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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL)

16/7/2015

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

1. ORIGINAL APPLICATION No : 205 / 2009
 2. Transfer Application No : -----/2009 in O.A. No.-----
 3. Misc. Petition No : -----/2009 in O.A. No.-----
 4. Contempt Petition No : -----/2009 in O.A. No.-----
 5. Review Application No : -----/2009 in O.A. No.-----
 6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Sri Bidhyadhar Tanti & ors.
 Respondent (S) : Union of India & ors.

Advocate for the : M.P.S. Dey, Mr. M. Nath,
 {Applicant (S)} Mr. B.C. Pathak & Mr. C.S. Hazarika

Advocate for the : BSNL
 {Respondent (S)}

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/ED No. 395 425447 Dated 1-10-09</p> <p><i>[Signature]</i> Dated 5/10/09 Dy. Registrar 5/10/09</p> <p>6 (six) copies of application with envelope received for issue notices to the respondents No. 1 to 6. Copy served. Extra charges for legal No. 6 deposited vide IPO. No. 52 C 248716 Dated 1-10-09.</p> <p><i>[Signature]</i> Dated 5/10/09</p>	06.10.2009	<p>Heard Mr. M. Nath, learned counsel appearing for the Applicant and Mr. B.C. Pathak, learned Counsel representing the BSNL (to whom a copy of this O.A. has already been supplied) and perused the materials placed on record seeking regularization in service the Applicants have approached this Tribunal in the present case.</p> <p>2. It is the case of the Applicants, that they are continuing to serve the BSNL (initially being engaged; (under the Respondents Organization; directly) now being engaged through contractors.</p> <p>Contd/ -</p>

Contd/-

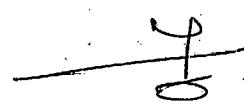
06.10.2009

Mr. B. C. Pathak, learned counsel for BSNL has pointed out that the Applicants, being no more under the BSNL and that, being under same contractors, they can not claim regularization under the BSNL. Mr. M. Nath learned counsel for the Applicant has argued that BSNL, being the Principal employer, is vicariously liable to absorb the Applicants in their regular establishment.

3. Admit. Issue notice to the Respondents requiring them to file their written statement by 23rd November 2009.

4. In the meantime, the Applicants should not be disengaged without leave of this Tribunal.

5. Sent copies of this order to the Respondents (along with notices) and free copies of this order be handed over to the learned counsel appearing for both the parties.


(M.R. Mohanty)
Vice-Chairman

As requested by proxy counsel for Respondents enabling to file reply, case is adjourned to 17.12.2009.

Interim order to continue till the next date.


(Madan Kumar Chaturvedi) Member (A)


(Mukesh Kumar Gupta) Member (J)

*copies of notices
along with MP No-103/09
and order dated 6/10/09
send to Director
issuing to respondents
by regular A/D post*

*Free copies of this
order also handed over
to the 2/1 counsel for
both the parties.*

D/No -

1/bb/

DT


9/10/09.

20.11.09. No 103/09
25.11.09. 25/11/09

17.12.2009 Two weeks time is extended to file reply as a last chance.

List the matter on 5.1.2010 along with T.A.No.33 of 2009 for hearing.

No W/S filed.

22.12.2010

/lm/

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

22.12.2010
W/S filed by the
Respondents No. 2 to 6.
Copy served.
8.12.2010

W/S filed.

/lm/

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar
Member (J))

25.1.2010
Received by him
by Mrs. M. D. M. S.
Date
23.1.2010

27.1.2010 Mr.D.P.Borah, learned counsel for the Applicant states that his senior is not available for some personal reasons. Learned proxy counsel for Mr.B.C.Pathak, for BSNL prays for adjournment.

In the circumstances, list the matter for hearing on 23.2.2010.

Interim order dated 6.10.2009 to continue till the next date..

W/S filed.

22.2.2010

/lm/

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

22.2.2010
Respondent has been
filed by the applicant
Copy served
8.2.2010

23.02.2010 Mr. M.Nath learned counsel appearing for the Applicant seeks time to peruse the judgment rendered in T.A.3/2009 and series matter.

List on 05.03.2010.

24/02/2010 (05/03/2010) received by P.M.
(A) Madan Kumar Chaturvedi

(A) Madan Kumar Chaturvedi

(Madan Kumar Chaturvedi)

(Mukesh Kumar Gupta)

Member (A)

Member (J)

/bb/

E.P.01/09 (O.A.187/04)

20.02.2010 None appears for the Applicant nor of the Respondents and as the Applicant is present, Mr. M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, and Ms. U. Das, learned counsel for the Respondents, are present.

05.03.2010 Mr C.S. Hazarika, learned counsel for applicant, states that due to personal reasons he would like to withdraw from this case. Permission is granted.

The case is ready
for hearing.

3
5.4.2010

On the request of Mr. M. Nath, learned counsel for applicant and Mr. H.C. Pathak, learned counsel for the respondents, this case is adjourned to 06.04.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

The case is ready
for hearing.

5.5.2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

~8~
O.A No. 205 of 2009

5.05.2010 Heard Mr. M. Nath & Mr. D.P. Borah, learned counsel for Applicant and Mr. B.C. Pathak, learned counsel for B.S.N.L.

Hearing concluded. Reserved for orders.

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

/pb/

18.05.2010 Judgment pronounced in open Court. Kept in separate sheets. Application is disposed of. No costs.

 (Madan Kumar Chaturvedi) Member (A)

 (Mukesh Kumar Gupta) Member (J)

Received by
Mukesh Deka, Advocate
for B.C. Pathak, Advocate
20/5/10

/Lm/

Received order copy
for Mrs. M. Das
S.n. C.G. SC

M. Deka
25.5.10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

TRANSFER APPLICATION NO.3,29,39/2009,10/09,62/09,O.A.NOS.195
AND 205/2009

DATE OF ORDER: THIS THE 8th DAY OF APRIL, 2014

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI MOHD.HALEEM KHAN, MEMBER (A)

1. Shri Prahlad Ch.Borah
Son of Shri Pipil Ch.Borah,
Resident of Vilol – Kakhari Gaon,
Dist.- Nagaon
2. Shri Dilip Mazumdar,
Son of Kala Mazumdar,
Resident of Vill –
Dist. – Nagaon.
3. Shri Sanjeet Kr.Banik,
Resident of Vill – Chakitup
P.O. – Shuta Haibar,
Dist. – Nagaon
4. Shri Radhakanta Bordaloi
Son of late Debnath Bordoloi
Resident of Vill – Pub-Soragaon,
Post of Soragaon,
Dist.- Nagaon
5. Shri Binod Kr.Saikia
Son of late Megh Ram Saikia
Resident of Vill – Owanagaon
P.O.Rupahi, Dist – Nagaon

.... Applicants in T.A.3/09
in W.P.No.152/06

Vs.

1. Union of India
Represented by the Secretary to the
Government of India

Ministry of Communication,
Sanchar Bhawan, New Delhi – 1.

2. The Chairman-Cum-Managing Director
Bharat Sanchar Nigam Limited (BSNL)
New Delhi – 1.

3. The Chief General Manager, (BSNL)
Assam Telecom Circle,
Ulubari Guwahati – 7 , Assam

4. The Sub-Divisional Officer, BSNL,
Nagaon Telecom Division, Nagaon.

.....Respondents

1. Shri Binod Kumar Mandal,
Son of Shri Ram Kumar Mandal
New Colony, Bongaigaon
District – Bongaigaon.

2. Shri Bhaskar Nag,
Son of late Jiban Nag,
New Colony, Bongaigaon,
District – Bongaigaon

3. Shri Ram Naresh Roy,
Son of late Mondal Roy,
New Colony, Bongaigaon,
District – Bongaigaon

4. Shri Nipen Das,
Son of Shri Ananda Das,
New Colony, Bongaigaon,
District Bongaigaon

5. Shri Dilip Kumar Das,
Son of late Prasanna Das,
New Colony, Bongaigaon,
District – Bongaigaon

6. Shri Dilip Majumdar,
Son of late Gauranga Majumdar,

New Colony, Bongaigaon,
District – Bongaigaon.

7. Shri Shiv Nandan Prasad,
Son of late Dasarath Lal Prasad,
New Colony, Bongaigaon,
District – Bongaigaon

....Applicants in
T.A.29/2009 IN
W.P.(C)NO.2668/2008

Vs.

1. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited (BSNL)
(Govt. of India Enterprise), New Delhi – 1,
2. The Chief General Manager (BSNL)
Assam Telecom Circle, Guwahati – I,
Assam.
3. The Executive Engineer, BSNL,
Telecom Civil Division, Bongaigaon.
4. The Sub-Divisional Engineer (E),
Bharat Sanchar Nigam Limited,
Bongaigaon.

....Respondents

1. Shri Kandarpa Das
Son of Open Das
R/O: Sualkuchi, Kamrup
2. Shri Kamal Kalita,
Son of late Nripen Kalita
R/O Nalbari
Dist: Nalbari (Assam)

..... Applicants in T.A.39/09
in W.P.(C) NO.8557/2005

-vs-

1. Union of India, represented by
the Secretary to the Government of India,
Ministry of communication,
Sansar Bhawan, New Delhi
2. The Chairman-cum-Managing Director

13
Bharat Sansar Nigam Limited (BSNL)
New Delhi-1

3. The Chief General Manager, BSNL
Ulubari, Guwahati-7

4. The Sub-Divisional Engineer, (Store).
BSNL, Circle Telecom Store Depot.
Assam Telecom Circle, Adabari
Guwahati-12.

..... Respondents

O R D E R (ORAL)

DR.K.B.SURESH, MEMBER (J):

All these matters were heard together. These have a common threat which relates to appointment of employees who had worked for more than a quarter of a century at different levels at a different places. Following the Uma Devi's judgment which stipulates a period of 10 years to be used as a yardstick for determining whether the employees in question were to be regularised, then it is pertinent that they be regularised as it is a part of constitutional process under Article 39 to 43 that livelihood of a citizen is sacrosanct and that must be protected it and the attempt must be to strive towards it rather than denigrate it. It is a sacrosanct right and it shall not be taken away by sovereign State under the methodologies unknown to law and for reasons which are not explained in response of the respondents properly but they seem to have adopted a pick and choose methodology as employees at various levels were placed either under contractors or to work with them or taken back as the situation dictated. But as provided under the provision of law relating to Industrial Disputes, Employees Insurance Laws and Employees Provident Fund Laws read in conjunction with the other legislative content, when an employee

work in a particular establishment with a level of control for the principal employer as is possible, then the question of principal employer and the subordinate employer arise and contractor in such case will only be a subordinate employer and the principal employer is BSNL at that time and the Contract Labour abolition also makes it very clear. Therefore there is no doubt about the legal situation.

2. We have heard the learned counsel for both the parties.

3. The matter is in a very small campus. The question raised by the learned counsel for the applicants is that the Hon'ble High Court vide its common Judgment and order dated 19.3.2013 passed in WPC Nos. 2945/2011, 6918/2010, 1363/2010, 18/2012, 2163/2011, 4817/2010, 849/2012 and 4059/2010 disposed of a series of Writ Petitions directing this Tribunal to the effect that there is no impediment in determining and settling the disputed question of facts in respect of services of the Casual employees by taking recourse of the provisions of Section 22 (3) of Administrative Tribunals Act 1985 . It appears that in Paragraph 32, 33 & 34 of the judgment, Hon'ble High Court observed that the Tribunal did not record any evidence to decide the disputed question of facts. Accordingly, we requested the learned counsel for the respondents for giving the answers to the queries which may legitimately arise in the case to further the contention of the parties.

Q.N.1. Were these applicants employed at any point of time?

Ans: Some worked under the Contractor and some others under the BSNL.

Q.No.2. Have any of these employees at any point of time been employed?

Ans. Any preceding year.

Q.N.3. Have they been paid any rate fixed by the employees?

Ans. Yes, they have paid the rate as fixed.

Q.No.4. When had the applicants have found their employment with you?

Ans: In 1988.

Q.No.5. They are still working with you?

Ans: No, they are not doing any work with us now.

Therefore the required factual determination, in the light of Industrial laws is now complete for out purpose.

4. In the light of the annexures annexed with the Original applications and the written statements and also being agreed to by the learned counsel for the parties, we feel that the matter can be disposed of by us now. From the facts of the cases we find that several persons have been working under the respondents. According to the convenience of the respondents it seen that at different periods of time they have placed the casual employees under the contractor or they were working directly under BSNL. The question arises only as to whether the applicants were working under the respondents at any point of time under Statutory Provisions of Payment of Wages Act and other Labour related Regulations etc. and for the purpose of BSNL. Some of the applicants have been working under the contractor and were deprived of the benefits of Provisions of various Labour related Act. Most of the applicants claimed that they have been working under the respondents for last 26 years and substantial part of their lives have been spent under the respondents. Most

prominently illuminative is the fact that while the petitioners have claimed that they are still working as casual workers under the respondents and entitled to the benefits accruing there from , the respondents vehemently deny the claim of the applicant. In such circumstances determination of such disputed questions of fact demanded recording of evidence of the parties concerned, the High Court held.

5 In these matters the learned counsel for the applicant submitted that there is some difference being that the applicants have produced certain records issued by Junior Technical Officers or some other authority of BSNL who had extracted works of the applicants. Respondent's contention is that the said authorities could not have engaged them. **The matter for consideration is not the competence of the person who engaged them but whether the works alluded enured to the benefit of BSNL.** Therefore, there is a difference in perception that no technical consideration but an actual assessment of benefits which accrue to the BSNL shall be taken in to consideration. There shall not be a technical consideration of assessment at this point of time. But then as the Casual Labour automatically brings in a certain level of expertise and for that purpose the level of whom had ordered the work is only an internal matter and whether or not the concerned officer had the competency or not. It is the look out of the employees. No officers of the BSNL were assailed seems to be affected if such incompetent person was engaged, it would be only lapse of supervisory process and not be a reflection of labour.

The T.As are accordingly allowed.

T.A.No.10 of 2009 in W.P.(C) No.2800/2006

1. Shri Niranjan Chandra Das
Son of Sri SujitRam Das,
Village-Patharkandi
P.O.Mahakal
Dist. Karimganj, Assam
2. Shri Manindra Chandra Nath
S/O Shri Mahendra Ch.Nath
Village-Kanaklash
P.OBhangabazar
District-Kaarimganj (Assam) ... Applicants

-Versus-

1. The Union o India,
Represented by the Secretary to the
Government of India
Ministry of Communication.
New Delhi.
2. Bharat Sanchar Nigam Ltd.
(A Govt. of India Enterprise)
Represented by Chairman-cum-Managing Director
Corporate Office
New Delhi-1
3. Bharat Sanchar Nigam Limited
Represented by the General Manager
Assam Circle, Department of Telecommunication.
Govt. of India
Ulubari, Guwahati
4. The General Manager
Telecom, Silchar SSA
Department of Telecommunications
Silchar-1, Assam
5. Sub Divisional Officer, Telecom

Department of Telecommunication
Karimganj

6. Divisional Engineer(P&A)
Office of the General Manager
Bharat Sanchar Nigam Ltd.
Silchar-1.

.....Respondents

This matter have been heard analogously, but it is slightly different. The applicant was granted temporary status. Without assigning any reason and being granted any opportunity of being heard the conferment of temporary status granted to the applicant seems to have been cancelled. The Government has passed an order arbitrarily without giving any reason and it appears to be extremely illegal on the part of the respondents. The right to be heard, if prejudiced is a just and expressed right of the Constitution. It is directed that applicant would be continued and to be considered as in temporary status from the date of original order. But it is clear that for reasons recorded in writing if there is a mistake the respondent have a right to give show cause notice and pass appropriate order within the next two months.

The T.A. is accordingly allowed.

T.A.No.62 of 2009 in W.P.(C) No.8886/2005

1. Shri Dhanapati Lahkar,
S/o Late Haren Lahkar
Resident of Vill, Lachima
Post Office Srathebari
Dist.Barpeta
2. Shri Ajit Das

S/O Sri Ratan Chandra Das
 Resident of Vill/P.O. Dadara
 Dist.Kamrup, Assam

3. Shri Mohan Das
 S/O Late Khargeswar Das
 Resident of Vill.Akadi
 P.O.Dihina, Hajo
 Dist. Kamrup, Assam
4. Shri Tarani Boro
 S/O Late Rahi Ram Boro
 R/O Vill.P.O.-Gapia
 Dist. Kamrup, Assam
5. Shri Bhainur Ali
 S/O Late Khasfur Ali
 Resident of Vill/P.O.Maranjana
 Dist. Kamrup, Assam
6. Shri Umesh Ch.Das,
 S/O Late Habiram Das
 Resident of Vill- Akadi
 P.O.Dihina, Hajo
 Dist. Kamrup, Assam
7. Shri Attar Ali
 Resident of Vill-Bamunigaon
 P.O.-Changsari
 Dist.Kamrup, Assam

..... Applicants

By Advocate Mr.M.Nath,

-Vs-

1. Union of India, represented by
 the Secretary to the Government of India,
 Ministry of Communication, Sansar Bhawan
 New Delhi-1.
2. The Chairman-cum-Managing Director,
 Bharat Sansar Nigam Limited (BSNL)
 New Delhi-1



3. The Chief General Manager, (BSNL), Task Force, Assam Telecom Circle, Guwahati-1, Assam
4. The Director Task Force, Silchar
Dist: Silchar
5. The Deputy General Manager, Task Force, Office of the Chief General Manager
Telecom Task Force, Guwahati-1, Assam
6. The Deputy General Manager, Task Force,
At Shillong, Laitumukhrah, , Shillong.
7. The Divisional Engineer, (TP-II)
Bhangagarh, Guwahati-5. Respondents.

In this case the learned counsel for the applicant Mr.H.K.Das has submitted that the applicant has already completed 240 days. Mr.Y.Doloi, the learned counsel for the respondents clarified that the applicants have completed 240 days, but not continuously. They were absent in their duties without any reasons and therefore, they are not entitled for conferment of temporary status.

2. As per the direction contained in the Judgment of the Hon'ble Supreme Court and the Schemes of 1989, they are entitled to the benefit , mentioned in the said scheme, including temporary status and subsequent regularization. The petitioners are eligible for grant of temporary status as mentioned in the Scheme. But the respondents, withheld the said benefit to them, where as the said benefit has been extended to other similarly situated casual employees.

The T.A. is allowed.

O.A.195 of 2009

1. Shri Shyamal Das,
Son of Late Gyantosh Chandra Das
Resident of Krishna Nagar
Ward No.10, Hojai
P.O.Hojai, Nagaon, Assam-782435

.... Applicant.

By Advocate Mr.U.Dutta

-Vs-

1 The Union of India,
Represented by the Secretary to the Government of India
Ministry of Communications, Department of Telecom
Sanchar Bhavan, 20 Ashoka Road,
New Delhi-110001.

