the applicant will be deprived from the Principle of Natural Justice.

4.7 That the applicant apprehends that the respondent authority may appoint another person in place of applicant, though the applicant working as a casual labourer in the respondent authorities as on today but her services are not regularise by the respondent, under such circumstances your lordship may interfere with the matter and direct the respondent authority to regularize the service of the petitioner for interest of justice.

5. Grounds for relief with legal provisions

1. for that the applicant has already rendered more than 19 years services continuously under the

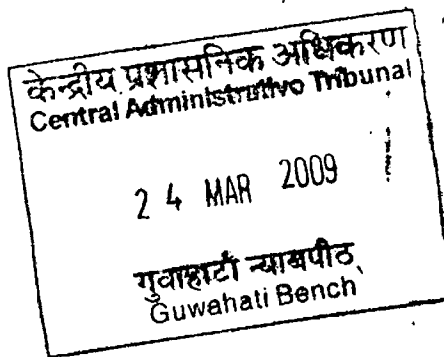
establishment of the Respondents who ought to have regularised the service of the applicant with monetary benefits instead of giving recommendations.

5.2 for that the applicant has been denied justice and her case has not been considered in spite of the representation made by the applicant vide her application dated 2.9.08 nor the reply of the application has been given till date.

5.3 for that the applicant has no any efficacious alternative remedy available other than knocking at the door of this Hon'ble Tribunal by filing constant petition.

5.4 for that the Respondent at present sitting tight and remained unmoved deliberately and predominant not to consider the case of the applicant.

5.5 for that it is well settled provisions of law, that if an employee continuously rendered service for more than 19 years, she is entitled to receive all the monetary benefits along with regularization of service. But in case of applicant the respondents have not done so, as a result the applicant suffered gross injustice by the hands of the respondents. The Hon'ble Tribunal may pleased to pass appropriate order directing the Respondents to give the temporary status to the applicant with respective effects and monetary benefit thereon.



30

67

Peter Singh

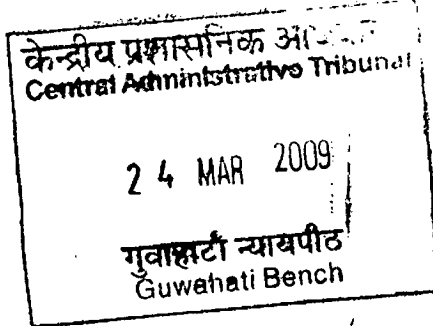
5.6 for that for non-regularization of applicant's service without regularization caused immense hardship and liable to be interfered by the this Hon'ble Tribunal if not, she will be depend from legitimate Clause and expectation considering the strength of her service, the Respondents are duty bound to consider for regularizing the service of the applicant with retrospective been facts for which the Hon'ble Tribunal may please to pass approach order to that effect.

6. The matter not previously filed or pending in other court. No application is pending in any other Tribunal or court other than this Tribunal.

7. Relief sought for :

In the premises , it is most humbly prayed that your lordships would be pleased to admit this petition , call for the records, and issue Rule, calling upon the Respondents to show cause as to why -

- 1) A direction shall not be issued not be issued directing the Respondents to regularize the service of the applicant with retrospective effect and consequential benefits there on shall not be provided.



31

65

P. K. Singh

7

2. A direction shall not be issued directing the Respondents to treat the applicant as a permanent employee in the right of the casual labour (

regularization since 1989). w.e.f. the initial appointment.

3. And for pass such order or orders as your lordships may deem fit and proper in the interest of justice and on perusal of record and after hearing the parties make the rule absolute.

7. Interim order

(i) Pending disposal of the case it may not be bar in the part of Respondent to consider the case of the applicant and this existing services of the applicant may not be disturbed

(ii) Pending disposal of this application your Lordship may direct the respondent authorities not to oust the applicant from the post, which she is holding till now.

And for this act of kindness, the applicant is duty bound, shall ever pray.

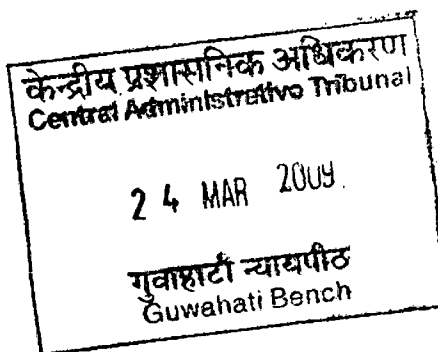
12. PARTICULARS OF POSTAL ORDER:

a) I.P.O. Number:- 39G. 385745

b) Date of Issue:- 15/1/09

c) Issuing Post office:- GPO.

d) Payable at: Guwahati.



32

8

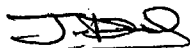
VERIFICATION

I, Smt. Rita Singh, aged about 36... is working as casual worker, in All India Radio, Shillong and residing at Barapathar (Muslim Colony) Shillong - 2, Meghalaya do hereby verify that the contents of paragraph 2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17 are true to the best of my knowledge, belief and those made in paragraphs 1,4,4.1,4.5..... ^{matters of record and not are} are my humble submission before this Hon'ble Tribunal and I have not suppressed any material facts.

Date : 23/3/09

Place: Aizawl

Identified by



Advocate.

Rita Singh

9

33

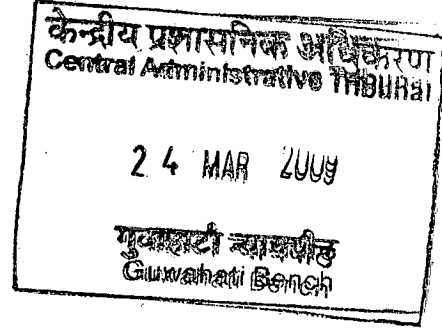
ANNEXURE-1

From,

Smti. Rita Singh,
Barapathar (Muslim Colony), Shillong-02.

To,

The Station Director,
All India Radio, Shillong-01.



Sub.:- Prayer for regularization of Casual Service as Peon.

Sir,

Most respectfully, I beg to approach you with the following facts, with the hope that my prayer will meet justice at your end:-

1. That Sir, I was appointed as Peon in the status of Casual Service in the year Oct 1990. Since then I have been working in the Department to the utmost satisfaction of my superiors.
2. That I have already rendered more than 18 years of service under the Estt. of All India Radio, Shillong in the capacity of Casual works, but I have not been conferred temporary status in the light of "Casual Labours" grant of temporary status Rule 1965, which I am entitled to on the basis of my long service rendered to the Deptt.
3. That Sir, I have no other source of income except the meagre amount of wage which I am in receipt of from the Casual Service. As such, even after rendering 18 years of continuous service I am facing great financial stringency.
4. That Sir, in this connection, I further beg to submit that I have become overage and at present I am not legible for fresh recruitment.
5. That Sir, it will not be out of line to mention here that I got so many letters of recommendations for rendering sincere and faithful service to the Department. The copies of the same are enclosed herewith for your perusal.

In the light of the facts and circumstances stated above, I humbly pray that your honour be graciously pleased to consider my case and regularize me as a Casual worker and grant me temporary status in order to survive in these days of price-hike, and live a normal life.

Thanking you,

Your's faithfully

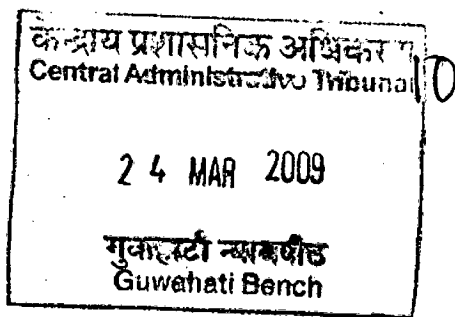
(Smt. Rita Singh)

02/9/08

Copy to:

The Station Director,
All India Radio Station, Chandmari
Guwahati (Assam)

Certified to be true
Copy
[Signature]
Adm.



ANNEXURE - 2 (Series)

34

D. Prasad Goenka
Vice President
Shillong Cantonment Board

Phone 25939/22749
29, Cantonment,
Shillong -793001

Date : 2nd April, 93

To whom it may concern

This is to certify Smti. Rita Singh, W/o. Shri Sumeet Lal, aged about 23 years, is borne in Shillong residing at Pudgaon line Shilloing (Cantt.) is known to me permanently. So far I know she bears good character. I wish her all success in life.