2. Bharat Sanchar Nigam Ltd.
(A.Govt. of India Enterprise)
Represented by the Chairman and Managing Director, BSNL.
Registered Office-Statesman House
Barkhamba Road, New Delhi-110001

3. The Chief General Manager,
Assam Telecom Circle(BSNL)
Admn.Building 4th Floor,
Panbazar, Guwahati-781001.

4. The General Manager
Nagaon Telecom District,
P.O.Nagaon, Assam

Respondents.

By Advocate Mr.Y.Doloi,

In O.A.No.195 of 2009 the applicant Shri Shyamal Das challenges communication dated 11.11.2008 endorsed to him vide letter dated 20.01.2009 (Annexure -XVII) whereby the claim of the applicant for grant of temporary status has been rejected and prays for direction to declare that the applicant is entitled to

grant of temporary status under the provisions of "Casual Labourers (Grant of temporary status and Regularization) Scheme of the Department of Telecommunication 1989 and further direct the respondents to confer temporary status on the applicant. It is contended by the learned counsel for the applicant that the applicant had been working more than 240 days in a year in casual labour capacity since 1992 till 1998 and therefore, entitled to said status.

2.. By filing reply the respondents 2-4 have contested the matter it is stated that as per the law laid down by Hon'ble Supreme Court in **Secretary, State of Karnataka and Others, Vs. Umadevi (3) and others (2006) 4 SCC 1** applicant is not entitled to any relief.

3.. The matter was also heard along with the other connected matters. If the respondents wanted to place the applicants under the contractors they should have followed the settled principles of law "**Last Come First Go**" ..

With the above observations and directions, the O.A is allowed. No order as to costs.

O.A.205 of 2009

1. Sri Bidyadhar Tanti
Son of Late Bharat Tanti
P.O/P.S-Mahadeve Pur
Dist-Lohit, Arunachal Praesh
2. Smt. Rup Mala
Son of Shri Ganesh Basfor
P.O. Lar Bazar
P.S.Nagarana Ghat
Dist-Deboria, Uttar Pradesh

3. Sri Purandar Sonowal
Son of Shri Nomal Sonowal
P.O. & P.S. -Bihpuria
Dist. North Lakhimpur, Assam

4. Sri Niya Yangfo
Son of Shri Kamku Yangfo
P.O.-Sewa, Dist.-East Kamang
Arunachal Pradesh

5. Sri Nagendra Barman
Son of Late Jayram Barman
P.O.-Chamata
Dist-Nalbari, Assam

6. Sri Ram Chanda Ray
Son of Late Yogi Ray
P.O.Bidupur, P.S.Rajapakar
Dist. Vaishali, Bihar

7. Sri Jadav Saikia
Son of Shri T.Saikia
P.O.Deotola
Dist.North Lakhimpur, Assam

8. Sri Promod Duwarah
Son of Shsri Budheswar Dowara
P.O. Napam Bokajan
P.S.Gorisaar, Assam

9. Sri Sanjoy Kumar Ray
Son of Lt.M.Ray
P.O.Bidupur
Dist-Vaishali, Bihar

10. Sri Sunil Kumar
Son of Shri D.Ray
P.O.Lakhani , P.S.Bidupun Bazar
Dist.Vaishali, Bihar

11. Sri Arabind Prasad
Son of B.P. Singh

P.O. Bidupur
Dist.Vaishali, Bihar

12. Sri Siba Prasad Mahanta
Son of Shri P.D.Mahanta
P.O.Gonakpukhuri
Dist. Golaghat, Assam

13. Sri Mathur Mahajan
Son of Lt.Gouranga Mahajan
P.O. Hanglar Bazar
Dist Karimganj, Assam

14. Sri Ratan Rabha
Son of Shri Sukar Rabha
P.O.Mazbat, Dist.Darrang, Assam

15. Sri Dandi Ram Nath
Son of Late H.Nath
P.O. Chanjani, Dist-Nalbari, Assam

16. Sri Jogen Borah
Son of Late Dulal Baorah
P.O.Chamarajan, Dist-Dhemaji, Assam

17. Sri Nibu Tungi
Son of Shri Caiya Tungi
P.O. Sewa, Dist-East Kamang
Arunachal Pradesh

18. Sri Imdad Ali
Son of Md.Nizamuddin Ali
P.O.Silghat, Dist-Nagaon, Assam

19. Sri Dhan Bahadur Tamang
Son of Shri Prem Raj Tamang
P.O.Seepakhua , Dist-Tinsukia, Assam

20. Sri Mohan Chandra Das,
Son of Shri J.R. Das
P.O.Balipara, Dist-Sonitpur, State Assam

21. Sri Gopi Chand

Son of Shri G.Gajput
 P.O.Khanpur, Dist-Kanpur, Uttar Pradesh

22. Sri Pranabjit Deka
 Son of Late B.Deka
 P.O. Dhemaji, Dist-Dhemaji, Assam
23. Sri Kamal Das
 Son of Shri Dadhi Ram Das
 P.O.Barbari, Dist.-Nalbari,
 State – Assam
24. Sri Anil Kumar Ray,
 Son of Lt.B.N.Rao.
 P.O.Chandoli, Dist.Shamistipur,
 Bihar.
25. Sri Biren Boro,
 Son of Lr.Mohan Baro,
 P.O.-Dunbi, Dist.-Goalpara,
 Assam.
26. Sri Lal Babu Sah,
 Son of L.Sah,
 P.O.-Dunbi, Dist – Madubani,
 Bihar.
27. Sri Tarun Sharma,
 Son of Lt.Tulsi Sharma,
 P.O.- Jamuguri Pasali,
 Dist – Dhemaji, Assam.
28. Sri Pabitra Borah,
 Son of Lt.S.Bara,
 P.O.- Deotola, Dist.-N.Lakshimpur,
 Assam.
29. Sri Madan Sharma,
 Son of Shri Rudra Sharma,
 P.O.-Balijuri, Dist. - Sonitpur,
 Assam.
30. Sri Rama Gogoi,

Son of Shri Jagot Gogoi,
 P.O.- Mahadeve Pur,
 Dist – Lohit, Arunachal Pradesh.

31. Sri Gangpha Wangsa,
 Son of Shri Wangey Wangsa,
 P.O.- Pongehau, Dist.- Tirap,
 Arunachal Pradesh.
32. Sri Ananta Deka,
 Son of Lt.H.Deka,
 P.O.- Teoghat,
 Dist – Sivsagar, Assam.
33. Sri Sanjay Ray,
 Son of Lt.Narsingh Ray,
 P.O.-Panapur Langa,
 Dist.-Vaishali, Bihar.
34. Sri Kiisan Pratap Singh,
 Son of Lt.B.Singh,
 P.O.-Lanka, Dist.-Nagaon,
 Assam.
35. Sri Bhoj Bir Sonar,
 Son of D.R.Sonar,
 P.O.Mokum,
 Dist.- Tinsukia,
 Assam.
36. Sri Biren Mech,
 Son of Shri Denesh Mech
 P.O.- Phialbari,
 Dist- Tinsukia, Assam.
37. Sri Parwali D.Arya,
 Son of Lt.M.R.Arya,
 P.O. - Janti, Dist.- Almora,
 Uttarkhand.
38. Sri Bidyut Hazarika,
 Son of Shri B.Hazarika,
 P.O. - Bordoloni, Dist – Dhemaji,

Assam.

39. Sri Liteswar Saikia,
 Son of Shri Nilakanta Saikia,
 P.O. - Kumuraguri,
 Dist. - Marigaon, Assam.

40. Sri Sailesh Kumar Singh,
 Son of Shri Ramdhain Singh,
 P.O. - Boruah, Dist - Chapra.
 Bihar.

41. Sri Promod Kumar,
 Son of Lt. Narsingh Rajpat,
 P.O. - Mario, Dost - Bhagalpur,
 Bihar.

42. Sri Ram Babu Paswan,
 Son of Shri Bindeswar Paswan,
 P.O. - Narar, Dist - Madhubani,
 Bihar.

43. Sri Lakhi Prasad Sharma,
 Son of Shri H.P. Sharma,
 P.O. - Pholbari Bhkanodi,
 Dist - North Lakhimpur,
 State - Assam.

44. Sri Rabin Nath,
 Son of Lt. Golap Nath,
 P.O. - Chakla Ghat,
 Dist - Nagaon,
 Assam.

45. Sri Taloko Darang,
 Son of Oyar Darang,
 P.O. - Along Dist -
 West Siang, Arunachal Pradesh.

46. Sri Dipak Dutta,
 Son of Tarun Dutta,
 P.O. - Gobindapur,
 Dist - N. Lakhimpur,

Assam.

47. Sri Man Balian Lal,
Son of Shri Soikholian,
P.O. Tairipok, Dist.- Imphal East,
Manipur.

48. Sri Babul Deori,
Son of Lt.S.R.Deori,
P.O. - Likhak Chapor,
Dist - N.Lakhimpur,
Assam.

49. Smt. Moyo Riba,
Son of Shri Chino Riba,
P.O. - Basar,
Dist - West Siang,
Arunachal Pradesh.

50. Sri Dakto Riba,
Son of Modak Riba,
P.O. - Daromg. Dist- Wesst Siang,
Arunachal Pradesh.

51. Sri Tek Bahadur Giri,
Son of L.B.Giri,
P.O. Lokhora,
Dist - Sonitpur, Assam.

52. Shri Mikar Tada,
Son of Shri Gomi Tada,
P.O. - Nari, Dist - East Siang,
Arunachal Pradesh

.....Applicants

(By Mr.M.Nath & Mr D.P.Borah, Advocates)

Vs.

1. Union of India,
Represented by the Secretary
to the Government of India,
Ministry of Communication,
Sanchar Bhawan, New Delhi.

2.Bharat Sanchar Nigam Limited (BSNL),
Represented by Chairman cum Managing Director,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi.

3.Deputy Director General (Estt.),
Corporate Office,
Bharat Sanchar Nigam Limited,
B-102 Statesman House,
New Delhi – 1.

4.Chief General Manager,
Bharat Sanchar Nigam Limited,
North East Telecom Circle-II,
Dimapur, Nagaland.

5.Assistant General Manager,
Bharat Sanchar Nigam Limited,
North East Telecom Circle – II,
Dimapur, Nagaland.

6.General Manager,
Bharat Sanchar Nigam Limited,
Arunachal Pradesh Secondary
Switching Areas (SSA), Itanagar.

.....Respondents

(By Shri B.C.Pathak, Advocate)

In **O.A.No.205 /2009** the main grievance of the applicants is that they were working under the respondents for about more than 15 years. However, out of 228 Casual employees as mentioned in the list enclosed in the original application, 150 junior employees have been retained by the respondents and the applicants who are senior to them have been placed under the contractor from the year 2007. If the respondents wanted to place the applicants under the contractors they should have followed the settled principles of law "**Last Come First Go**" It is also submitted

that the applicants have completed 180 days in a year under the respondents. It is further submitted that in the file No.A-642, N/S 1 to 6 maintained in the office of the SDE (A) Arunachal Pradesh it has been recorded that the applicants have completed 240 days in a year. Hence the respondents while calculating the 180 working days of the applicants shall take into account the above mentioned note sheets and for placing the Casual Employees under contractor the respondents shall follow "last come first go" principles.

2. Under these circumstances, the matter has once again been examined and it has been decided by the Department as a one time measure on special consideration to further delegate powers to all the Heads of the Department to create posts of Regular Mazdoors for regularizing the Casual Labours (Grant of Temporary Status and Regularization) Scheme 1989 to the extent of numbers indicated.

3.  The O.A. is allowed

Sd/-
K.B. SURESH
HON'BLE MEMBER (J)
Sd/-
MD. HALEEM KHAN
HON'BLE MEMBER (A)

URGENT

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BY SPECIAL MESSINGER

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM; NAGALAND; MEGHALAYA;
MANIPUR; TRIPURA; MIZORAM AND ARUNACHAL PRADESH)

Writ Petition (C) No. 2945 of 2011

1. Shri Kandarpa Das,
Son of Upen Das,
Resident of Sualkuchi, Kamrup,
2. Shri Kamal Kalita,
Son Late Nripen Kalita,
Resident of Nalbari,
Dist. Nalbari, Assam,

- Petitioners

- Versus -

1. The Union of India,
Represented by the Secretary to the Government of
India,
Ministry of Communication, Sanchar Bhawan,
New Delhi - 1.
2. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited (BSNL),
New Delhi -1,
3. The Chief General Manger, BSNL,
Ulubari,
Guwahati - 7,
4. The Sub-Divisional Engineer (Store),
BSNL Circle, Telecom Store Depot,
Assam Telecom Circle, Adabari,
Guwahati - 12.

- Respondents

Writ Petition (C) No. 6918/2010

Sri Syamal Das,
S/O- Late Gyantosh Chandra Das,
R/O- House No. 108, Krishna nagar,
Ward No. 10, Hojai,
P.O. & P. S.- Hojai,
District- Nagaon, Assam,
Pin- 782435.

- Petitioner

Vs.

The Union of India,
Represented by the Secretary to the Govt. of India
Ministry of Communication, Department
of Telecom, Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110001.

- Respondent

Writ Petition (C) No. 1363/2010

1. Shri Dhanpati Lahkar,
S/O- Late Haren Lahkar,
Village- Lachima,
P.O- Office Sarthebari,
Dist- Barpeta.
2. Shri Ajit Das,
S/O- Shri Ratan Chandra Das,
Village- Dadara,
Dist- Kamrup.
3. Shri Mohan Das,
S/O- Late Khargeswar Das,
Village- Akadi,
P.O- Dihina, Hajo
Dist- Kamrup, Assam.
4. Shri Tarani Bora,
S/O- Late Rahi Ram Bora,
Village & P.O- Gapia,
Dist- Kamrup, Assam.
5. Shri Bhainur Ali,
S/O- Late Khasfur Ali,
Village & P.O- Maranjana,
Dist- Kamrup, Assam.
6. Shri Umesh Ch. Das,
S/O- Late Habiram Das,
Village & P.O- Dihina, Hajo,
Dist- Kamrup, Assam.
7. Shri Attar Ali,
Village - Bamunigaon,
P.O- Changsari
Dist- Kamrup, Assam,

Petitioners**Vs.**

1. **Union of India**,
Represented by the Secretary to the Govt. of India,
Ministry of Communication, Department
of Telecom, Sanchar Bhawan,
New Delhi.
2. **The Chairman-cum-Managing Director, Bharat
Sanchar Nigam Ltd.**,
New Delhi.
3. **The Chief General Manager, (BSNL)**,
Task Force, Assam Telecom Circle,
Guwahati-1, Assam.

4. The Director Task Force,
Silchar, Dist-Silchar.
5. The Deputy General Manager,
Task Force, Office of the Chief General Manager,
Telecom Task Force, Guwahati-1, Assam.
6. The Deputy General Manager,
Task Force, At Shillong,
Laitumukhrah, Shillong.
7. The Divisional Engineer, (TP-II),
Bhangagarh, Guwahati-5.

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Respondents

Writ Petition (C) No. 4059/2010

1. Bharat Sanchar Nigam Limited (BSNL),
Represented by Chairman cum Managing Director,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi.
2. General Manager,
Bharat Sanchar Nigam Limited,
Arunachal Pradesh Secondary Switching Areas
(SSA), Itanagar,

Petitioners

Vs.

1. Sri Bidhyadhar Tanti,
S/o Late Bharat Tangi,
P.O./P.S. Mahadeve Pur,
Dist. Lohit, Arunachal Pradesh,
2. Smt. Rup Mala,
D/o Sri Ganesh Basfor,
P.O. Lal Bazar, P.S. Nagarana Ghat,
Dist. Deboria, Uttar Pradesh,
3. Sri Sri Purandar Sonowal,
S/o Sri Nomal Sonowal,
P.O./P.S. Bihpuria,
Dist. North Lakhimpur, Assam,
4. Sri Niya Yangfo,
S/o Sri Kamku Yangfo,
P.O. Sewa, Dist. East Kameng,
Arunachal Pradesh,
5. Sri Nagendra Barman,
S/o Late Jayram Barman,
P.O. Samata,
Dist. Nalbari, Assam,
6. Sri Ram Chana Ray,
S/o Late Yogi Ray,
P.O. Bidupur, P.S. Rajapakar,

Dist. Vaishali, Bihar,
 7. Sri Jadav Saikia,
 S/o Sri T. Saikia,
 P.O. Deotola,
 Dist. North Lakhimpur, Assam,
 8. Sri Promod Duwarah,
 S/o Sri Budheswar Duwara,
 P.O. Napam, Bokajan, P.S. Gorisagar,
 Assam,
 9. Sri Sanjoy Kumar Ray,
 S/o Late M. Ray,
 P.O. Bidupur, P.S. Rajapakar,
 Dist. Vaishali, Bihar,
 10. Sri Sunit Kumar,
 S/o Sri D. Ray,
 P.O. Lakhani, P.S. Bidupun Bazar,
 Dist. Vaishali, Bihar,
 11. Sri Arabind Prasad,
 S/o Sri B. P. Singh,
 P.O. Bidupur, P.S.
 Dist. Vaishali, Bihar,
 12. Sri Siba Prasad Mahanta Ray,
 S/o Sri P. D. Mahanta,
 P.O. Ganakpukhuri, P.S. Rajapakar,
 Dist. Golaghat, Assam,
 13. Sri Mathur Mahajan,
 S/o Late Gauranga Mahajan,
 P.O. Hanglar Bazar,
 Dist. Karimganj, Assam,
 14. Sri Ratan Rabha,
 S/o Sri Sukur Rabha,
 P.O. Mazbat,
 Dist. Darrang, Assam,
 15. Sri Dandi Ram Nath,
 S/o Late H. Nath,
 P.O. Chanjani,
 Dist. Nalbari, Assam,
 16. Sri Jogen Borah,
 S/o Late Dulal Borah,
 P.O. Chamarajan,
 Dist. Dhemaji, Assam,
 17. Sri Nibu Tungi,
 S/o Sri Caiya Tungi,
 P.O. Sewa,
 Dist. East Kameng,
 Arunachal Pradesh,