Sd/- D.P. Goenka
Vice President
Shillong Cantonment Board
Shillong.

Certified to be
true copy
Sd/-
Adm.

Government of India
All India Radio ::: Shillong

NO.SHC-29(5)/93-94/Part-II/

Dated, Shillong,
the 20th June '94.

To,

The Employment Officer,
Divisional Employment Exchange,
Shillong, Meghalaya.

केन्द्रीय प्रशासनिक अधिकारी Central Administrative Tribunal
24 MAR 2009
गुवाहाटी न्यायपीठ Guwahati Bench


Dear Sir,

This is for your kind information and necessary action that Smt.Rita Singh Casual Peon is working since October 1990 on Contract basis may kindly be included in the list and also whenever interview conducted for IV Grade may please call for the name.

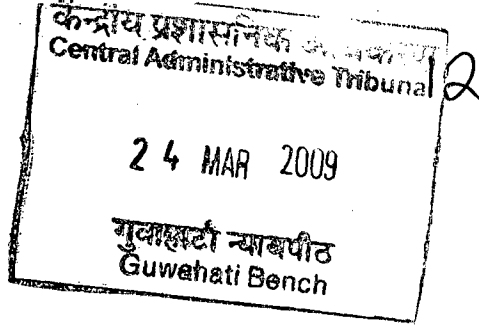
Her Registration No. is W.5416/92.

Thanking you.

Yours faithfully,


M. LUTHA
Programme Executive
For Station Director

*Certified to be
true copy
S.N.G.
A.H.*



PROGRAMME EXECUTIVE
कार्यक्रम अधिशासी
ALL INDIA RADIO
आकाशवाणी
SHILLONG-793 001
शिळांग
Gram : AKASHVANI

36


No. SHG-29(5)/97-98/6767

Dated, Shillong the 21-10-97

TO WHOM IT MAY CONCERNED

This is to certify that Smti Rita Singh had been working as a casual cleaner on casual basis in this office , All India Radio, Shillong for the last six years or so.

So far my knowledge is concerned, she had been performing her duty satisfactorily and nothing adverse is reported against her work. She bears a good moral character . I wish her all success in her endeavour.


21.10.97

(F. K. SANFMA)
PROGRAMME EXECUTIVE
FOR STATION DIRECTOR

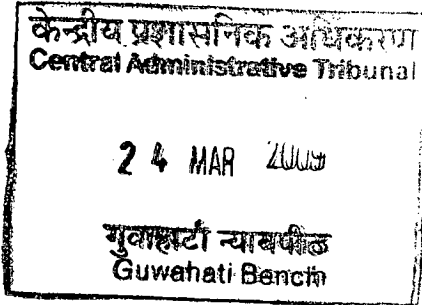
Certified to be
True Copy
Zug
Adv.

C. Lalbiaktluanga, I.B.(P)S
DY. DIRECTOR



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

दूरभाष / Telephone
Gram : 'AKASHVANI'
Fax : 0364-224153
Pin : 793001
Tel : 224439 (O)
221563 (R)



शिल्लोंग मेघालय
SHILLONG MEGHALAYA


दिनांक

Dated 22nd June '99

TO WHOM IT MAY CONCERN

Smt. Rita Devi Singh is known to me
for the last years. Presently she is working in All-
India Radio, Shillong as a Casual Peon. She is obedient
and faithful in her work.

I wish her success in life.


(C. Lalbiaktluanga)
Deputy Director,
All India Radio,
Shillong.

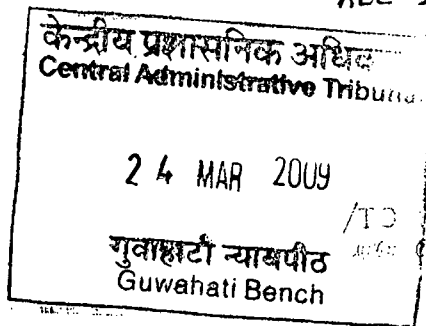
*Certified to be
True Copy
[Signature]
Adv.*

14

721

38

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
ALL INDIA RADIO; SHILLONG



Dated, 3rd August, 2000.

/TO WHOM IT MAY CONCERN/
DATE 0000 0000 0000

Smt. Rita Singh daughter of Shri Manik Singh of Imphal (Manipur) is serving in ALL India Radio: Shillong as a - Casual Peon/Safaiwala for the last 10 years. She is sincere and hard working and having a good moral character. I am strongly recommended her for appointment for the post of Safaiwala.

(C. Lal. Iaktluanga) 3/8
By. Director,
All India Radio,
Shillong.
Deputy Director
All India Radio
Shillong

Certified to be
True Copy
Jno
Adv.

15
GOVERNMENT OF INDIA
ALL INDIA RADIO SHILLONG

(39)

ANNEXURE-3

NO. SHG.-1(4)/94-S:

Dated, Shillong the 26th, August 94

To

The Director General,
All India Radio,
Akashvani Bhavan,
Parliament Street,
New Delhi-110001.

केन्द्रीय प्रशासनिक अर्थ
Central Administrative

24 MAR 2005

गुवाहाटी न्यायपीठ
Guwahati Bench

SUB; CASUAL WORKERS OF ALL INDIA RADIO SHILLONG:

Sir,

With reference to Satellite Message of 25th, August'94, the requisite information is furnished below as desired.

1. Name of person engage on casual basis: Smt. Rita Singh.
2. Date of birth: 5.12.71.
3. Educational Qualification: Read upto class VIII (Eight)
4. Post in Which engaged: Peon.
5. Date of first Casual booking: October'90.
6. Total number of days worked as Casual: 12 months with a break after every 14 days till date.

Yours Faithfully,

(K. LASUH.)

Asstt. Station Director,
For Station Director.

Certified to be
true copy
Sd/-
Adv.

470

File in Court on.....15/5/09
Court Officer.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
184
18 MAY 2009
गुवाहाटी बेंच
Guwahati Bench

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

74
KINSTAR SAUKMIE
Miller
Guwahati Bench
15.05.2009

O.A. No. 54/2009

Smtl. Rita Singh
.....Applicant

- Vs -

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

Written Statement on behalf of
the respondents above named

MOST RESPECTFULLY SHEWETH :-

- (1) That a copy of the Original Application has been served upon the respondents and the respondents after going through the same have understood the contents thereof.
- (2) That the respondents beg to state that the statements which are not specifically admitted by the respondents are deemed to be denied by them.
- (3) That with regard to para-1 of the Original Application, the respondents beg to state that the applicant is a part-time worker and she is paid on the basis of the work she rendered. Being a part-time wage earner she is not entitled to any regularisation.

Received copy.
15.5.09.

41

2

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal
18 MAY 2009
गुवाहाटी न्यायपीठ Guwahati Bench

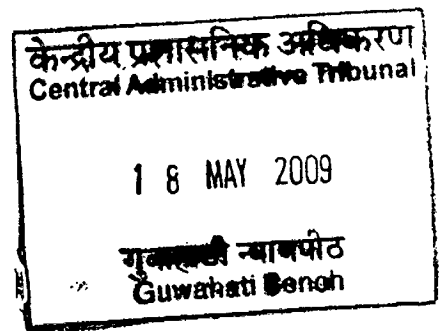
75

- (4) That with regard to paras 2 & 3 and 4.1 of the Original Application, the respondents beg to state that those are within the specific knowledge of the applicant and the respondent neither admits or denies the same.
- (5) That with regard to para 4.2 the respondents beg to state that that those are matter of records, however the respondents states that the applicant was engaged as daily wage earner for several years but it is denied that she was paid any regular salary. She was engaged on daily wage basis.
- (6) That with regard to para 4.3, the respondents beg to state that as stated above the applicant is a wage earner who works during the weekdays excluding holidays, Saturdays and Sundays. As such she cannot claim to be a Government Servant nor can she claim any regularisation of her service as she was not engaged in pursuance of any advertisement following the normal requirement process and hence her service cannot be regularised. Moreover, she never worked, engaged continuously by the respondents and as such she is not entitled for regularisation of her service.
- (7) That with regard to para 4.4, the respondents beg to reiterate that her engagement was on daily wage basis as such the very nature and the content of her job does not warrant any regularisation and her assertion that "she used to get a letter of recommendation" has no merit of consideration and as such the statements made in this instant para are denied by the respondents.