18. Sri Imdad Ali,
S/o Md. Nizamuddin Ali,
P.O. Silghat,
Dist. Nagaon, Assam,
19. Sri Dhan Bahadur Tamang,
S/o Sri Prem Raj Tamang,
P.O. Seepakhua,
Dist. Tinsukia, Assam,
20. Sri Mohan Chandra Das,
S/o Sri J. R. Das,
P.O. Balipara,
Dist. Sonitpur, Assam,
21. Sri Sri Gopi Chand,
S/o Sri G. Rajpur,
P.O. Khanpur,
Dist. Kanpur, Uttar Pradesh,
22. Sri Pranabjit Deka,
S/o Late B. Deka,
P.O. & Dist. Dhemaji, Assam,
23. Sri Kamal Das,
S/o Sri Dadhi Ram Das,
P.O. Barbari,
Dist. Nalbari, Assam,
24. Sri Anil Kumar Ray,
S/o Late B. N. Rai,
P.O. Chandoli,
Dist. Shamastipur, Bihar,
25. Sri Biren Boro,
S/o Late Mohan Boro,
P.O. Danubhanga,
Dist. Goalpara, Assam,
26. Sri Lal Babu Sah,
S/o L. Sah,
P.O. Dunbi,
Dist. Madubani, Bihar,
27. Sri Tarun Sharma,
S/o Late Tulsi Sharma,
P.O. Jamaguri Pasali,
Dist. Dhemaji, Assam,
28. Sri Pabitra Borah,
S/o Late S. Borah,
P.O. Deotola,
Dist. North Lakhimpur, Assam,
29. Sri Madan Sharma,
S/o Sri Rudra Sharma,
P.O. Balijuri,

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 Dist. Sonitpur, Assam,
 30. Sri Roma Gogoi,
 S/o Sri Jagat Gogoi,
 P.O. Mahadeve Pur,
 Dist. Lohit, Arunachal Pradesh,
 31. Sri Gangpha Wangsa,
 S/o Sri Wangey Wangsa,
 P.O. Pongehau,
 Dist. Tirap, Arunachal Pradesh,
 32. Sri Ananta Deka,
 S/o Late H. Deka,
 P.O. Teoghat,
 Dist. Sibsagar, Assam,
 33. Sri Sanjoy Ray,
 S/o Late Narshing Ray,
 P.O. Panapur Langa,
 Dist. Vaishali, Bihar,
 34. Sri Kiran Pratap Singh,
 S/o Late B. Singh,
 P.O. Lanka,
 Dist. Nagaon, Assam,
 35. Sri Bhoj Bir Sonar,
 S/o D. R. Sonar,
 P.C. Makur,
 Dist. Tinsukia, Assam,
 36. Sri Biren Mech,
 S/o Sri Dinesh Mech,
 P.O. Phialobari,
 Dist. Tinsukia, Assam,
 37. Sri Parwati D. Arya,
 S/o Late M. R. Arya,
 P.O. Janti,
 Dist. Almora, Uttarakhand,
 38. Sri Bidyut Hazarika,
 S/o Sri B. Hazarika,
 P.O. Bordoloni,
 Dist. Dhemaji, Assam,
 39. Sri Liteswar Saikia,
 S/o Sri Nilakanta Saikia,
 P.O. Kumuraguri,
 Dist. Morigaon, Assam,
 40. Sri Sailesh Kumar Singh,
 S/o Sri Ramdhain Singh,
 P.O. Boruah,
 Dist. Chapra, Bihar,
 41. Sri Promod Kumar,

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S/o Late Narshing Rajpat,
 P.O. Mario,
 Dist. Bhagalpur, Bihar,
 42. Sri Ram Babu Paswan,
 S/o Sri Bindeswar Paswan,
 P.O. Narar,
 Dist. Madhubani, Bihar,
 43. Sri Prasad Sharma,
 S/o Sri H. P. Sharma,
 P.O. Pholbari, Bhkanodi,
 Dist. North Lakhimpur, Assam,
 44. Sri Rabin Nath,
 S/o Late Golap Nath,
 P.O. Chakla Ghat,
 Dist. Nagaon, Assam,
 45. Sri Taloko Darang,
 S/o Oyar Darang,
 P.O. Along,
 Dist. West Siang, Arunachal Pradesh,
 46. Sri Dipak Dutta,
 S/o Tarun Dutta,
 P.O. Gobindapur,
 Dist. North Lakhimpur, Assam,
 47. Sri Man Balian Lal,
 S/o Sri Soikhholian,
 P.O. Tairipok,
 Dist. Imphal East, Manipur,
 48. Sri Babul Deori,
 S/o Late S. R. Deori,
 P.O. Likhak Sapori,
 Dist. North Lakhimpur, Assam,
 49. Smt. Moyo Riba,
 D/o Sri Chino Riba,
 P.O. Basar,
 Dist. West Siang, Arunachal Pradesh,
 50. Sri Dakto Riba,
 S/o Modak Riba,
 P.O. Daring,
 Dist. West Siang, Arunachal Pradesh,
 51. Sri Tek Bahadur Giri,
 S/o L. B. Giri,
 P.O. Lokhara,
 Dist. Sonitpur, Assam,
 52. Sri Mikar Tada,
 S/o Sri Gomi Tada,
 P.O. Nari,

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Dist. East Siang, Arunachal Pradesh.**Respondents**Writ Petition (C) No. 18/2012

Sri Niranjan Chandra Das,
S.O- Shru Sujit Ram Das,
Vill- Patharkandi,
P.O- Mahakal,
Dist- Karimganj,
Assam.

-Petitioner**Vs.**

1. The Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Communication, Department
of Telecom, Sanchar Bhawan, 20, Ashoka Road,
New Delhi.
- 2.. Bharat Sanchar Nigam Ltd.,
(A Govt. of India Enterprise)
Represented by the Chairman-cum-Managing
Director, Corporate Office,
New Delhi.
3. Bharat Sanchar Nigam Ltd.,
Represented by the General Manager,
Assam Circle, Department of Telecommunication
Govt. of India, Ulubari, Guwahati
4. The General Manager,
Telecom, Silchar SSA,
Department of Telecommunications,
Silchar-1, Assam.
5. Sub-Divisional Officer,
Telecom,
Department of Telecommunication,
Karimganj.
6. Divisional Engineer (P & A)
Office of the General Manager,
Bharat Sanchar Nigam Ltd.,
Silchar-1, Assam.

RespondentsWrit Petition (C) No. 2163/2011

Sri Prahlad Chandra Bora,
S.O- Sri Pipil Chandra Bora,
Vil- Kakhari Gaon,
Dist-Nagaon,
Assam.

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2. Sri Dilip Mazumdar,
S.O- Kola Mazumdar,
Vill- Nagaon,
Dist-Nagaon,
Assam.
3. Sri Sanjit Kumar Banik,
S.O- Sri Manindra Chandra Banik,
Vill- Chakituk,
P.O- Shuta Haibor,
Dist-Nagaon,
Assam.
4. Sri Radha Kanta Bordoloi,
S.O- Late Debnath Bordoloi,
Vill- Pub-Soragaon,
P.O- Soragaon
Dist-Nagaon,
Assam.
5. Sri Binod Kumar Saikia,
S.O- Late Meghram Saikia,
Vill- Owanagaon,
P.O- Rupohi
Dist-Nagaon,
Assam.

-Petitioners

Vs.

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Communication, Department
of Telecom, Sanchar Bhawan,
New Delhi.
2. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited,
New Delhi-1.
3. The Chief General Manager,
(BSNL) Task Force, Assam Telecom Circle,
Guwahati-1,
Assam.
4. The Sub-Divisional Officer,
BSNL, Nagaon Telecom Division,
Nagaon, Assam.

-Respondents

Writ Petition (C) No. 4817/2010

Sri Ananda Das,
S.O- Late Paduram Das,
Vill- Geruamukh,

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P.O-Bongaigaon,
Dist- Nagaon,
Assam.

-Petitioner

Vs.

1. Union of India,
Secretary to the Govt. of India,
Ministry of Communication, Sanchar Bhawan,
New Delhi-1.
2. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited (BSNL),
(A Govt. of India Enterprise)
New Delhi.
3. The Chief General Manager,
BSNL, Assam Telecom Circle,
Ulubari, Guwahati-7.
4. The Sub-Divisional Officer,
BSNL, Assam Telecom Circle,
Nagaon, Assam-7.

- Respondents

Writ Petition (C) No. 849/2012

1. Shri Binod Kumar Mandal,
S.O- Sri Ram Kumar Mandal,
New Cologny,
Dist-Bangaigaon,
Assam.
2. Shri Bhaskar Nag,
S/O- Late Jiban Nag,
New Cologny,
Dist-Bangaigaon,
Assam.
3. Shri Ram Naresh Roy,
Son of Late Mondal Roy,
New Cologny,
Dist-Bangaigaon,
Assam.
4. Sri Nipen Das,
S/O- Sri Ananda Das,
New Cologny,
Dist-Bangaigaon,
Assam.
5. Sri Dilip Kumar Das,
Late Prasanna Das,
New Cologny,
Dist-Bangaigaon,

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Assam.

6. Sri Dilip Mazumdar,
S/O- Late Gauranga Mazumdar,
New Cologny,
Dist-Bangaigaon,
Assam.

7. Sri Shiv Nandan Prasad,
S/O- Late Dasarath Lal Prasad,
New Cologny,
Dist-Bangaigaon,
Assam.

-Petitioners

Vs.

1. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited (BSNL),
(A Govt. of India Enterprise)
New Delhi.

2. The Chief General Manager,
BSNL, Assam Telecom Circle,
Ulubari, Guwahati-7.

3. The Executive Engineer,
Bharat Sanchar Nigam Limited,
Telecom Civil Division,
Bangaigaon.

4. The Sub-Divisional Engineer (E),
Bharat Sanchar Nigam Limited,
Bangaigaon.

-Respondents

BEFORE
HON'BLE MR. JUSTICE I. A. ANSARI
HON'BLE MR. JUSTICE P. K. MUSAHARY

Advocates present:

For the petitioners

Mr. S. Sharma,
Mr. G. Goswami,
Mr. Y. K. Phukan,
Ms. D. Borgohain,
Mr. M. Chanda,
Mr. S. Dutta,
Mr. Mr. S. Choudhury,

For the respondents

Mr. Y. Doloi,

Standing counsel, BSNL,
Mr. B. C. Pathak,
Mr. S. Chakraborty, CGC,
Mr. S. S. Dey,

Dates of hearing : 04.02.2013, 22.02.2013
& 05.03.2013.

Date of judgement : 19.03.2013

JUDGMENT & ORDER

(Ansari, J)

By this common judgement and order, we dispose of the present set of writ petitions, wherein the material facts are identical and the questions of law are same and, hence, on the request made by the learned counsel for the parties concerned, the writ petitions have been heard together.

2. Before considering the legal aspects of the grievances of the petitioners *vis-à-vis* the stand of the respondents, we deem it appropriate to take note of the material facts, which have given rise to the present set of writ petitions. These material facts may, in brief, be set out as under:

(i) The petitioners herein, who are casual labourers in the Sharat Sanchar Nigam Limited, Department of Telecommunication (in short, 'DoT'), Government of India, had claimed benefits of *Temporary Status Mazdoors* as per the *Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989* (in

(132)

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short, '1989 Scheme'), but the respondents refused to grant to the petitioners the status of *Temporary Mazdoors* (*Temporary Status Mazdoors*) and the consequential benefits accruing therefrom.

(ii) Aggrieved by the refusal of the respondents to grant to the petitioners *Temporary Status*, All India Telecom Employees Union preferred, initially, two Original Applications (in short, 'OA'), namely O.A. Nos. 299 of 1996 and 302 of 1996, in the learned Central Administrative Tribunal (hereinafter referred to as 'learned Tribunal'), Guwahati Bench. The said OAs were disposed of by order, dated 13.08.1997, with direction to the respondents to extend to the petitioners of the said two OAs the benefits of the 1989 Scheme by granting them *Temporary Status*; but as the respondents did not implement the directions of the learned Tribunal, the All India Telecom Employees Union as well as some individual casual labourers approached the learned Tribunal, once again, by filing a number of OAs, namely, OA Nos. 107 of 1998, 112 of 1998, 114 of 1998, 118 of 1998, 120 of 1998, 131 of 1998, 135 of 1998, 136 of 1998, 141 of 1998, 142 of 1998, 145 of 1998, 192 of 1998, 223 of 1998, 269 of 1998 and 293 of 1998, which were disposed of by a common order, dated 31.08.1999, directing the applicants (including the petitioners herein) to file individual representations before the respondents with further direction to the respondents to scrutinize, examine and consider each of the cases of the petitioners. However, despite directions, so issued

Temporary Status was not granted to the petitioners. On the contrary,

Temporary Status, which had been granted earlier to some of the petitioners, was withdrawn.

(iii) Failing to receive, though repeatedly claimed, Temporary Status, some of the petitioners filed, in this Court, a number of writ petitions, under Article 226 of the Constitution of India, seeking appropriate directions to be issued to the respondents to grant them the status of *Temporary Mazdoor*, the said writ petitions were subsequently transferred by the High Court, for adjudication, to the learned Tribunal and the writ petitions came to be registered, in the learned Tribunal, as T.A. Nos. 03/2009, 05/2009, 06/2009, 07/2009, 08/2009, 09/2009, 10/2009, 11/2009, 13/2009, 25/2009, 27/2009, 28/2009, 29/2009, 30/2009, 31/2009, 34/2009, 35/2009, 36, 2009, 38/2009, 39/2009, 40/2009, 41/2009, 42/2009, 43/2009, 44/2009, 45/2009, 46/2009, 47/2009, 48/2009, 49/2009, 50/2009, 51/2009, 52/2009, 53/2009, 54/2009, 55/2009, 56/2009, 57/2009, 58/2009, 59/2009, 60/2009, 61/2009, 62/2009, 63/2009, 64/2009, 65/2009, 66/2009. By a common judgement and order, dated 22.01.2010, the learned Tribunal dismissed the petitioners' said T.A.s on the ground that the petitioners had failed to make out any case establishing any illegality, irrationality, or mistake, on the part of the respondents, while considering the petitioners' claims for *Temporary Status*.

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3. It is the order, dated 22.01.2010, aforesaid passed by the learned Tribunal, which stands impugned in this set of writ petitions filed by the petitioners herein seeking to get set aside the order, dated 22.01.2010, and also seeking appropriate directions to be issued to the respondents to grant to the petitioners the status of *Temporary Mazdoor* in terms of the 1989 Scheme.

4. The root of controversy, in this set of writ petitions, therefore lies in the correct appreciation of the meaning and import of the 1989 Scheme, namely, "*Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989*" introduced by the Bharat Sanchar Nigam Limited (in short, "BSNL") for conferring *temporary status* on its casual workers.

5. We have heard Mr. S. Sarma, learned counsel, appearing for the writ petitioners, and Mr. Y. Doloi, learned Standing counsel, BSNL, and Mr. B. C. Pathak, learned counsel, appearing for the respondents in WP(C) 2945/2011, WP(C) 1363/2010, WP(C) 2163/2011, WP(C) 4817/2010 and WP(C) 849/2012, Mr. Y. K. Phukan, learned counsel appearing for the writ petitioner, and Mrs. S. Chakraborty, learned Central Government counsel, and Mr. Y. Doloi, learned Standing counsel, BSNL, appearing for the respondents, in WP(C) 6918/2010, Mr. M. Chanda, learned counsel for the writ petitioner, and Mr. Y. Doloi, learned Standing counsel, BSNL, appearing for the respondents, in WP(C) 18/2010. We have also heard Mr. S. Dutta,

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learned counsel for the petitioner, and Mr. S. S. Dey learned counsel for the respondents, in WP(C) 4059/2010.

6. It may, now, be noted that the petitioners were engaged from time to time, as casual labourers by the Department of Telecommunication, Government of India, on daily wage basis, their engagement having not, however, been against any vacant sanctioned post nor was any of them engaged by resorting to any selection process. The 1989 Scheme was introduced by the Government of India, Department of Telecommunication, the scheme, however, having been formulated and prepared in terms of the directions issued by the Supreme Court in the case of *Daily Rated Casual Labourer of Department of Posts vs. Union of India and others*, reported in (1988) 1 SCC 122. The said 1989 Scheme was introduced by the Government of India, Department of Telecommunication (in short, 'DOT') by Circular No. 269-10/89-STN, dated 7th November, 1989. The Circular mentioned that the 1989 Scheme was for conferring *Temporary Status* on casual labourers, who were 'currently employed' and had rendered continuous service of, at least, one year.

7. In view of the fact that in the present set of writ petitions, we are concerned with the conferment of *Temporary Status* on the petitioners who claim to be casual labourers of the Department of Telecommunication, Government of India, it is apposite that we take note of the relevant portion of the 1989 Scheme, which deals with the

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terms and conditions governing conferment of *Temporary Status* on the casual labourers in the Department of Telecom. The relevant portion of the 1989 Scheme read as under:

"Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

1.	***	***	***
2.	<i>The scheme will come into force with effect from 01.10.1989 onwards.</i>		
3.	<i>This scheme is applicable to the casual labourers employed by the Department of Telecommunications.</i>		
4.	***	***	***
5.	<i>Temporary status</i>		
	<i>(i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of at least one year out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing five days week). Such casual labourers will be designated as "Temporary Mazdoor".</i>		
	<i>(ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.</i>		

***	***	***
***	***	***"

(Emphasis added)

8. The important features of the terms and conditions, governing conferment of *Temporary Status* on casual labourers, as appearing in the 1989 Scheme, are (i) that the 1989 scheme came into force with effect from 01.10.1989 onwards; (ii) that the 1989 Scheme was/is applicable

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exclusively to the casual labourers employed by the Department of Telecommunications; (iii) that *Temporary Status* was to be conferred on all the casual labourers, who were '*currently employed*', meaning thereby that *Temporary Status* was to be conferred on those casual labourers only, who were working, as casual labourers, on the day of coming into force of the 1989 Scheme (i.e., 01.10.1989) and who had also rendered a continuous service of, at least, one year and, out of this period of one year, they ought to have been engaged, on work, for a period of 240 days (206 days in the case of offices observing five days week) and (iv) that such conferment of *Temporary Status* would be without reference to the creation/availability of regular Group 'D' posts.

9. We, now, take note of the *post 01.10.1989* scenario in relation to the conferment of *Temporary Status* on casual labourers. In this regard, it may be noted that by a subsequent Office Memorandum, issued by the Government of India, Department of Telecom, bearing No. OM No. 169-1/93 STN-II(Pt), dated 12.02.1999 (hereinafter referred to as the 'OM dated 12.02.1999'), it was clarified by the DOT that the DOT had imposed ban, with immediate effect, on recruitment/engagement of casual labourers by withdrawing powers of all DOT officers to engage casual labourers. It was mentioned in the OM, dated 12.02.1999, that after the issuance of the letter, dated 22.06.1988, authorizing/empowering DOT officers to recruit/engage casual

labourers, a need was felt to amend Para 193 of the P&T Manual, Vol. X, and, consequently, the powers of all DoT officers to engage casual labourers, either on daily or monthly wages, direct or through contractors, as well as the authority of the Accounts Officers for making payment to the labourers engaged on daily or monthly wages, either direct or through contractors, were withdrawn with immediate effect. In the said Office Memo, dated 12.02.1999, it was also made clear that notwithstanding the withdrawal of power, so far as engagement of casual labourers was concerned, the instructions contained in the Office Memo aforementioned, would not apply to hiring of any labourers for works of *contingent nature* lasting not more than *fifteen days* during exigencies and natural calamities, that payments to such labourers, who might be *hired* during *contingencies*, should be made under Rule 331 of P&T FHB Vol. I. and further that the maximum period for which an individual labourer can be *hired*, during a given year, should not exceed *sixty days*.