MILLER KINSTAR SAWKMIT

42

3



- (8) That with regard to para 4.5, the respondents beg to state that the case of the applicant after examination was found to be not entertainable after considering the same and the prayer made by the applicant was not allowed.
- (9) That with regard to para 4.6, the respondents beg to state that the applicant was employed on daily basis her right to employment is not a FUNDAMENTAL RIGHT and the engagement of the applicant was not in accordance with the Constitution provision. As such the same could not confer her any Fundamental RIGHT and her allegation that she has been deprived from the Principle of Natural JUSTICE does not arise.
- (10) That with regard to para 4.7, the respondents beg to state that in view of what has been stated above by the respondents the direction sought for from this Honourable Tribunal by the applicant may not be granted. As the applicant never worked continuously and was engaged only when the work is available. For such type of work and engagement the applicant does not acquire any right for regularisation.
- (11) That with regard to the grounds mentioned in para 5.1 to 5.4 are not good grounds which are liable to be rejected by this Honourable Tribunal in view of the facts as well as on law.

MIHAR KINSTAR SAWAMIE

43

4

कन्द्रीय प्रशासनिक अपील निकाय
Central Administrative Tribunal

18 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

(12) That with regard to para 5.5, the respondents beg to state that there is no such provision which entitle part-time daily wage earner to be regularised for having had rendered services for a number of years. As such the prayer of the applicant to direct the respondents to give her temporary status with retrospective effect and monetary benefit thereon, cannot be entertained.

(13) That with regard to para 5.6, the respondents begs to state that as stated above the applicant is a daily wage earner and as such she is not entitled to regularization inspite of the fact that she has been working in the same position for several years. Working in the same position does not confer any vested right of regularization. Moreover, she never worked, engaged continuously and was engaged as and when the work was available. The doctrine of legitimate expectation has no relevance in the fact and circumstances of the case, in as much as the applicant has no legal right whatsoever to be regularised as contended.

Thus the grounds set for in these paragraphs are neither tenable in law nor in fact and thus are liable to be rejected.

(14) That with regard to para 6, the respondents beg to state that those are within the specific knowledge of the applicant and the respondents neither admit or deny the same.

MILLER KINSTAR SAWKMIK

18 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

5

44

(15) That with regard to the relief sought for and the Interim order prayed for by the applicant in para-7, may not be granted in view of the facts laid down by the respondents in the foregoing paragraphs of this Written Statement.

(16) That the respondents submit that the application filed by the applicant is misleading of actual facts and the applicant has no legal right of employment against the respondents as such the application is liable to be dismissed.

MILLER KINSTAR SAWKME

45

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

18 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I, SHRI. MILLER RINSTAR SAUKMIE S/o. (L) T. B. THANGKHIEW
aged about 39 years, R/o MAWLAI, MDY. SYLAR, SHILLONG
District EAST KHASI HILLS, MEGHALAYA and working as PROGRAMME EXECUTIVE
has been authorised by the Respondent to verify the
statement on their behalf. I, do hereby verify that the
statement made in paras 1 to 14

are true to my knowledge and
those made in paras x -

being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon'ble
Tribunal and I have not suppressed any material facts.

And I sign this verification on this 15th day
of MAY 2009 at Guwahati.

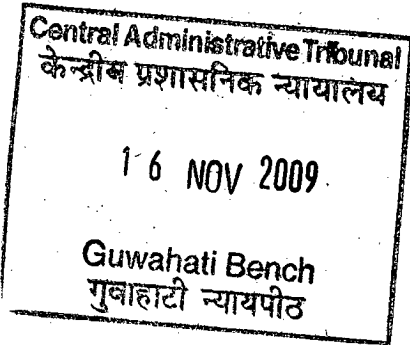
Signature

MILLER RINSTAR SAUKMIE

Programme Executive
NES AIR Shillong

46

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH



IN THE MATTER OF:

O.A. No. 54/09

Rita Singh

...Applicant

vs-

U.O.I. & Ors.