10. The OM, dated 12.02.1999 (hereinafter referred to as the '1999 Scheme'), made it clear that the casual labourers, who had been engaged before 30.03.1985 and who had completed 10 years of service, were eligible for *regularization*. The 1999 Scheme made it further clear that even though there was a complete ban on recruitment of casual labourers, many telecom circles had been recruiting casual labourers, defying the ban imposed, and that since the Employees Union of the

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DoT had been pressing for regularization of the casual labourers, who had been recruited after 30.03.1985 and completed 10 years of service, the Telecom Commission had decided, as a *one time measure on special consideration*, to delegate powers to all the Heads of Circles, Metro Districts, Chief General Managers, MTNL, New Delhi and Mumbai and Heads of Administrative Units to create posts of *Regular Mazdoor's* for *regularizing* the Casual Labourers under the 1989 Scheme, who had completed 10 years of service as on 31.03.1997, to the extent of numbers indicated in Annexure 'A' to the 1999 Scheme, which had been compiled based on the information received from the Circles/Units and that the posts were to be created within the prescribed ceiling as on 31.03.1991. The other conditions, stipulated in the letter, dated 17.03.1992, aforementioned, however, remained unchanged. For a better appreciation, the relevant portions of the 1999 Scheme are reproduced below:

"G.I., Dept. of Telecom, No. 269-4/93-STN-II, dated 12th Feb, 1999

.....Casual labourers, who were engaged before 30.03.1985 and had completed 10 years of service, were made eligible for regularization. Based on the above, instructions were issued vide this office letter No. 5-1/92-TE-II, dated 17.03.1992, 06.07.1993, 20.05.1994, 08.05.1995 and 30.09.1999.

Even though there is a complete ban on recruitment of casual labourers, it has come to light that many circles, defying the ban orders, had recruited casual labourers even after the ban orders. Since these casual labourers have completed 10 years of service, Employees Union are pressing for the regularization of the

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remaining casual labourers, who were recruited after 30.03.1985 and completed 10 years of service on the analogy of earlier decisions of Supreme Court on the subject.

Under these circumstances, the matter has, once again, been examined and it has been decided by the Telecom Commission as a one time measure on special consideration to further delegate powers to all the Heads of Circles, Metro Districts, Chief General Managers, MTNL, New Delhi and Mumbai and Heads of Administrative Units to create posts of Regular Mazdoors for regularizing the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989, who have completed 10 years of service as on 31.03.1997 to the extent of numbers indicated in Annexure 'A', which has been compiled based on the information received from the Circles/Units. The posts are to be created within the prescribed ceiling as on 31.03.1991. The other conditions stipulated in the letter, dated 17.03.1992, remain unchanged.

Approval of Telecom Commission is also conveyed for delegation of powers to grant temporary status to casual labourers to the extent of number indicated against the respective circles in Annexure 'B', which also has been compiled based upon the information furnished by the Circles/Units concerned.

As the numbers indicated in the Annexure 'A' and 'B' are furnished by the Circles/Units concerned, there should not be any variation in the figures in case there is change. Heads of Circles should refer the cases to TCHQ explaining the reasons therefore.

Recruitment of casual labourers was completely banned with effect from 22.06.1988 and instructions were issued time and again for identifying the officers/officials responsible for engaging casual labourers in spite of the ban order.

Annexure 'A'

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TSMs eligible for regularization as on 31.03.1997 (engaged
 between 01.04.1986).

Circle	TSM to be regularised	MTNL BY	11
SLTTC	0	NCES	0
A & N	0	NE	24
AP	329	NETR	31
AS	77	NTP	179
BH	48	NTR	108
BRBRAITT	0	OR	5
CHENNAI TD	82	PB	27
CTD	97	OA	0
DNW	0	RAJ	48
ETP	0	RE NAGPUR	0
ETR	0	STP	0
GUJ	151	STR	5
HP	0	T&D JBP	0
HR	7	TN	37
J&K	4	TS CA	0
KRL	26	UPE	106
KTK	102	UPW	15
MH	238	WB	3
MP	21	WTP	189
MTNL DI	39	WTR	72
		TOTAL	2081

Annexure 'B'

Casual labourers to be given Temporary Status as on 01.08.98

Circle	CLs to be granted temporary status	MTNL BY	23
SLTTC	0	NCES	0
A & N	0	NE	249

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AP	NA	NETF	31
AS	NA	NTP	50
BH	347	NTR	NA
BRBRAITT	0	OR	16
CHENNAI TD	4	PB	12
CTD	450	OA	0
DNW	1	RAJ	56
ETP	318	RE NAGPUR	105
ETR	229	STP	6
GUJ	177	STR	29
HP	790	T&D JBP	0
HR	25	TN	160
J&K	27	TS CA	0
KRL	24	UPE	200
KTK	188	UPW	NA
MH	NA	WB	350
MP	NA	WTP	119
MTNL DI	15	WTR	26
		TOTAL	4046

(Emphasis added)

11. While considering the 1999 Scheme, it needs to be borne in mind that this Office Memorandum was meant for conferment of *Temporary Status* on casual workers and also for regularization of the casual workers, who had been recruited after 30.03.1985 and had completed 10 (ten) years of service, this scheme of regularization being a one-time measure. The 1999 Scheme also made it clear that power had been delegated for granting of *Temporary Status* to the casual labourers to the

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extent of number indicated against the respective circles in Annexure B appended to the 1999 Scheme.

12. In fact, we may pause, at this stage, to point out that Annexure A to the 1999 Scheme makes it abundantly clear that as far as Assam Circle was concerned, the number of *Temporary Status Mazdoors*, eligible for *regularization*, as on 31.03.1997, were 77, and NTP 179, but, so far as conferment of *Temporary Status* was concerned, there was, in terms of Annexure-B to the 1999 Scheme, none and, in respect of NTP, the number was 50.

13. Thus, though the 1999 Scheme provided for conferment of *Temporary Status* on casual labourers, the particulars, shown by the respondents/authorities concerned, indicated that, in respect of Assam Circle, there was no eligible casual labourer for conferment of *Temporary Status*.

14. Nonetheless, the 1999 Scheme made it crystal clear that the 1989 Scheme was not the conclusion of the chapter as regards conferment of *Temporary Status* on casual labourers, but the 1989 Scheme was extended, for the purpose of conferment of *Temporary Status*, till 01.08.1998. Hence, any casual labourer, who had been on employment till 01.08.1998, was entitled for conferment on *Temporary Status* if he/she had continuously worked for a period of at least one year and out of this period of one year, he/she they must have had been engaged

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on work for a period of 240 days (206 days in the case of offices observing five days week).

15. Subsequent thereto, the Government of India, Department of Telecommunication, issued another Circular, bearing No. GI, Department of Telecom., No. 269-13/99-STN.II, dated 01.09.1999, clarifying that in the matter of granting of Temporary Status to the casual labourers, the Circular/Order, dated 12.02.1999, will apply w.e.f. 01.09.1999. The relevant portion of the Circular read as under:

*"G.I., Department of Telecom, No. 269-13/99 - STN. II,
dated 01st September, 1999.*

Grant of temporary status from 12.02.1999 to the Telecom casual labourers, who are eligible as on 01.08.1998 and regularization of eligible TSMs w.e.f. 01.04.1997.

I am directed to refer to letter No. 269-4/93-STN-II, dated 12.02.1999, circulated with letter No. 269-13/99-STN-II, dated 12.02.1999, on the subject mentioned above.

In the above referred letter, this office has conveyed approval on the two items, one is grant of temporary status to the casual labourers eligible as on 01.08.1998 and another on regularization of casual labourers with temporary status, who are eligible as on 31.03.1997.

Some doubts have been raised regarding date of effect of these decisions. It is, therefore, clarified that in case of grant of temporary status to the casual labourers, the order, dated 12.02.1999, will be effected w.e.f. the date of issue of this order and in case of regularization to the temporary status Mazdoors eligible as on 31.03.1997, this order will be effected w.e.f. 01.04.1997.

(Emphasis added)

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16. It is, thus, obvious, that in terms of the 1989 Scheme, there ought to have been no fresh engagement of casual labourers since after 30.03.1985. Consequently, the cases of casual labourers, who were engaged after 30.03.1985 and who were required to be conferred *Temporary Status*, had to be referred to Telecom Commission with relevant details and particulars.

17. Clause 3.3. of the DoT Circular, dated 07.11.1989, made it clear that no casual labourer, who had been recruited after 30.03.1985, should be granted *Temporary Status* without specific approval from the Department of Telecom, Government of India. Though the 1989 Scheme mentions that the 1989 Scheme would come into force on 01.10.1989 onwards the Scheme, under Clause (i) of Para 5, mentions nevertheless, that *temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of atleast one year out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing five days week)*.

18. A careful reading of Clause (i) of Para 5 of the 1989 Scheme clearly shows, if we may reiterate, that the 1989 Scheme was meant for those casual labourers, who were '*currently employed*', meaning thereby that the 1989 Scheme covered only those, who were under employment on 07.11.1989 (i.e., the date on which the DoT Circular No. 269-10/89-

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STN, dated 07.11.1989, was published), and this scheme of conferment of *Temporary Status* was to be a one-time measure.

19. Consequently, those casual labourers, who were not under employment in the DoT, on 07.11.1989, fell outside the 1989 Scheme and those, who were under employment as casual labourers on 07.11.1989, could have been granted *Temporary Status* provided that they had rendered continuous service of, at least, one year and, out of this period of one year, they ought to have had worked for a period of 240 days (206 days in the case of offices observing five days week).

20. Thus, a casual labourer, who had not completed one year of continuous service as casual labourer, or, a casual labourer, who had completed one year of continuous service as casual labourer but, out of this period of one year, if he had not been engaged, on work, for at least, 240 days (206 days for offices observing five days week), then such a casual labourer would not have been, under the 1989 Scheme, entitled to conferment of *Temporary Status*.

21. However, notwithstanding the conditions, so imposed by the 1989 Scheme, as indicated above, a controversy appears to have had arisen with regard to the question as to whether the 1989 Scheme was or was not an ongoing scheme or whether it was a Scheme, which was meant to be a *one-time measure*? This was clarified by the Government of India by bringing out the 1999 Scheme, which we have already discussed above, whereby the power of the DoT officers to engage

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casual labourers had been withdrawn and the authority of the Accounts Officer for making payment to the casual labourers had also been withdrawn with immediate effect. However, the DoT Officers were given the liberty to *hire* labourers for works of contingent nature, during exigencies and natural calamities, but such engagement was not to exceed 15 days at a time and not more than 60 days in a year.

22. According to the 1999 Scheme, the casual labourers, who had been engaged before 30.03.1985 and who had completed ten years of service, were eligible, under the 1989 Scheme, for conferment of the status of *Temporary Mazdoor*. But those, who were engaged after 30.03.1985 and completed ten years of service were also to be given *Temporary Status* as per Annexure-'B' appended to the said Office Memorandum. While Annexure-'A' related to regularization of *Temporary Status Mazdoors* as *Regular Mazdoors*, Annexure 'B' related to conferment of *Temporary Status*.

23. It is also worth noticing that Annexure-B clearly shows that there was no casual labourer within Assam Circle of the DoT for conferment of *Temporary Status*. The present petitioners belong to Assam Circle. Hence, as per the 1999 Scheme, the petitioners were not entitled to conferment of *Temporary Status*.

24. Coupled with the above, and as already pointed out above, the Government of India, DoT, brought out another Office Memorandum, vide No. 269-13/99, dated 01.09.1999. By the said Office Memo further

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clarification was made with regard to the 1999 Scheme and the date of effect to be given to such eligible casual labourers was clarified, as 01.08.1998, for *Temporary Status* and, as 31.03.1997, for *Regular Mazdoors*. Thus, the petitioners would have been entitled to conferment of *Temporary Status* under the 1989 Scheme if they satisfied the conditions embodied in the 1989 Scheme and if the petitioners or any of them had been engaged, as casual labourer(s), after the 1989 Scheme had come into force, then, too, such casual labourer(s) would have become entitled to conferment of *Temporary Status* in terms of the scheme as embodied in Office Memo dated 01.09.1999, which provides that if any of the casual labourers stood engaged on 01.08.1998, as casual labourer and if he/she had already rendered continuous service of, at least, one year and, out of this one year, he/she had been engaged on work for a period of 240 days (206 days in the case of offices observing five days week), he/she would be entitled to be conferred the status of *Temporary Mazdoor*.

25. To put it a little differently, from the clarifications, contained in the 1999 Scheme and the Office Memoranda, dated 01.09.1999, what becomes clear is that notwithstanding the use of the expression, "onwards", in the 1989 Scheme, the 1989 Scheme was meant to be a one-time measure and not a continuous scheme; but, by virtue of the Office Memo, dated 01.09.1999, a casual labourer became entitled for conferment of *Temporary Status* if he/she stood engaged as casual

labourer on 01.08.1998 and if he/she had already rendered continuous service of, at least, one year and, out of this period of one year, he/she had been engaged on work for a period of 240 days (206 days in the case of offices observing five days week).

26. It is to be noted, with regard to the above, that the DoT was transformed into Bharat Sanchar Nigam Limited (BSNL) with effect from 01.10.2000 and, accordingly, all liabilities, financial and otherwise, which the DoT had, were shifted to BSNL. While WP(C) No. 8557/2005, instituted by some of the present petitioners was pending, the jurisdiction to adjudicate the cases, relating to the petitioners, had been conferred on the Central Administrative Tribunals. The records of the writ petition stood, therefore, transferred to the Central Administrative Tribunal, Guwahati Bench, by virtue of provisions of the Administrative Tribunal Act, 1985.

27. After hearing the parties and perusing the records, the learned Central Administrative Tribunal, Guwahati Bench, dismissed the petitioners' application (TA 39/2009) alongwith a series of similar cases, involving the same issues, by its order, dated 22.01.2010, on the ground that the TAs and OAs were without any merit inasmuch as the Committee, which had been constituted by the respondents for examining the cases of the petitioners, had duly considered all relevant materials placed before it with regard to the petitioners' claim for conferment of *Temporary Status*, that the petitioners had failed to make

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out any case establishing any illegality, irrationality or mistake committed by the said Committee at the time of considering the petitioners' claim, that the directions issued by the Tribunal, on earlier occasion, had been scrupulously complied with and that the petitioners had failed to make out that any case establishing that they had any legal right to claim *Temporary Status* and, consequently, regularization.

28. From the fact that the 1989 Scheme mentions that the Scheme would come into force with effect from 01.10.1989 onwards, what can be derived is that the 1989 Scheme was to be enforced prospectively with effect from 01.10.1989. The fact that the 1989 Scheme did not apply to anyone, who was not under employment on 01.10.1989 or thereafter, is clear from the fact that the Scheme mentions that *Temporary Status* could be conferred on all casual labourers *currently employed*. The expression "*currently employed*" would obviously mean one, who was in employment on 01.10.1989. This apart, in order to be entitled to receive *Temporary Status*, a casual labourer was required to have rendered continuous service of, at least, one year and, out of this one year, he/she must have been engaged on work for a period of 240 days (206 days in the case of offices observing five days week).

29. The 1999 Scheme shows that notwithstanding the fact that the 1989 Scheme was introduced as a one-time measure, engagement of casual labourers by DoT continued and the Telecom Commission

decided, as a *one-time measure and on special consideration*, to further delegate powers to all the Heads of Circles, Metro District, Chief General Managers, MTNL, New Delhi and Mumbai and Heads of Administrative Units to create posts of Regular Mazdoors for regularizing the Casual Labourers under the 1989 Scheme, who had completed 10 years of service as on 31.03.1997, to the extent of numbers indicated in Annexure 'A' to the 1999 Scheme, which had been compiled based on the information received from the Circles/Units and that the posts were to be created within the prescribed ceiling as on 31.03.1991, the other conditions, stipulated in the letter, dated 17.03.1992, remaining unchanged. This apart, the Circular, dated 01.09.1999, aforementioned made it further clear that a casual labourer was entitled to be conferred the status of *Temporary Mazdoor*, provided that he was on engagement, as a casual labourer, on 01.08.1998 and had already rendered continuous service of, at least, one year and, out of this period of one year, he/she had been engaged on work for a period of 240 days (206 days in the case of offices observing five days week).

30. Annexure 'A' to the 1999 Scheme shows that, in Assam, the number of *Temporary Status Mazdoors* (TSM), eligible for regularization, as on 31.03.1997, were 77 and NTP 179 and, as far as conferment of *temporary status* was concerned, there was, in terms of Annexure-B, none and NTP 50.

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31. The figures, which have been mentioned under Annexure 'A' may or may not be correct; but if anyone, who is not included within the figure mentioned under Annexure 'B', claims conferment of *Temporary Status*, he/she has to prove his/her case that he/she was under employment on 01.10.1989, when the 1989 Scheme had come into force, and that he/she had already rendered continuous service of at least, one year out of which he/she had been engaged, on work, for a period of 240 days (206 days in the case of offices observing five days week) meaning thereby that one, who stood engaged as a casual labourer, on 01.10.1989, would be entitled to be conferred *Temporary Status* provided that, on 01.10.1989, he/she had completed continuous service of, at least, one year, as casual labourer and, out of this period of one year, he/she had been engaged, on work, for a period of 240 days (206 days in the case of offices observing five days week). This apart, even such a casual labourer, who had been on engagement on 01.08.1998, became entitled to be conferred the status of *Temporary Mazdoor* if he/she had already rendered, on 01.08.1998, continuous service of, at least, one year and, out of this period of one year, he/she had been engaged on work for a period of 240 days (206 days in the case of offices observing five days week).

32. Be that as it may, what attracts our attention, most prominently, is the fact that while the petitioners have claimed that they are still working as casual workers under the respondents and they are entitled

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to be conferred the status of *Temporary Mazdoors* and the benefits accruing therefrom, the respondents vehemently deny the claim of the petitioners.

33. In the light of the 1989 Scheme, which we have interpreted above, the Office Memoranda, which were issued by the Government of India, DoT, from time to time, as well as the claims of the petitioners, on the one hand, and the respondents' rigid stand denying the petitioners' claim, on the other, it was, in our considered view, wholly indispensable, on the part of the learned Tribunal, to record evidence of the parties concerned. In other words, while the petitioners have claimed to have been in the service of the respondents, as casual labourers, and to have had satisfied the conditions precedent for conferment of *Temporary Status*, the respondents have vehemently denied the petitioners' claim. In such circumstances, determination of such disputed questions of fact demanded recording of evidence of the parties concerned.