...Respondents

-And-

IN THE MATTER OF:

Additional Written Statement filed on behalf of
the Respondents

I, Smt. N. Shadap, D/o Smt. W. Shadap, presently working as the Station Director, All India Radio, Shillong-793001, do hereby solemnly state as follows:

1. That I am the Station Director, All India Radio, Shillong-793001. I have been impleaded as party Respondent No. 3. A copy of the Consolidated Original Application (hereinafter 'the Application') has been served upon me and I have gone through the same and understood the contents thereof. Being the Station Director, I am conversant with the facts and circumstances of the case. I have also been authorized to file this Additional Written Statement on behalf of the other Respondents.
2. That I do not admit any statements made in the Application and, save and except those statements that are admitted to be true by the humble answering Respondent, the rest may be deemed as denied.
3. That before traversing the facts of the case as put forward by the Applicant in the Application, the humble answering Respondent would like to place before the Hon'ble Tribunal the brief facts of the case:

BRIEF FACTS OF THE CASE:

- 3.1 That the Applicant was working from October, 1990. She was engaged only as a part-time worker with her payment being made on the basis of work rendered by her and no regular salary was paid to her. Her engagement was purely on casual

Filed by:-
The Respondents
Through:-
Margaret Das
Sr. C.G.S. &
C.A.T. 88-
16/11/09

Shadap

Received Copy.
Has
18.11.09.

16 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

47

basis with a daily wage of Rs. 70/-. Her engagement was not in accordance with rules inasmuch as she was not engaged in pursuance of any advertisement. Even there was no such appointment order.

3.2 That the mode of payment to the Applicant was by cash based on the work and the number of days she had rendered work as a part time wage earned.

3.3 That the Applicant was engaged only as and when required since October, 1991 as a casual wage earned and as such no regular salary was paid to her.

3.4 That the Applicant was not in continuous service in any year. Furthermore, since August 2003 till date engagement has been done through approved contractor on a contractual basis and the contractor also paid the wages.

3.5 That the respondent authority has received only one representation from the Applicant and after examination the same was not acceded to. Mere representation does not confer any right for regularization in service.

3.6 That though the Applicant received many certificates/recommendations, however it is pertinent to mention that the recommendation of Sri K. Lasuh could not be verified as no records are available and the recommendation of Sri C. Lalbiaktluanga was given without any file noting or knowledge of the Head of the Office. Furthermore, in one of the recommendations mentioned in Page 14 of the Application under Annexure 2 (series) of the Application, it was mentioned that she was working as "Casual Peon/Safaiwala" and the same recommendation also recommended her to the post of Safaiwala. It is noteworthy that if she was already working as Safaiwala, then there was no need to recommend her to the post of Safaiwala. Furthermore, she was never engaged as Safaiwala nor can she be recommended to that post as it is reserved only for the Scheduled Caste. Therefore it only goes to show the dubious nature of the recommendations that she received.

4. REPLY TO THE FACTS OF THE CASE:

4.1 That with regards to the statements made in paragraph 4.1 of the Application the humble answering Respondent begs to offer no comment.

4.2 That with regards to the statements made in paragraph 4.2 of the Application, the humble answering Respondent begs to state that it is incorrect that she is receiving Rs. 300/- as salary. Furthermore, even though the Applicant was working from October, 1990, she was engaged only as a part-time worker with her payment being made on the basis of work rendered by her and no regular salary was paid to her. Her engagement was purely on casual basis with a daily wage of Rs. 70/-. Her engagement was not in accordance with rules inasmuch as she was

not engaged in pursuance of any advertisement. Even there was no such appointment order.

4.3 That with regard to the statements made in paragraph 4.3 of the Application, the humble answering Respondent begs state that the respondent authority has received only one representation and after examination the same was not acceded to. Mere representation does not confer any right for regularization in service. It is also not correct that the Applicant served for more than 18 years without any break but in fact she had worked in a casual manner with break in service in every year of her service.