34. In the case at hand, however, the disputed questions of fact were decided by the learned Tribunal without recording any evidence. This was, we have no hesitation to hold, and we do hold, wholly illegal and untenable in law (See Section 22 of the Administrative Tribunal Act, 1985).

35. For the purpose of clarifying the position of law, one may take note of sub-Section (3) of Section 22 of the Administrative Tribunal's

Act, 1985, which contains the procedure and power of the Central Administrative Tribunal. Sub-Section (3) of Section 22 reads as under:

"22. (1) ***

(2) ***

(3) A Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely :

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;

(d) subject to the provisions of section 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office.

36. On a bare reading of Clause (c) of sub-Section (3) of Section 22, it becomes clear that the Central Administrative Tribunal has the power

to receive evidence on affidavits and it has also the power to requisition any public record or document or any copy of such record or document from any office and that it has also the power to summon and enforce attendance of any person and examining him on oath.

There is, thus, no impediment in determining and settling the disputed questions of fact by the learned Tribunal by taking recourse to its powers as embodied in sub-Section (3) of Section 22.

37. Because of what have been discussed and pointed out above, it is appropriate, in our considered view, that having clarified the scheme

for conferment of Temporary Status on casual labourers under the 1989

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Scheme and also under the 1999 Scheme, the matter be remanded back to the learned Tribunal, which has the requisite jurisdiction to adjudicate on such disputed questions of fact, by recording evidence, which may be adduced by the parties concerned and/or by obtaining such evidence as may be necessary for a just decision of the case.

3. In the result, the order, dated 22.01.2010, passed by the learned Central Administrative Tribunal, Guwahati Bench, is set aside and quashed and the learned Tribunal is hereby directed to decide the transfer Applications and Original Applications, namely, TA No. 1/2009 [WP(C) No. 1945/2011], OA No. 195/2009 [WP(C) No. 18/2010], TA No. 62/2009 [WP(C) No. 1363/2010], OA No. 205/2009 [WP(C) No. 4059/2010], TA No. 10/2009 [WP(C) No. 18/2012], TA No. 17/2009 [WP(C) No. 2163/2011] and TA No. 29/2009 [WP(C) No. 12/2012] in the light of the observations made, directions contained in this order and the law relevant thereto.

4. With the above observations and directions, all these writ petitions shall stand disposed of.

Sd/- P.K. MUSAHARY
JUDGE

Sd/- I.A. ANSARI
JUDGE

TA Nos.3/2009, 10/2009, 29/2009, 39/2009, 62/2009, OAs.195/2009 & 205/2009

14.05.2013

Mr.M.Chanda, Mr.H.K.Das, and Mr.A.Roy,

learned counsel for the respective transferred applicants are present. Mr.Y.Doloi and Mr.M.R.Das, learned counsel are also present for the BSNL.

All the matters have been remanded back by the Hon'ble Gauhati High Court vide its common judgment and order dated 19.03.2013 passed in WP(C) Nos.2945/2011, 6918/2010, 1363/2010, 18/2012, 2163/2011, 4817/2010, 849/2012 and 4059/2010 to decide the matter in the light of the observations, made, direction contained in the order and the law relevant thereto.

The matters are ready for hearing. As such, list the matters for hearing before the next available Division Bench. For proper adjudication of the matters, learned counsel for the respondents shall keep the relevant records in hand at the time of hearing.

Sd/-

MANJULA DAS
MEMBER (J)

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Note

Hon'ble HOD directed to Judicial
Sectional list The BSNL Series tomorrow
through PPS.
on - 14 - 5 - 2013.

The series cases mentioned below.

- ① TA-31/2009
- ② TA-39/2009
- ③ TA-29/2009
- ④ TA-62/2009
- ⑤ TA-10/2009
- ⑥ OA-195/2009
- ⑦ OA-205/2009.

The above 7 nos cases may be listed on
14-5-2013 and put-up kind perusal & order
please. The matter may be placed before H
Hon'ble HOD for kind approval as necessary and then

13-5-2013

13-5-2013
S.O. 63

Ld. Joint Registrar

13-5-2013

Hon'ble HOD

Approved
to be listed
on 14-5-2013
13-5-2013

Received from Deputy Registrar (IM) Gauhati High Court
 Gauhati vide memo No. HCYX1-11, 872-90 RM dated
 04-04-2013 in WP(C) 2945/2011, WD(C) 6918/2010, WP(C)
 1363/2010, WP(C) No. 4059/2010, WP(C) 18/2012, WP(C) 2169/11
 WP(C) 849/2012 & WP(C) 4817/2010.

1. WP(C) No - 2945/2011 - Kandarpa Devi Samru - vs - U.O.L. Son
 2. WP(C) No - 1363/2010 - Dhanpati Dalkar Son - vs - U.O.L. Son
 3. WP(C) No - 4059/2010 - BSNL vs - B. Tarki
 4. WP(C) No - 18/2012 - N.C. Devi - vs - U.O.L. Son
 5. WP(C) No - 2169/2011 Prakhar De. Boru - vs - U.O.L. Son
 6. WP(C) No - 4817/2010 Aswati Devi Son - vs - U.O.L. Son
 7. WP(C) No - 849/2012 Binaid De. Nasrullah - vs - U.O.L. Son
 8. WP(C) No - 6918/2010 Syed Deen - vs - U.O.L. Son

P.W.C. may kindly been seen, at flag 'A'

The above 8 Nos cases filed in the Gauhati High Court as WP(C). The Hon'ble Gauhati High Court directed to this Tribunal (in order dated 22-1-2010) to set aside and quash by this Tribunal as directed to decide the transfer application and original application in the light of observations and directions all these and T.A. namely with Petition.

1. TA. 39/2009
- 2) OA. 195/2009
3. TA. 62/2009
4. OA. 205/2009
5. TA. 10/2009
6. TA. 3/2009
7. TA. 29/2009

Laid before the Hon'ble Member, Judicial

for kind consideration and further order.
 The matter may be placed before the Hon'ble Member of
 16/4/2013. S. A. (T) 11/4/13

Ld. Joint Registrar,
 has directed to
 List the matter
 next Division Bench
25/4/13

8/5/13 10/4/13

11/4/13

Ld. Joint Registrar.

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IN THE GAUHATI HIGH COURT
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

W. P. (C)

No. 4059 of 2010.

Bharat Sanchay
oragan lot

Appellant
Petitioner

Versus

Bishakhar Tarki
208

Respondent
Opposite Party

Appellant
For

Mr. S. Datta.
Mr. M. Choudhury
Mr. D. Chakraborty

Respondent
For
Opposite Party

Mr. S. S. Dey
Mr. M. Maitra

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

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Noting by Officer or Advocate	Serial No.	Date Guwahati Bench.	Office notes, reports, orders or proceedings with signature
1	2	3	4

WP(C) No.4059/2010

BEFORE
HON'BLE THE CHIEF JUSTICE MR MADAN B LOKUR
HON'BLE MR JUSTICE UB SAHA

13-09-2010
(Madan B Lokur, CJ)

On request of learned counsel for the petitioner list again on 4-10-2010 on which date the records, earlier directed to be produced, shall be produced by the petitioner.

Interim order to continue.

IMMEDIATE

Sd/- U.B.Saha
 Judge

Sd/- M.B. Lokur
 Chief Justice

Memo No 11,402 W.P.C.Dtd. 21.9.10
 Copy forwarded for information & necessary action to:-

The Central Administrative Tribunal, Guwahati Bench, Bhangagarh, Guwahati.

This has reference to earlier communication communicated by this Registry Vide Memo No. 9150/W.P.C ded. 4.8.10.

By Order

Debra 25.9.10
 Deputy Registrar (T)
 Gauhati High Court, Guwahati

a

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.205 of 2009

DATE OF DECISION: 18.05.2010

Sri Bidyadhar Tanti Applicant/s.

Mr. M. Nath & Mr. D. P. Borah Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors. Respondent/s

Mr. B. C. Pathak 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

Chaturvedi
Hon'ble Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 205 of 2009

Date of decision: This, the 18th Day of May, 2010.

THE HON'BLE MR MUKESH KUMAR GUPTA, JUDICIAL MEMBER
THE HON'BLE MR MADAN KUMAR ADMINISTRATIVE CHATURVEDI, MEMBER

1. Sri Bidhyadhar Tanti
Son of Late Bharat Tanti
P.O./P.S. – Mahadeve Pur
Dist – Lohit, Arunachal Pradesh
2. Smt Rup Mala
Son of Shri Ganesh Basfor
P.O. – Lar Bazar
P.S. – Nagarana Ghat
Dist- Deboria, Uttar Pradesh.
3. Sri Purandar Sonowal
Son of Shri Nomal Sonowal
P.O. & P.S.- Bihpuria
Dist- North Lakhimpur, Assam.
4. Sri Niya Yangfo
Son of Shri Kamku Yangfo
P.O.- Sewa, Dist – East Kamang
Arunachal Pradesh.
5. Sri Nagendra Barman
Son of Late Jayram Barman
P.O.- Chamata
Dist – Nalbari, Assam.
6. Sri Ram Chanda Ray
Son of Late Yogi Ray
P.O.- Bidupur, P.S. Rajapakar
Dist- Vaishali, Bihar.
7. Sri Jadav Saikia
Son of Shri T. Saikia
P.O.- Deotola
Dist- North Lakhimpur, Assam.
8. Sri Promod Duwarah
Son of Shri Budheswar Dowara
P.O.- Napam Bokajan
P.S.- Gorisagar, Assam.
9. Sri Sanjoy Kumar Ray



Son of Lt. M. Ray
P.O.- Bidupur
Dist- Vaishali, Bihar.

10. Sri Sunil Kumar
Son of Shri D. Ray
P.O.- Lakhani, P.S.- Bidupun Bazar
Dist- Vaishali, Bihar.

11. Sri Arabind Prasad
Son of B.P. Singh
P.O.- Bidupur
Dist- Vaishali, Bihar.

12. Sri Siba Prasad Mahanta
Son of Shri P.D. Mahanta
P.O.- Gonakpukhuri
Dist- Golaghat, Assam.

13. Sri Mathur Mahajan
Son of Lt. Gouranga Mahajan
P.O.- Hanglar Bazar
Dist- Karimganj, Assam.

14. Sri Ratan Rabha
Son of Shri Sukar Rabha
P.O.- Mazbat, Dist- Darrang, Assam.

15. Sri Dandi Ram Nath
Son of Late H. Nath
P.O.- Chanjani, Dist- Nalbari, Assam.

16. Sri Jogen Borah
Son of Late Dulal Borah
P.O.- Chamarajan, Dist- Dhemaji, Assam.

17. Sri Nibu Tungi
Son of Shri Caiya Tungi
P.O.- Sewa, Dist- East Kamang
Arunachal Pradesh.

18. Sri Imdad Ali
Son of Md. Nizamuddin Ali
P.O.- Silghat, Dist- Nagaon, Assam.

19. Sri Dhan Bahadur Tamang
Son of Shri Prem Raj Tamang
P.O.- Seepakhua, Dist- Tinsukia, Assam.

20. Sri Mohan Chandra Das
Son of Shri J.R. Das
P.O.- Balipara, Dist- Sonitpur, State- Assam.

21. Sri Gopi Chand
Son of Shri G. Rajput
P.O.- Khanpur, Dist- Kanpur, Uttar Pradesh.

22. Sri Pranabjiti Deka
Son of Late B. Deka
P.O.- Dhemaji, Dist- Dhemaji, Assam.

23. Sri Kamal Das
Son of Shri Dadhi Ram Das
P.O.- Barbari, Dist- Nalbari, State – Assam.

24. Sri Anil Kumar Ray
Son of Lt. B.N. Rai
P.O.- Chandoli, Dist- Shamistipur, Bihar.

25. Sri Biren Boro
Son of Lt. Mohan Boro
P.O. – Danubhanga, Dist- Goalpara, Assam.

26. Sri Lal Babu Sah
Son of L. Sah
P.O.- Dunbi, Dist – Madubani, Bihar.

27. Sri Tarun Sharma
Son of Lt. Tulsi Sharma
P.O.- Jamuguri Pasali, Dist – Dhemaji, Assam.

28. Sri Pabitra Borah
Son of Lt. S. Bora
P.O.- Deotola, Dist – N. Lakhimpur, Assam.

29. Sri Madan Sharma
Son of Shri Rudra Sharma
P.O.- Balijuri, Dist – Sonitpur, Assam.

30. Sri Roma Gogoi
Son of Shri Jagot Gogoi
P.O. – Mahadeve Pur, Dist – Lohit, Arunachal Pradesh.

31. Sri Gangpha Wangsa
Son of Shri Wangey Wangsa
P.O.- Pongehau, Dist- Tirap
Arunachal Pradesh.

32. Sri Ananta Deka
Son of Lt. H. Deka
P.O.- Teoghat, Dist- Sivsagar, Assam.

33. Sri Sanjoy Ray
Son of Lt. Narsingh Ray
P.O.- Panapur Langa, Dist- Vaishali, Bihar.

34. Sri Kissan Pratap Singh
Son of Lt. B. Singh
P.O.- Lanka, Dist – Nagaon, Assam.
35. Sri Bhoj Bir Sonar
Son of D.R. Sonar
P.O.- Mokum, Dist- Tinsukia, Assam.
36. Sri Biren Mech
Son of Shri Denesh Mech
P.O.- Phialobari, Dist- Tinsukia, Assam.
37. Sri Parwati D. Arya
Son of Lt. M.R. Arya
P.O. – Janti, Dist – Almora, Utrakhand.
38. Sri Bidyut Hazarika
Son of Shri B. Hazarika
P.O.- Bordoloni, Dist – Dhemaji, Assam.
39. Sri Liteswar Saikia
Son of Shri Nilakanta Saikia
P.O. – Kumuraguri, Dist – Morigaon, Assam.
40. Sri Sailesh Kumar Singh
Son of Shri Ramdhain Singh
P.O. – Boruah, Dist – Chapra, Bihar.
41. Sri Promod Kumar
Son of Lt. Narsingh Rajpat
P.O. – Mario, Dist – Bhagalpur, Bihar.
42. Sri Ram Babu Paswan
Son of Shri Bindeswar Paswan
P.O. – Narar, Dist – Madhubani, Bihar.
43. Sri Lakhi Prasad Sharma
Son of Shri H.P. Sharma
P.O. – Pholbari Bhkanodi
Dist- North Lakhimpur, State – Assam.
44. Sri Rabin Nath
Son of Lt. Golap Nath
P.O. – Chakla Ghat, Dist – Nagaon, Assam.
45. Sri Taloko Darang
Son of Oyar Darang
P.O. – Along Dist – West Siang, Arunachal Pradesh.
46. Sri Dipak Dutta
Son of Tarun Dutta
P.O. – Gobindapur, Dist – N. Lakhimpur, Assam.

47. Sri Man Balian Lal
Son of Shri Soikholian
P.O. – Tairipok, Dist – Imphal East, Manipur.

48. Sri Babul Deori
Son of Lt. S.R. Deori
P.O. – Likhak Chapor, Dist – N. Lakhimpur, Assam.

49. Smt. Moyo Riba
Son of Shri Chino Riba
P.O.- Basar, Dist – West Siang, Arunachal Pradesh.

50. Sri Dakto Riba
Son of Modak Riba
P.O.- Daring, Dist – West Siang, Arunachal Pradesh.

51. Sri Tek Bahadur Giri
Son of L.B. Giri
P.O.- Lokhora, Dist – Sonitpur, Assam.

52. Shri Mikar Tada
Son of Shri Gomi Tada
P.O. – Nari, Dist- East Siang, Arunachal Pradesh.

...Applicants.

By Advocates: Mr.M.Nath & Mr.D.P.Borah

-Versus-

1. Union of India
Represented by the Secretary
To the Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi.
2. Bharat Sanchar Nigam Limited (BSNL)
Represented by Chairman cum Managing Director
Sanchar Bhawan, 20, Ashoka Road, New Delhi.
3. Deputy Director General (Estt.)
Corporate Office
Bharat Sanchar Nigam Limited
B-102 Statesman House, New Delhi – 1.
4. Chief General Manager
Bharat Sanchar Nigam Limited
North East Telecom Circle – II
Dimapur, Nagaland.
5. Assistant General Manager
Bharat Sanchar Nigam Limited
North East Telecom Circle – II
Dimapur, Nagaland.

6. General Manager
 Bharat Sanchar Nigam Limited
 Arunachal Pradesh Secondary
 Switching Areas (SSA), Itanagar.

...Respondents.

By Advocate: Mr.B.C.Pathak

ORDER

MADAN KUMAR CHATURVEDI, MEMBER (A) :

By this O.A applicant makes a request to direct the respondent authorities to withdraw the applicants as contractual workers from the contractors and to place them directly under the BSNL authorities as Casual Labourers/Mazdoors and treat them at par with those 174 Casual Employees till their services are regularized and to give all consequential benefits.

2. All the applicants were engaged as full time casual labourer/Mazdoor by the BSNL authorities in different districts of Arunachal Pradesh headed by the Sub Divisional Officer Telecom. The various dates of engagements of the applicants are as under.

Sl. No. of Applicants	Name of the applicants (seniority wise)	Date of Engagement	Place of working
1	Sri Bidhyadhar Tanti	01.11.93	Namsai
2	Smt Rup Mala	01.08.95	Bomdila
3	Sri Purandar Sonowal	18.02.96	Bomdila
4	Sri Niya Yangfo	19.02.96	Bomdila
5	Sri Nagendra Barman	05.04.96	Bomdila
6	Sri Ram Chanda Ray	01.06.96	Itanagar
7	Sri Jaday Saikia	01.01.97	Itanagar
8	Sri Promod Dowara	01.01.97	Itanagar
9	Sri Sanjoy Kumar Ray	01.01.97	Itanagar
10	Sri Sunil Kumar	01.01.97	Itanagar
11	Sri Arabind Prasad	01.01.97	Itanagar
12	Sri Siba Prasad Mahanta	01.01.97	Naharlagun
13	Sri Mathur Mahajan	01.01.97	Naharlagun
14	Sri Ratan Rabha	18.02.97	Bomdila

15	Sri Dandi Ram Nath	02.03.97	Seppa
16.	Sri Jogen Borah	02.03.97	Bomdila
17	Sri Nibu Tungi	02.03.97	Bomdila
18	Sri Imdad Ali	02.03.97	Bomdila
19	Sri Dhan Bahadur Tamang	01.04.97	Tezu
20	Sri Mohan Chandra Das	02.04.97	Bomdila
21	Sri Gopi Chand	01.05.97	Nirjuli
22	Sri Pranabjit Deka	10.11.97	Seppa
23	Sri Kamal Das	10.11.97	Naharlagun
24	Sri Anil Kumar Ray	01.01.98	Naharlagun
25	Sri Biren Bora	01.01.98	Roing
26	Sri Lal Babu Sah	01.02.98	Khonsa
27	Sri Tarun Sharma	01.02.98	Daporijo
28	Sri Pabitra Borah	01.02.98	Ziro
29	Sri Madan Sharma	01.02.98	Pasighat
30	Sri Roma Gogoi	01.03.98	Namsai
31	Sri Gangpha Wangsa	01.03.98	Khonsa
32	Sri Ananta Deka	01.03.98	Khonsa
33	Sri Sanjoy Ray	05.04.98	Bomdila
34	Sri K.P. Singh	01.06.98	Tawang
35	Sri B.B.Sonar	01.06.98	Tawang
36	Sri Biren Mech	01.08.98	Namsai
37	Sri Parwati.D.Arya	01.09.98	Tezu
38	Sri Bidyut Hazarika	01.09.98	Itanagar
39	Sri Liteswar Saikia	01.10.98	Roing
40	Sri S.K.Singh	02.11.98	Changlang
41	Sri Promod Kumar	01.01.99	Itanagar
42	Sri Ram Babu Paswan	11.01.99	Roing
43	Sri Lakhi Prasad Sarma	04.03.99	Changlang
44	Sri Rabin Nath	10.04.99	Changlang
45	Sri Taloko Darang	01.09.99	Along
46	Sri Dipak Dutta	01.09.99	Along
47	Sri Man Balian Lal	01.09.99	Along
48	Sri Babul Deori	01.09.99	Ziro
49	Smt M. Riba	01.10.99	Along
50	Sri Dakto Riba	01.10.99	Along
51	Sri Tek Bahadur Giri	01.12.99	Itanagar
52	Shri Mikar Tada	05.02.2000	Pasighat

3. It was submitted that the aforesaid applicants completed 240 days of work on full time basis in a year till 20.07.2007 when their services were placed under the contractors, and thereafter also they performed their duties in the BSNL but on contractual basis.

4. Our attention was invited to a letter dated 1.9.1999 in regard to regularization/grant of temporary status to casual labourers who have

worked in the BSNL. It was stated that approval was accorded for grant of temporary status to the casual labourers who were eligible as on 1.8.1998 and for regularization of casual labourers who were eligible as on 31.3.1997.

5. Vide order dated 29.9.2000 it has been decided to regularize all the casual labourers working in the department with effect from 1.10.2000 including those who have been granted temporary status. It was stipulated in the said letter that casual labourers are to be adjusted against available vacancies of regular Mazdoors. The Chief General Managers were authorized to create posts of regular Mazdoors as per the prescribed norms and to that extent the prescribed ceiling for the circle was proposed to be enhanced. It was further clarified vide letter dated 2.1.2001 that for regularizing all casual labourers including part time casual labourers, left out cases, if any, would be settled by BSNL in accordance with the order dated 29.9.2000. It was also stated that since there was a complete ban on engagement of casual labourers with effect from 22.6.88, action must be taken against officers responsible for engaging casual labourers in defiance of the ban orders. In response to the letter dated 19.4.2001 a list containing 382 cases of casual labourers of the respective circles was forwarded to the BSNL Headquarter for regularization of their services. Thereafter approval was accorded for the regularization of 199 numbers of casual workers. However, remaining 183 casual labourers were not approved which includes 154 casual employees from Nagaland , 5 from Manipur and 24 from Arunachal Pradesh. While forwarding the list of 382 casual labourers as mentioned above, the names of 54 casual labourers who have been serving in the

BSNL in Arunachal Pradesh have been left out. Subsequently the cases of the said 54 left out cases have been forwarded to the BSNL vide letter dated 19.9.2002. The BSNL authorities informed that those cases were kept pending for want of updation, consolidation and due clarification by the Circle IFA (Internal Financial Advisor) and Chief General Manager Telecom and after updation and consolidating a fresh list containing 228 case of casual labourers has been forwarded vide letter dated 30.3.2004.

6. Meanwhile, the respondents authorities have withdrawn those 54 casual labourers including the applicants from their work and placed them under contractors as contractual workers with effect from 20.7.07. However, the remaining 24 casual employees from Arunachal Pradesh some of them much junior to the applicants have been retained by the respondents directly under them. Learned counsel stated that after placing them under contractors the applicants are being paid daily wages of Rs.180/- whereas the remaining 174 casual employees are being paid Rs.234/- as daily wages although they perform similar nature of work. The aforesaid 174 employees are also being paid yearly bonus of Rs.3000/- and the applicants are totally deprived of such benefit. Even the said 174 employees have been receiving the benefit of 6th Pay Commission but the applicants have been totally deprived.

7. Mr B.C.Pathak, learned counsel for the respondents invited our attention to the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989. As per the said scheme a casual labourer who has completed at least 240 days as casual labourer in the department in twelve calendar months preceding the date of his engagement/retrenchment and has been in

continuous engagement as on 1.10.1989 would be entitled to conferment of temporary status. The said scheme was circulated on 7.11.1989. The scheme of 1989 was framed only to regulate the affairs of conferment of temporary status and regularization of such casual labourers and the scheme has no provision for any fresh engagement. In view of the above curtailment and prohibition any engagement of casual labourer and any certificate issued to that extent is null and void and the department is not bound by any such illegal action of their officers for engagement of any casual labourer after 22.6.1988.

8. Mr Pathak made it clear that all casual labourers who have already been conferred with temporary status and completed 10 years of service could be regularized as per the vacancies. Those casual labourers who were engaged by the department in spite of ban order were to be given temporary status strictly only against the places and vacancies. It is further clarified vide circular dated 1.9.99 that date of conferment of such casual labourers would be effected from the date of issue of the said circular, i.e., 01.09.99 and in case of regularization to the temporary status casual mazdoors eligible as on 31.3.97 would be from 1.4.97. By that circular the date for consideration of casual labourer for conferment of temporary status for such eligible casual labourer was fixed upto 1.8.1998 subject to the provisions of OM dated 12.2.99. Government issued strict guidelines to impose penalty in case of any deviation made to the said instruction. It was made clear that part time casual labourers are not entitled to temporary status/regularization under the scheme.

9. Just two days before the transfer of the assets and liabilities of Telecom Services and Telecom operations of the Department of Telecom

(DoT) to the newly created company, Bharat Sanchar Nigam Limited (BSNL), DoT issued another letter dated 29.9.2000 regarding regularization of casual labourers. By that letter directions were rendered to all the Chief General Managers to regularize eligible casual labourers upto 1.8.1998 as per provisions of letter dated 12.2.1999 and to disengage those ineligible forthwith.

10. According to Mr Pathak the applicants in this case are no longer in engagement, besides casual labourers and part time workers are not similarly situated and part time workers cannot be regularized under the scheme framed by the Government. To buttress this proposition Mr Pathak relied on the ratio laid down in the case of **Secretary, State of Karnataka & Ors. vs. Umadevi,(3) & Ors., (2006) 4 SCC 1**. It was further alleged that the requirement under the scheme for entitlement is to show by the casual labourers that he has completed 240 days in the month from the date of retrenchment and he has been in engagement while the scheme was introduced. The law is trite on the subject that burden of proof of completion of such 240 days lies on the casual labourers/workmen. On this factual backdrop Mr Pathak concluded that the case of the applicants cannot be considered for conferment of temporary status or for regularization under the provisions of the said scheme as none of the applicant completed 240 days in continuous engagement prior to 1.8.98. The period after 1.8.98 has no significance as the scheme became inoperative thereafter. Besides the applicants were not engaged by BSNL and they are not BSNL employees.

11. Finally reliance was placed on the decision of CAT Guwahati Bench in T.A.3/2009 and series rendered in the case of Shri Prahlad Ch. Borah & Ors. vs. Union of India & Ors.

12. We have heard rival submissions in the light of material placed before us and precedents relied upon. The main issue raised by the applicants is that whether the applicants could be placed directly under the BSNL authorities as casual labourers/Mazdoors by withdrawing them from the contractor as contractual workers. The other part of the question is, whether applicants could be treated at par with the casual employees, till their services are regularized. The main thrust is on withdrawing the applicants as contractual workers from the contractors. Indisputedly all the applicants were engaged as full time casual labourers/Mazdoors by the BSNL in different districts of Arunachal Pradesh. They have completed 240 days of work on full time basis in a year till 20.07.2007 when their services were placed under contractors. It is pertinent to note that thereafter also they performed their duties in BSNL but on contractual basis.

13. It was decided to adjust the casual labourer against vacancies of regular Mazdoor. Instructions were issued to create the posts of regular Mazdoor as per norms. Accordingly, a list of 382 casual labourers was forwarded to BSNL hqrs. Approval was accorded for 199 casual labourers. The names of 54 casual labourers who have been serving in the BSNL in Arunachal Pradesh have been left out. Subsequently these cases have been forwarded to BSNL vide letter dated 19.09.2002. These cases were kept pending for want of updation, consolidation and due clarification by the Internal Financial Advisor, and Chief General

Manager, Telecom and after updation and consolidating this list, was forwarded vide letter dated 30.03.2004.

14. With effect from 20.07.2007 respondent authorities have withdrawn the applicants from their work and placed them under contractor as contractual worker. Some of the workers junior to the applicants were retained. In the case of **G.Varandani vs. Kurukshetra University and Another, (2003) 10 SCC 14**, it is laid down that "if the post held by the respondent is regarded as one of a number of posts in a Group, the principle 'LAST – COME, FIRST GO' will apply, and someone junior to respondent must go."

15. It is all very well to paint justice blind but she does better without a bandage round her eyes. She should be blind indeed to favour or prejudice, but clear to see which way lies the truth. Once the exigency for making such appointment despite ban is explained there would be no *raison d' etra* for disengaging the casual labourers. "Let the master answer", is the purport of the maxim RESPONDEAT SUPERIOR. It refers to the doctrine of vicarious liabilities of a master in the acts and omissions committed by his servant in the course of his employment. It is, not disputed that all the casual labourers were employed by the concerned officers during the course of their engagement. Therefore, master cannot shirk his responsibility.

16. The primary object of the Government is to secure justice. "REMOTA JUSTITIA, QUID SINT REGNA NISI, MAGNA LATROCINIA", said St. Augustine in the 5th Century and is just true today. The expression loses its terseness in translation, but the question which St. Augustine asked in

modern language was whether a Govt. which do not have justice as its objective was really nothing more than any venture in large scale gangism.

17. It is a trite law that what cannot be done directly can also not be done indirectly. We have noted that present applicants, who were rendering services earlier in the BSNL, now also are in the services of BSNL but working through the contractors. If there was a ban on the recruitment of the casual labourers, can these subterfuges be used to hoodwink the Govt. scheme, and to harm the innocent workers?

18. When the Supreme Court as an apex adjudicator declares the law for the country under Article 141, clarifying the confused judicial situation, its substantial role is of legal mentor of the nation. Ratio of the Supreme Court is a binding law. It is not of scriptural sanctity but is of ratio wise luminosity within the edifice of facts. We are reminded of Heraclitus, who said, "you never go down in the same river twice". Each case depends on its own facts, and a close similarity between one case and other is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid temptation, as said by Cardozo, by matching the colour of one case against the colour of other. It would, therefore, not be appropriate to apply the ratio of

Secretary, State of Karnataka & Ors. vs. Uma Devi (3) & Ors., (2006) 4 SCC

1 in the context of present case, as the facts in which this decision was rendered are different from the facts of present case.

In the present case we are concerned with the question why the applicants be not withdrawn as contractual workers from the

contractors and be placed directly under BSNL authorities as casual labourers/Mazdoors and be treated at par with casual employees till their services are regularized. This question was not adjudicated by the Hon'ble Supreme Court.

19. In the light of aforesaid discussion, respondents are directed to consider the case of applicants and pass a reasoned order within a period of two months from the date of receipt of this order.
20. In the result, O.A. stands disposed of accordingly. No costs.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)


(MUKESH KUMAR GUPTA)
MEMBER (J)

/BB/

W.P.(C) NO 4059/2010

O.A. NO. 205/2009

The W.P.(C) filed by the Applicant
in the Hon'ble High Court, Guadalajara
against the Judgment and Order
dated 18-5-2010 passed by this
Tribunal is stayed in the Hon'ble
High Court vide Their Order dated
23.7.2010 is at flag 'A'.

Laid before the Hon'ble Member (O)-
for favour of kind perusal.

~~As on~~
06.08.2010

HON'BLE MEMBER (O)

mfu

9/8/2010

SOL (J)

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

W. P. (C)

No. 4059 of 20010.

Bhavat Sanchay
original

Appellant
Petitioner

LERNWISSEN

Bickhachaur Tenth
2008

Respondent
Opposite Party

Appellant
For _____

Ann. S. Deltag.

Mr. Choudhury
Mrs. D. Chakrabarty

Respondent
For _____
Opposite Party

Mr. S. S. Ray
Mr. M. Aradhy

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

WP(C) No.4059 of 2010.

BEFORE
HON'BLE THE CHIEF JUSTICE, MR MADAN B. LOKUR
HON'BLE MR JUSTICE B.P.KATAKEY

23.7.2010.

The contention of learned counsel for the petitioner is that there was no material on record to come to the conclusion that the respondents had served 240 days' work on a full time basis till 20th July, 2007 when their services were terminated, as observed by the Tribunal in para-12 of the impugned order.

It is also submitted that the Tribunal failed to take into account that the application filed before it by the respondents was barred by time because their services were terminated on 20th July, 2007 and they approached the Tribunal for relief only on 6th October, 2009.

Issue notice.

Mr SS Dey, learned counsel accepts notice on behalf all the respondents and submits that a reply affidavit has already been filed.

Learned counsel for the petitioner may file a rejoinder-affidavit, if necessary.

WP(C) No.4059 of 2010.

Page 1 of 2

FIXED ITEM.

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1	2	3	4
		Office notes, reports, orders or proceedings with signature	

On request of learned counsel for the petitioner, File No.A/642N/S-1 of the petitioner should be produced on the next date of hearing.

List for admission hearing on 31st August, 2010. Till then, operation of the impugned judgment dated 18.5.2010 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati in OA No.205 of 2009 would remain stayed.

Sd/B.P.Katakey
Judge

Sd/M.B.Lokur
Chief Justice

Memo No 9150

/wpcdated 4.8.10

Copy forwarded for information & necessary action to:

The Registrar,

Central Administrative Tribunal,

Guwahati Bench, Bhangagarh, Guwahati-5

By Order

Debra 3.8.10

Deputy Registrar(T),
Gauhati High Court, Ghy

AB 3/8/10

Mr. R. Hassan
Pl. Comptianer & Cm
3/8/10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Transfer Application Nos. 03 of 2009 & Series

Date of Order: This, the 22nd Day of January, 2010

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

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

T.A. No. 03 of 2009 in W.P.(C) No. 152 of 2006

1. Shri Prahlad Ch. Borah
Son of Sri Pipil Ch. Borah
Resident of Vill- Kakhari Gaon
Dist - Nagaon.
2. Shri Dilip Mazumdar.
Son of Kala Mazumdar
Resident of Vill -
Dist - Nagaon.
3. Shri Sanjeet Kr. Banik
Son of Manindra Ch. Banik
Resident of vill - Chakitup
P.O.- Shuta Haibar
Dist - Nagaon.
4. Shri Radhakanta Bordoloi
Son of late Debnath Bordoloi
Resident of Vill - Pub-Soragaon
Post of Soragaon
Dist - Nagaon.
5. Shri Binod Kr. Saikia
Son of Late Megh Ram Saikia
Resident of Vill - Owanagaon
P.O.- Rupahi, Dist- Nagaon.

...Petitioners

-Versus-

1. Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi - 1.
2. The Chairman-Cum-Managing Director
Bharat Sanchar Nigam Limited (BSNL)
New Delhi - 1.

3. The Chief General Manager, (BSNL)
Assam Telecom Circle
Ulubari Guwahati – 7, Assam.
4. The Sub-Divisional Officer, BSNL
Nagaon Telecom Division, Nagaon. ...Respondents

T.A. No. 05 of 2009 in W.P.(C) No. 2342 of 2006

1. Sri Nirmal Chandra Baruah
Son of Sri Rameswar Baruah
Village – Sutargaon, P.O.- Takelagaon
District- Jorhat.
2. Sri Nadhu Kumar Bora
Son of Late Ganesh Bora
Vill – Assaibarigaon, P.O.- Chowtang
District- Jorhat.
3. Sri Jibon Bora
Son of Sri Giridhar Bora
Vill- Phosual, P.O.- Phosual
District- Jorhat.
4. Sri Padum Handique
Son of Late Tapuram Handique
Vill- Alangmara, P.O.- Alangmara
District- Jorhat.
5. Sri Prasanta Gogoi
Son of Sri Naren Gogoi
Vill- No.1 Chownigaon
P.O.- Borbheta, District- Jorhat.
6. Sri Dhiren Barua
Son of Late Dhandiram Barua
Vill – nowsoliagaon
P.O.- Chowtang, District- Jorhat.
7. Sri Anil Saikia
Son of Late Rameswar Saikia
Village- Nara Holidharigaon
P.O.- Lodoigorh, District- Jorhat.
8. Sri Biren Bora
Son of Sri Bhupan Bora
Village – No.2 Charaiborigaon
P.O.- Dhalayan, District- Jorhat.

Rashid Ali
 Son of Late Sahabuddin Ahmed
 Village- Melamaragaon
 P.O.- Melamara, District- Golaghat.

...Petitioners

-Versus-

1. The Bharat Sanchar Nigam Ltd.
 A Govt. of India Enterprise
 Represented by its Chairman
 Registered Office Sanchar Bhawan
 New Delhi.
2. The Chief General Manager, B.S.N.L.
 Assam Telecom Circle
 Ulubari Guwahati – 7, Assam.
3. The General Manager
 Jorhat Telecom District B.S.N.L.
 Jorhat- 785001.
4. The Deputy General Manager
 Jorhat Telecom District B.S.N.L.
 Jorhat- 785001.
5. Chief Accounts Officer
 Jorhat Telecom District B.S.N.L.
 Jorhat- 785001.
6. The Union of India
 Represented by the Secretary to the
 Govt. of India, Department of Telecommunications
 Ministry of Telecommunications
 New Delhi.

...Respondents

T.A. No. 06 of 2009 in W.P.(C) No. 1046 of 2006

1. Sri Ranjit Das
 Son of Mothura Das
 Resident of Village Bohori, Kumarpara
 P.O.- Bohori, Dist- Barpeta, Assam.
2. Sukur Ali
 S/o Joynal Abdin
 Resident of Village- Bandhaipara
 P.O.- Mechpara, Dist- Barpeta, Assam.