Shorelay

4.4 That with regard to the statements made in paragraph 4.4 of the Application, the humble answering Respondent begs to state that though the Applicant received many recommendations, however it is pertinent to mention that the recommendation of Sri K. Lasuh could not be verified as no records are available and the recommendation of Sri C. Lalbiaktluanga was given without any file noting or knowledge of the Head of the Office. Furthermore, in one of the recommendations mentioned in Page 14 of the Application under Annexure 2 (series), it was mentioned that she was working as "Casual Peon/Safaiwala" and the same recommendation also recommended her to the post of Safaiwala. It is noteworthy that if she was already working as Safaiwala, then there was no need to recommend her to the post of Safaiwala. Furthermore, she was never engaged as Safaiwala nor can she be recommended to that post as it is reserved only for the Scheduled Caste. Therefore it only goes to show the dubious nature of the recommendations that she received:

4.5 That with regard to the statements made in paragraph 4.5 of the Application, the humble answering Respondent begs to state that generally routine satellite messages are sent internally to all the AIR Stations seeking information on any matter on which the Directorate in Delhi requires information. The said letter dated 26.08.94 (Annexure-3) is just a letter sent in pursuance of one such routine satellite message merely for the purposes of giving information.

4.6 That with regard to the statements made in paragraphs 4.5.A to 4.5.C of the Application, the humble answering Respondent begs to state that the Applicant was a daily wage earner employed on a casual basis. The Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993 (hereinafter 'the Scheme') does provide for grant of temporary status and consequent regularization to the causal labourers, but at the same time, it also provides for some basic criteria that a casual worker has to fulfill to be entitled to get the benefit of this Scheme. One such criterion is that the casual worker must have had a **continuous** service of at least one year. But she was not in continuous service in any year from her initial engagement in 1990. Therefore, the Respondents have not violated the Scheme

✓

16 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

49

43

Sheelap

either in letter or in spirit and the Applicant cannot claim the benefit of the said Scheme.

4.7 That with regard to the statements made in paragraph 4.5.D of the Application, the humble answering respondent begs to state that paragraph 53 of the Uma Devi (3) [Secretary, State of Karnataka and others -vs- Uma Devi (3)] judgement is dealing with a wholly different context and is not at all related to the Applicant's situation.

Paragraph 53 of Uma Devi (3) deals with a situation where an appointment has actually been made. In this case, no such appointment has been made. There is not even an appointment order in case of her engagement. The applicant was merely engaged as a part time casual worker who was paid based on the days she worked in a month. Besides, paragraph 53 deals with cases of irregular appointment and not with cases of illegal appointment. However, with no recruitment process and no advertisement, the Respondents engaged the Applicant as Peon. This very fact itself would take the Applicant's engagement outside the purview of paragraph 53 of the Uma Devi (3) judgement as such an engagement, even if it was assumed that it was an appointment, would make it an illegal appointment. Besides, paragraph 53 of the Uma Devi (3) is limited in scope duly qualified persons in duly sanctioned vacant post, which is clearly not the case with the Applicant who was engaged as a part time Casual worker.

4.8 That with regards to the statements made in paragraph 4.6 of the Application, the humble answering Respondent begs to state that no Fundamental Right of the Applicant has been violated. Right to Employment or Right for Regularization is not Fundamental Right and moreover no discrimination or arbitrary treatment has been meted out to her. Her engagement itself was not in terms of the provisions of the Constitution insofar as no advertisement or recruitment process was undertaken for her engagement. Moreover, her allegation of deprivation of Principles of Natural Justice also does not hold water.

4.9 That with regard to the statements made in paragraph 4.7 of the Application, the humble answering Respondent begs to state that she is merely apprehending that she may be replaced by another person if not regularised. It is submitted that her contention that she should be regularised merely because she apprehends that she may be replaced is too vacuous an argument to be taken up for any serious consideration. The Applicant has never worked continuously and was engaged only when work was available and not otherwise. For such type of work and engagement, the Applicant does not acquire the right of regularization.

4.10 That the instant Application has no merit at all and is liable to be dismissed by the Hon'ble Tribunal.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय


6 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

VERIFICATION

I, Smt. N. Shadap, D/o Smt. W. Shadap, aged about 54 years, presently working as the Station Director, All India Radio, Shillong-793001, do hereby verify that the statements made in paragraphs 1-3, 3.3, 3.3, 3.5, 3.6, 4.1-4.4, 4.7, are true to my knowledge and belief, those made in paragraphs 4.8, 4.9, 3.1, 3.4, 4.2, 4.3, 4.5, 4.6 being matters of records of the case are true to my information derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal.

And I sign this verification on this the 16th day of November, 2009 at Guwahati.



SIGNATURE