...Petitioners

-Versus-

1. Bharat Sanchar Nigam Limited
Represented by its Chairman cum
Managing Director, New Delhi.
2. The Chairman-Cum-Managing Director
Bharat Sanchar Nigam Limited (BSNL)
New Delhi.
3. The Chief General Manager, (BSNL)
Assam Telecom Circle
Bhangagarh, Guwahati – 7, Assam.
4. The Divisional Engineer
Barpeta Telecom Division, Telecom
Barpeta, District- Barpeta.
5. The Sub-Divisional Officer, Telecom
Barpeta, District- Barpeta.

...Respondents

T.A. No. 07 of 2009 in W.P.(C) No. 2181 of 2006

1. Md. Nur Zaman
Son of Md. Abdul Rashid
Village- Kumargaon, P.S.- Rupahi
District- Nagaon, Assam.
2. Shri Khageswar Mazumdar
Son of Shri Sarumania Mazumdar
Village- Murahi, P.O.- Chalchali
District- Nagaon, Assam.
3. Shri Phanindra Nath
Son of Shri Tulam Chandra Nath
Village- Polakhanguri, P.O.- Gandhibari
District- Nagaon, Assam.
4. Shri Puna Dhar Nath
Son of Shri Bhabang Nath
Village- Polasaguri, P.O.- Gandhibari
District- Nagaon, Assam.
5. Shri Gopi Kanta Nath
Son of Shri Bihu Ram Nath
Village- Palasaguri, P.O.- Gandhibari
District- Nagaon, Assam.
6. Shri Durgeswar Nath
Son of Shri Ikram Nath
Village- Palasaguri, P.O.- Gandhibari
District- Nagaon, Assam.

7. Shri Dipak Chandra Hira
 Son of Shri Kusheswar Hira
 Village- Pub Saragaon, P.O.- Saragaon
 District- Nagaon, Assam.

8. Shri Nareswar Kumar Nath
 Son of Shri Ikram Nath
 Village- Palasaguri, P.O.- Gandhibari
 District- Nagaon, Assam.

9. Shri Pradip Kumar Nath
 Son of Shri Jiban Nath
 Village- Senchowa Baligaon
 P.O.- Senchowa; District- Nagaon, Assam.

10. Shri Golap Chandra Nath
 Son Shri Deben Chandra Nath
 Village- Palasaguri, P.O.- Chandhibari
 District- Nagaon, Assam.

11. Shri Manik Chandra nath
 Son of Rohit Chandra Nath
 Village- Gandhibari
 P.O.- Gandhibari
 District- Nagaon, Assam.

12. Shri Bharat Chandra Nath
 Son of Nawabar Nath
 Village- Gandhibari
 P.O.- Gandhibari
 District- Nagaon, Assam.

...Writ Petitioners

-Versus-

1. Union of India
 Represented by the Secretary to the
 Government of India
 Ministry of Communication
 Sanchar Bhawan, New Delhi – 1.

2. The Chief General Manager
 Assam Telecom Circle
 Ulubari Guwahati – 7, Assam.

3. The Telecom District Manager
 Nagaon Telecom District
 Nagaon, Assam.

4. The Sub-Divisional Officer (HRD)
 Office of the Telecom District Manager
 Nagaon, Assam.

5. Bharat Sanchar Nigam Limited
(Govt. of India Enterprise)
Represented by its Chairman cum
Managing Director, Corporate Office
New Delhi. ...Respondents

T.A. No. 08 of 2009 in W.P.(C) No. 1425 of 2006

Sri Sanjib Tiwary
Son of Sri Bhagnarayan Tiwary
Resident of Barpeta Road
District- Barpeta (Assam). ...Petitioner

-Versus-

1. Union of India
Represented by the Chief General Manager
Bharat Sanchar Nigam Limited
S.R. Bora Lane, Ulubari, Guwahati- 7.

2. The Telecom District Manager
BSNL, Bongaigaon.

3. S.D.O., Telegraph
Barpeta Road. ...Respondents

T.A. No. 09 of 2009 in W.P.(C) No. 1042 of 2006

1. Shri Umesh Mahato
Casual Worker
Office of the Divisional Engineer
Microwave Maintenance, Guwahati.

2. Smt. Lakhiya Basfor
Casual Worker, Office of the DGM,
Eastern Telecom Region, (ETR), Guwahati.

3. Smt. Sukhi Begam
Casual Worker
Office of the Sub-Divisional Engineer
Goalpara and Divisional Engineer, Bongaigaon. ...Petitioners

-Versus-

1. Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi – 1.

2. The Chairman – cum - Managing Director
Bharat Sanchar Nigam Limited (BSNL)
(Govt. of India Enterprise)
New Delhi - 1.
3. The Chief General Manager (BSNL)
Eastern Telecom Region (ETR)
7th Khetra Das Road, Kolkata-2.
4. The Chief General Manager (BSNL)
Assam Telecom Circle
Ulubari Guwahati- 7, Assam.
5. The General Manager, (BSNL) ETR
Shillong, Max Building, Meghalaya.
6. The Deputy General Manager (BSNL), ETR
Silpukhuri, Guwahati- 3.
7. The Divisional Engineer, Microwave
Maintenance, Guwahati.Respondents

T.A. No. 10 of 2009 in W.P.(C) No. 2800 of 2006

1. Shri Niranjan Chandra Das
Son of Sri Sujit Ram Das
Village- Patharkandi, P.O.- Mahakal
Dist- Karimganj, Assam.
2. Shri Manindra Chandra Nath
S/o- Shri Mahendra Chandra Nath
Village- Kanaklash, P.O.- Bhangabazar
District- Karimganj (Assam).Petitioners

-Versus-

1. The Union of India
Represented by the Secretary to the
Government of India, Ministry of Communication
New Delhi – 1.
2. Bharat Sanchar Nigam Ltd.
(A Govt. of India Enterprise)
Represented The Chairman – cum - Managing Director
Corporate Office, New Delhi - 1.
3. Bharat Sanchar Nigam Limited
Represented by the General Manager
Assam Circle, Department of Telecommunication
Govt. of India, Ulubari, Guwahati.

4. The General Manager
Telecom, Silchar SSA
Department of Telecommunications
Silchar-1, Assam.

5. Sub Divisional Officer, Telecom
Department of Telecommunication, Karimganj.

6. Divisional Engineer (P&A)
Office of the General Manager
Bharat Sanchar Nigam Limited
Silchar – 1.

...Respondents

T.A. No. 11 of 2009 in W.P.(C) No. 1449 of 2006

1. Shri Chandra Gogoi
Son of Sarupai Gogoi
Casual Worker
Office of the Malali Telecom Exchange
Jorhat Microwave Building, Jorhat.

2. Sri Jasu Sonar
Son of Late Ram Bahadur Sonar
Casual Worker
Office of the Kaliamari Fault Control
Station, Microwave Building, Dibrugarh.

3. Sri Rosheswar Hazarika
Son of Late K. Hazarika
Casual Worker (Driver)
Office of the Sub-Divisional Engineer
Microwave, Jorhat.

...Petitioners

-Versus-

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi – 1.

2. The Chairman – cum - Managing Director
Bharat Sanchar Nigam Limited (BSNL)
(A Govt. of India Enterprise)
New Delhi - 1.

3. The Chief General Manager (BSNL)
Eastern Telecom Region (ETR) .
7th Khetra Das Road, Kolkata – 2.

4. The Chief General Manager, (BSNL)
Assam Telecom Circle
Ulubari Guwahati – 7, Assam.
5. The General Manager, (BSNL) ETR
Shillong, Max Building, Meghalaya.
6. The Deputy General Manager (BSNL) ETR
Silpukhuri, Guwahati – 3.
7. The Divisional Engineer, Microwave
Maintenance, Guwahati – 3.
8. Telecom District Manager, BSNL
Jorhat.

...Respondents

T.A. No. 13 of 2009 in W.P.(C) No. 1067 of 2007

Seuti Sonowal
D/o Late Sadananda Sonowal
Niz Mancotta, P.O.: Khangia
Dibrugarh.

...Petitioner

-Versus-

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi – 1.
2. The Chief General Manager, (BSNL)
Assam Telecom Circle
Ulubari Guwahati – 7, Assam.
3. The Deputy General Manager (Admn)
O/o The Chief General Manager, (BSNL)
Assam Telecom Circle
Ulubari Guwahati – 7, Assam.
4. Sub Divisional Engineer (Admn)
O/o The General Manager, BSNL
Telecom District Dibrugarh.

...Respondents

T.A. No. 14 of 2009 in W.P.(C) No. 1063 of 2007

Sofia Begum
D/o Late Abdul Rasid
Resident of Dibrugarh, P.O.
Jalannagar, Dibrugarh
& Permanent resident of Dibrugarh
Dist- Dibrugarh - 786001.

...Petitioner

-Versus-

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi - 1.
2. The Chief General Manager, (BSNL)
Assam Telecom Circle
Ulubari Guwahati - 7, Assam.
3. Sub Divisional Engineer (Admn)
O/o The General Manager, BSNL
Telecom District Dibrugarh.
4. The General Manager
Bharat Sanchar Nigam Limited
Telecom District Dibrugarh.
5. The Circle Secretary
The All India Telecom Employees Union
Assam Telecom Circle. ...Respondents

T.A. No. 25 of 2009 in W.P.(C) No. 2171 of 2006

1. Shri Jayanta Hazarika
Son of Shri Deben Hazarika
Village: Puranigudam Tellagaon
Dist - Nagaon, Assam.
2. Shri Nitish Ranjan Das
Son of Rama Kanta Das
P.O.- Panigaon, Dist- Nagaon, Assam.
3. Md. Abdul Salam
Son of Md. Abdul Rahman
P.O.- Rupahihat, Dist- Nagaon, Assam.

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4. Shri Ganesh Borah
Son of Late Thelai Borah
Village & P.O.- Barangatoli
Dist- Nagaon, Assam.
5. Shri Madan Chandra Kalita
Son of Late Dimbeswar Kalita
Village- Bhutaigaon
P.O.- Uriagaon
Dist- Nagaon, Assam.
6. Shri Chandramal Senapati
Son of Shri Nirmal Senapati
Village – Bhalukmari, P.O.- Jajari
Dist- Nagaon, Assam.
7. Shri Kishan Bordoloi
Son of Shri Sudhan Shing Bordoloi
Village – Borapujia, P.O.- Borapujia
Dist- Nagaon, Assam.
8. Shri Babul Chandra Nath
Son of Shri Mitaram Nath
Village- Natumagaon (Nalbari)
P.O.- Natumagaon
Dist- Nagaon, Assam.
9. Shri Gopal Bora
Son of Late Bhugeswar Bora
Village- Sakmuthi, P.O.- Haibor
Dist- Nagaon, Assam.
10. Shri Tuleswar Nath
Son of Late Kanak Chandra Nath
Village- Patashguri
P.O.- Ghandhibari
Dist- Nagaon, Assam.
11. Shri Ruplal Gaonkhowa
Son of Late Ram Shing Gaonkhowa
Village- Katahguri
P.O.- Charagaon
Dist- Nagaon, Assam.
12. Shri Putul Dewri
Son of Late Subheswar Dewri
Village- Khaplang Khusi, P.O.- Borapujia
Dist- Nagaon, Assam.
13. Shri Promod Deka
Son of Shri Ram Deka
Village- Pub-Borkhola, P.O.- Borkhola
Dist- Nagaon, Assam.

14. Shri Kantheswar Nath
Son of Shri Maliram Nath
Village – Natuwagaon
Dist- Nagaon, Assam.

...Writ Petitioners

-Versus-

1. The Union of India
Represented by the Secretary
Ministry of Communication
Department of Telecommunication
New Delhi – 1.
2. The Chief General Manager, (BSNL)
Assam Telecom Circle
Ulubari Guwahati – 7, Assam.
3. The Telecom District Manager
Nagaon Telecom District
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.)
Nagaon Telecom Sub-Division
Nagaon, Assam.

5. The Divisional Engineer (P&A)
Nagaon Telecom District, Nagaon, Assam.
6. Bharat Sanchar Nigam Limited
(Govt. of India Enterprise)
Represented by Chairman-Cum-
Managing Director, Corporate Office
New Delhi-1.

...Respondents

T.A. No. 27 of 2009 in W.P.(C) No. 2257 of 2006

1. Sri Gojen Dewraja
Son of Late Paduram Das
Resident of Vill.- Geruamukh
P.O.- Bagiagaon, Dist- Nagaon, Assam.
2. Sri Dilip Kr. Borah
Vill- Pub-Guimari, P.O.- Guimari
Dist- Nagaon, Assam.
3. Sri Luit Kr. Gayan
Vill- Chalchali (Puranigudam)
Dist- Nagaon, Assam.

4. Sri Tarun Kalita
Vill- Chalchali, P.O.- Haluyagaon
Dist- Nagaon, Assam.

5. Sri Gakul Ch. Bora
Vill- Kuwari Ali, P.O.- Niz Narikali
Dist- Nagaon, Assam.

...Petitioners

-Versus-

1. Bharat Sanchar Nigam Limited (BSNL)
Represented by Chairman-Cum-
Managing Director
(Govt. of India Enterprise)
New Delhi-1.

2. The Chief General Manager (BSNL)
Assam Telecom Circle
Ulubari, Guwahati- 7, Assam.

3. The Sub-Divisional Officer
(Telecom) BSNL
Assam Telecom Circle
Nagaon, Assam.

4. Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi- 1.

...Respondents

T.A. No. 28 of 2009 in W.P.(C) No. 563 of 2006

Md. Sonabar Ali
S/o Late Maseb Ali
R/o Vill. Barkhetri, Barni
P.O. Bangaon
Dist- Nalbari, Assam.

...Petitioner

-Versus-

1. Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi- 1.

2. The Chief General Manager
Bharat Sanchar Nigam Limited
Ulubari, Guwahati- 7, Assam.

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- 3. The Executive Engineer
Bharat Sanchar Nigam Limited
(Civil Division)
N.C. Bardoloi Road, Pan Bazar
Guwahati – 781001.
- 4. The Asstt. Engineer
Bharat Sanchar Nigam Limited
Ulubari, Guwahati- 7
(Civil Sub Division No. V)
- 5. The Responsible Committee
B.S.N.L., represented by its Chairman
B.S.N.L., Assam Telecom Circle
Ulubari, Guwahati- 7, Assam.

...Respondents

T.A. No. 29 of 2009 in W.P.(C) No. 2668 of 2008

- 1. Shri Binod Kumar Mandal
S/o Sri Ram Kumar Mandal
New Colony, Bongaigaon,
District- Bongaigaon.
- 2. Shri Bhaskar Nag
S/o Late Jiban Nag
New Colony, Bongaigaon,
District- Bongaigaon.
- 3. Shri Ram Naresh Roy
S/o Late Mondal Roy
New Colony, Bongaigaon,
District- Bongaigaon.
- 4. Sri Nipen Das
S/o Sri Ananda Das
New Colony, Bongaigaon,
District- Bongaigaon.
- 5. Sri Dilip Kumar Das
S/o Late Prasanna Das
New Colony, Bongaigaon,
District- Bongaigaon.
- 6. Sri Dilip Majumdar
S/o Late Gauranga Majumdar
New Colony, Bongaigaon,
District- Bongaigaon.

7. Sri Shiv Nandan Prasad
S/o Late Dasarath Lal Prasad
New Colony, Bongaigaon
District- Bongaigaon. ...Petitioners

-Versus-

1. The Chairman – cum - Managing Director
Bharat Sanchar Nigam Limited (BSNL)
(Govt. of India Enterprise), New Delhi - 1.
2. The Chief General Manager (BSNL)
Assam Telecom Circle, Guwahati- 1, Assam.
3. The Executive Engineer, BSNL
Telecom Civil Division, Bongaigaon.
4. The Sub-Divisional Engineer (E)
Bharat Sanchar Nigam Limited
Bongaigaon. ...Respondents

T.A. No. 30 of 2009 in W.P.(C) No. 2158 of 2006

Shri Deo Kumar Ray
Son of Rambilash Rai
Mathgharia No. 11, Noonmati
Guwahati – 21. ...Petitioner

-Versus-

1. Bharat Sanchar Nigam Limited (BSNL)
Represented by the Chairman – cum - Managing Director
(Govt. of India Enterprise)
New Delhi - 1.
2. The Chief General Manager (BSNL)
Assam Telecom Circle
Ulubari, Guwahati- 1, Assam.
3. The General Manager (BSNL)
Kamrup Telecom District
Ulubari, Guwahati- 1, Assam.
4. The Sub-Divisional Officer (Phone)
(Ext – 1.) BSNL, Guwahati – 1.
5. The Sub Divisional Officer (Phone)
BSNL, Guwahati – 7.

6. The Responsible Committee
Represented by the Chairman
Office of the Chief General Manager
BSNL, Guwahati-7.

7. Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi- 1. ...Respondents

T.A. No. 31 of 2009 in W.P.(C) No. 3490 of 2006

Sri Birbal Basfore
S/o Late Manshi Basfore
CTO Compound, Qtr. No. 22, Type – 1
Panbazar, Guwahati-1
Dist- Kamrup (Assam). ...Petitioner

-Versus-

1. Bharat Sanchar Nigam Limited (BSNL)
Represented by the Chairman – cum - Managing Director
(Govt. of India Enterprise)
New Delhi- 1.

2. The Chief General Manager (BSNL)
Assam Telecom Circle
Ulubari, Guwahati- 1, Assam.

3. The Area Manager Telecom
Panbazar Telephone Exchange Building
Guwahati – 1.

4. The Chief Telegraph Office
Central Telegraph Office
Panbazar, Guwahati -1.

5. Union of India
Represented by the Secretary to the
Government of India
Ministry of Communication
Sanchar Bhawan, New Delhi- 1. ...Respondents

T.A. No. 34 of 2009 in W.P. (C) No. 3495 of 2007

Sri Sujit Kr. Nandi
S/o Sri Rakhal Ch. Nandi
Resident of Bansbari Pathar
Dibrugarh. ...Petitioner

-Versus-

1. The Union of India
Represented by the Secretary to the
Govt. of India
Ministry of Communication
Sansar Bhawan, New Delhi -1.
2. The Chief General Manager
BSNL Telecom, Assam Telecom Circle
Guwahati, Assam.
3. The General Manager
Bharat Sanchar Nigam Limited
Telecom District, Dibrugarh.
4. Sub Divisional Engineer (Admn)
O/o The General Manager
Bharat Sanchar Nigam Limited
Telecom District, Dibrugarh.Respondents

T.A. No. 35 of 2009 in W.P. (C) No. 4674 of 2007

Sri Pankaj Borah
Son of Late Baburam Borah
Resident of Vill- Bhakatgaon
P.O.- Nabhangna, Golaghat, Assam.Applicant

-Versus-

1. Bharat Sanchar Nigam Limited (BSNL)
Represented by the Chairman – cum - Managing Director
(Govt. of India Enterprise)
New Delhi - 1.
2. Chief General Manager
Task Force (Telecom) N.E. Region
H.C. Road, Uzanbazar, Guwahati – 1.
3. Divisional Engineer (Establishment)
Office of the Chief General Manager
Task Force (Telecom) N.E. Region
H.C. Road, Uzanbazar, Guwahati – 1.
4. Deputy General Manager (P & A)
Task Force, BSNL, Uzanbazar, Guwahati – 1.

4 5. Union of India
 Represented by the Secretary to the
 Govt. of India, Ministry of Telecommunication
 New Delhi. ...Respondents

T.A. No. 36 of 2009 in W.P. (C) No. 5703 of 2007

1. Shri Phani Dhar Chetri
 S/o Sri Kali B~~o~~hadur Chetri
 Resident of Vill- Mohan Par
 Post Office- Jamuguri, Dist- Darrang.

2. Shri Binod Basfore
 S/o Late Mahidhar Basfore
 Resident of Vill Harijan Colony, Tezpur
 Dist- Darrang, Assam.

3. Shri Sanjib Kumar Basfore
 S/o Late Mahidhar Basfore
 Resident of Vill- Harijan Colony, Tezpur
 Dist- Darrang, Assam.

4. Sri Subir Sarkar
 S/o Late Prabhat Ch. Sarkar
 Resident of Dhenukhana Pahar
 Near ITA, Tezpur, Dist- Darrang, Assam. ...Petitioners

-Versus-

2. The Chairman – cum - Managing Director
 Bharat Sanchar Nigam Limited (BSNL)
 (Govt. of India Enterprise)
 New Delhi - 1.

3. The Chief General Manager (BSNL)
 Assam Telecom Circle, Guwahati - 1, Assam.

4. The Executive Engineer, BSNL
 Telecom Civil Division, Tezpur.

5. The Sub-Divisional Engineer (E)
 BSNL, Tezpur. ...Respondents

T.A. No. 38 of 2009 in W.P. (C) No. 8562 of 2005

1. Shri Dandi Ram Gayan
 Son of Late Hem Kanta Gayan
 Resident of Vill- Murhani, P.O.- Chalchali
 Dist- Nagaon.

2. Shri Abdul Gafar Choudhury
Son of Md. Idrish Ali
Resident of Vill & P.O.- Saidaria
Dist- Nagaon.
3. Shri Jai Gopal Das
Son of Late Jadu Nath Das
Resident of Sankar Mission Road
P.O. & Dist- Nagaon.
4. Shri Arup Bora
Son of Sri Lohiram Bora
Resident of Vill- Korchung
P.O.- Albheti, Dist- Nagaon.
5. Shri Abdul Kalam
Son of Sri Abdul Quddus
Resident of Vill & P.O.- Saidaria
Dist- Nagaon.
6. Sri Kandeswar Konwar
Son of Late Kiran Ch. Konwar
Vill- Katahguri, P.O.- Raha, Dist- Nagaon.

...Petitioners

-Versus-

1. The Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
Sanchar Bhawan, New Delhi -1.
2. The Chairman - cum - Managing Director
Bharat Sanchar Nigam Limited (BSNL)
(Govt. of India Enterprise)
New Delhi - 1.
3. The Chief General Manager (BSNL)
Assam Telecom Circle
Guwahati - 1, Assam.
4. The Sub-Divisional Officer, BSNL
Nagaon Telecom Division, Nagaon.
5. The Responsible Committee, BSNL
Ulubari, Guwahati - 7, Assam.

...Respondents

T.A. No. 39 of 2009 in W.P. (C) No. 8557 of 2005

1. Shri Kandarpa Das
Son of Upen Das
R/o Sualkuchi, Kamrup.
2. Shri Kamal Kalita
Son of late Nripen Kalita
R/o: Nalbari, Dist - Nalbari (Assam).

...Applicants

-Versus-

1. The Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
Sanchar Bhawan, New Delhi -1.
2. The Chairman - cum - Managing Director
Bharat Sanchar Nigam Limited (BSNL)
(Govt. of India Enterprise)
New Delhi - 1.
3. The Chief General Manager (BSNL)
Assam Telecom Circle
Guwahati - 1, Assam.
4. The Sub-Divisional Engineer (Store)
B.S.N.L., Circle Telecom Store Depot
Assam Telecom Circle, Adabari
Guwahati - 12.

...Respondents

T.A. No. 40 of 2009 in W.P. (C) No. 2769 of 2006

1. Sri Ajit Duwarah
Son of Sri Sishuram Duwarah
Vill. Gayan Gharphalia
P.O.- Dhekargorah, Dist - Jorhat.
2. Sri Bharat Borah
Son of Sri Guti Borah
Vill- Haling Mora katimachu
P.O.- Sonari Gaon, Dist - Jorhat.
3. Sri Danda Dhar Deka
Son of Sri Sitaram Deka
Vill- Ghar Goan
P.O.- Borolakhpat, Dist- Jorhat.

4. Sri Narayan Hazarika
Son of Sri Kamal Hazarika
Vill- Kuhum Jogonia
P.O.- Gorokhia Dole, Dist- Jorhat.
5. Sri Mantu Duwarah
Son of Sri Jiba Kanta Duwarah
Vill – Gayan Gharphalia, P.O.- Dhekorgorah
Dist- Jorhat.
6. Sri Mintu Duwarah
Son of Dau Duwarah
Vill – Gayan Gharphalia, P.O.- Dhekorgorah
Dist- Jorhat.
7. Sri Ajit Saikia
Son of Sri Kalia Saikia
Vill. 1 No. Ajay Nagar
P.O.- Bekajan, Dist- Jorhat.
8. Sri Chandra Duwarah
Son of Sri Budhi Duwarah
Vill- Malugahat Gaon
P.O.- Dhakorapara, Dist- Jorhat.

...Petitioners

-Versus-

1. Bharat Sanchar Nigam Limited (BSNL)
Represented by the Chairman – cum - Managing Director
(Govt. of India Enterprise)
New Delhi - 1.
2. The Chief General Manager (BSNL)
Assam Telecom Circle
Ulubari, Guwahati - 7, Assam.
3. The Sub-Divisional Officer
Telecom, Jorhat.
4. The Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
Sanchar Bhawan, New Delhi -1.

...Respondents

T.A. No. 41 of 2009 in W.P. (C) No. 1548 of 2006

Sri Sujit Kumar Sharma
S/o Late Kanti Bhusan Sharma
Resident of Village Gojalgahat
Dist- Cachar, Assam.

...Petitioner

-Versus-

1. Bharat Sanchar Nigam Limited (BSNL)
Represented by the Chairman - cum - Managing Director
(Govt. of India Enterprise)
New Delhi - 1.
2. The Chief General Manager (BSNL)
Assam Telecom Circle
Ulubari, Guwahati - 7, Assam.
3. The General Manager
Telecom, BSNL
Silchar S.S.A., Silchar, Assam.
4. Member, Scrutinizing Committee
Divisional Engineer (P & A)
O/o The G.M. Telecom
BSNL, Silchar, Assam.
5. The Sub-Divisional Officer (T)
Telecom, BSNL, Hailakandi, Assam.

...Respondents

T.A. No. 42 of 2009 in W.P. (C) No. 7827 of 2005

Shri Diganta Das
Son of Late Jatin Das
Resident of Vill - Kalbari
P.O.- Bhabanipur, Dist- Barpeta, Assam.

...Petitioner

-Versus-

1. The Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
Sanchar Bhawan, New Delhi -1.
2. The Chairman - cum - Managing Director
Bharat Sanchar Nigam Limited (BSNL)
(Govt. of India Enterprise)
New Delhi - 1.
3. The Chief General Manager (BSNL)
Assam Telecom Circle
Ulubari, Guwahati - 7, Assam.
4. The Chief General Manager (BSNL)
Task Force, Ulubari, Guwahati - 7, Assam.

5. The Sub-Divisional Officer (T)
BSNL, Bomdila, Sub Division
Microwave Station, Bomdila – 790001.
6. The Sub-Divisional Engineer, BSNL
Telecom Microwave (Maintenance)
Tezpur, 784001, Assam. ...Respondents

T.A. No. 43 of 2009 in W.P. (C) No. 1307 of 2006

Sri Ashim Roy
S/o Sri Atul Roy
Resident of Village – Matizuri
P.O.- Tempur, Dist – Hailakandi, Assam. ...Petitioner

-Versus-

1. Bharat Sanchar Nigam Limited (BSNL)
Represented by the Chairman –
cum - Managing Director.
(Govt. of India Enterprise)
New Delhi - 1.
2. The Chief General Manager (BSNL)
Assam Telecom Circle
Ulubari, Guwahati - 7, Assam.
3. The General Manager
Telecom, BSNL
Silchar S.S.A., Silchar, Assam.
4. Member, Scrutinizing Committee
Divisional Engineer (P & A)
O/o The G.M. Telecom
BSNL, Silchar, Assam.
5. The Sub-Divisional Officer (T)
Telecom, BSNL, Hailakandi, Assam. ...Respondents

T.A.No.44 of 2009 in W.P.(C)No.7826)

1. Shri Jayanta Prasad Banik,
Son of Sri Ajay Narayan Banik,
Casual Worker
Dalu Telephone Exchange,
Dist: Cachar
Reident of Vill Dayapur-II
P.O:- Udarbond, Dist: Cachar

1/2

2. Shri Sabir Ahmed,
Son of Kutubuddin Choudhury,
Casual Worker, in the office of the
Sub-Divisional Engineer
Gr.Udarband,
256-Badarpur Telephone Exchange,
Badarpur, Dist :- Char.
3. Shri Soroj Kr.Deb,
Son of Subodh Rn Deb
Casual Worker, Office of the
Sub Divisional Engineer,Udarpur.
Resident of Dayapur Paert-II,
P.O.Udarbond, Dist: Cachar

..... Petitioners

-Versus-

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of communication
Sanchar Bhawan, New Delhi-1.
2. The Chairman-cum-Managing Director
Bharat Sanchar Nigam Limited (BSNL)
New Delhi-1.
3. The Chief General Manager,
(BSNL) Assam Telecom Circle,
Ulubari, Guwahati-7, Assam
4. The General Manager, Telecom (BSNL)
Silchar Secondary Switching Area (SSA),
Lochand Bairagi Road, Silchar-788005

... Respondents.

T.A.No.45 of 2009 in W.P.(C)No.7887/05

Sri Naba Kumar Das,
Son of Sri Upen Ch.Das
Vill & P.O. Kulahati
Dist: Kamrup Assam.

..... Petitioner

-Versus-

1. The Union of India,
Represented by Secretary to the
Govt. of India
Ministry of Communication,
Sanchar Bhawan, New Delhi

2. The Chief General Manager,
Bharat SansarNigam Ltd.(BSNL)
Assam Telecom Circle,
Ulubari, Guwahati-7

3. The Divisional Engineer,(Stores) CTSD
Bharat Sanchar Nigam Ltd.(BSNL)
Assam Teecom Circle,
Guwahati-6

4. The Chief Managing Director
Bharat Sanchar Bhawan Limited
New Delhi.

....Respondents

T.A.46 of 2009 in W.P.(C)No.4907/2004

1. Shri Animesh Deka, resident of
Vill: Hazo, P.O. Hazo,
Dist: Kamrup,
Casual Office Peon, in the Office of the
Executive Engineer (Telecom Civil Divn),
Itanagar (P.Sector), A.P.

2. Shri Pradip Ch. Borah, resident of
Vill- Kenduguri, P.O. Chengeligaon,
Dist: Jorhat, presently working as
Casual Office Peon, in the office of the
Executive Engineer (Telecom Civil Divn),
Itanagar (P.Sector) A.P.

3. Sri Ratul Kr.Sarma
Nabagraha Mandir, Guwahati-3
Casual Offic Peon, in the Office of the
Executive Engineer (Telecom Civil Divn),
Itanagar (P.Sector), A.P.

4. Shri Nirmal Chetry, Office Peon,
In the Office of the Executive Engineer,
Telecom Civil Division.
Itanagar (A.P.)

.... Petitioners

-Versus-

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of communication, Sanchar Bhawan,
New Delhi-1

2. The Chief General Manager,(BSNL) Assam Telecom Circle, Ulubari Guwahati-7.Assam
3. The Chief General Manager, Telecom (BSNL), N.E.-1, Telecom Circle Shillong Meghalaya
4. The Chief General Manager, Telecom, N.E.-2, Telecom Circle Dimapur, Nagaland
5. The Chief Engineer (Civil), BSNL Telecom N.E.Zone Shillong, Meghalaya,
6. The General Manager, Telecom (BSNL) Itanagar, A.P.
7. The Superintending Engineer, BSNL Telecom Civil Circle, Shillong-3.
8. The Executive Engineer, (Telecom Civil Division), (BSNL) Itanagar,(P.Sector) 791111, Arunachal Pradesh
9. The Chairman cum Managing Director Bharat Sanchar Nigam Limited, New Delhi-1

....Respondents

T.A.No.47 of 2009 in W.P.(C) No.2763/2006

Sri Ananda Chandra Das,
Son of late Paduram Das,
Resident of Vill: Geruamukh
P.O. Bagaigaon,
Dist.Nagaon, Assam

... Petitioner

---Versus-

1. Union of India, represented by the Secretary to the Government of India, Ministry of Communication Sanchar Bhawan, New Delhi-1
2. The Chairman-Cum-Managing Director, Bharat Sanchar Nigam Limited (BSNL) Govt. of India Enterprise). New Delhi-1.
3. The Chief General Manager,(BSNL) Assam Telecom Circle, Ulubari, Guwahati-7.

4. The Sub-Divisional Officer, BSNL),
Assam Telecom Circle,
Nagaon, Assam.
....Respondents.

T.A.No.48 of 2009 in W.P.(C) No.2564/2006

1. Shri Nobin Ch.Borah
Son of Shri Bharam Borah, Resident of Vill, Bora Gaon
P.O.Badulipar, Dist, Golaghat, Assam.
2. Shri Arabinda Borah
S/O, Sri Rateswar Boprah
Resident of Borpachi, Dist. Jorhat.
3. Shri Bebjit Gogoi
S/O Debeswar Gogoi
Resident of Vill Bornagoyagaon
P.O.Salenghat, Dist.Jorhat.
4. Shri Anup Gogoi
Son of Shri Padmeswar Gogoi,
Resident of Village Soragoa
Dist.Sibsaga.
5. Shri Chakradhar Hatimura,
Resident of Vill Pa;engi
P.O.Palengi, Sibsagar.
6. Shri Biren Changmai
Son of Akon Changmai,
Palengi Ariloligaon
P.O.Palengi, Dist. Sibsagar.
7. Shri Biren Tipomia,
Son of Ghankanta Tipomia
Ariloli, Dist.Sibsagar
8. Shri Lakhi Chetia
Son of Biren Chetia, Resident of Palengi
P.O.Palengi, Dist.Sibsagar.
9. Shri Deben Changmai
Tamilibazar, Changmaigaon,
P.O. Batbari, Alimur, Dist.Sibsagar.
10. Shri Kumud Gogoi
Son of Padmeswar Gogoi,
Vill- Parbatia, Dist.Sibsagar
...Petitioners

-Versus-

1. Bharat Sanchar Nigam Limited(BSNL)
Represented by the Chairman-cum
-Managing Director, New Delhi-1.
2. The Chief General Manager, (BSNL) Assam
Telecom Circle, Ulubari
Guwahati-7, Assam.
3. The Telecom District Manager, BSNL,
Jorhat Telecom Division, Jorhat.
4. Union of India, represented by the
Secretary to the Government of India,
Ministry of communication, Sanchar Bhawan,
New Delhi-1.

... Respondents

T.A.No.49 of 2009 in W.P(C) No.2562/2006

Sri Sujit Das
Son of Late Ananta Das
Casual Mazdoor under
Sub Divisional Officer, Hailong

Petitioner

-Versus-

1. Bharat Sansar Niga Limited (BSNL).
Represented by its Chairman-cum-
Managing Director, (Govt of India Enterprise.)
New Delhi-1.
2. The Chief Gneral Manager, (BSNL),
Assam Telecom Circle, Ulubari Guwahati-7
3. The Sub-Djivisional Officer,(BSNL)
Hailong.
4. Union of India, represented by the
Secretary to the Government of india
Ministry of Communication, Sanchar Bhawan,
New Delhi-1.

... Respondents

T.A.No.50 of 2009 in W.P.(C) No.4096/2006

Sri Sailendra Das
Chiring Chapori, Dibrugarh Town
Near Santoshi Ma Mandir
Dibrugarh-786001.

....Petitioner

-Versus-

1. Union of India
 Represented by the Secretary
 To the Govt. of India
 Ministry of communication,
 Sanchar Bhawan, New Delhi-1.

2. The Chief General Manager,
 BSNL, Telecom
 Assam Telecom Circle, Guwahati.

3. Sub-Divisional Engineer (Admn)
 O/O the General Manager, BSNL Telecom
 Dist.Dibrugarh.

4. Bharat Sanchar Nigam Limited
 O/O the General Manager Deptt. of
 Telecommunication, Guwahati, Assam.

5. The Circle Secretary,
 The All India Telecom Employees
 Union Assam Telecom Circle. Respondents.

T.A.No.51 of 2009 in W.P.(C) No.2778/2006

1. Sri Rana Pratap Saikia
 Son of Late Boden Saikia,
 Vill.Hatigarh, Balichapari
 Majgaon, P.O.Hatigarh
 Balichapari,
 Dist.Jorhat

2. Sri Pradip Saikia
 Son of Late Dandi Saikia
 Vill: Pokamura, Barsaikiagaon,
 P.O. Pokamura, Dist. Jorhat

3. Sri Raju Gogoi
 Son of Phuleswar Gogoi
 Vill-Chenijan, Medhi Chuk, P.O.Chenijan, Dist.Jorhat

4. Sri Ananta Boruah
 Son of Late Purna Boruah
 Vill.Assaibarigaon, P.O.Chawtang, Dist.Jorhat

5. Sri Raju Borah
 Son of Sri Maghi Ram Borah
 Vill.Bangalgaon, P.O.Bangalgaon,
 Dist.Golaghat

6. Sri Dilip Hazarika
 Son of Sri Akonman Hazarika
 Vill.Gandhiagaon, P.O. Kamargaon,
 Dist.Golaghat

7. Sri Binanda Bora
 Son of Kamal Bora
 Vill.Laguati, P.O. Rowmara, Dist. Jorhat.

8. Sri Bhabo Kanta Das
 Son of Late Sonai Das
 Vill.Panichakua, P.O. Panichakua, Dist.Jorhat.

9. Sri Nripen Ch.Das
 Son of Sri Rupeswar Das
 Vill.Puranimati Satra
 P.O. - Panichakua, Dist. Jorhat.

10. Sri Bishnu Boprah
 Son of Sri Lakhiram Borah
 Jorhat.

... Petitioners.

-Versus-

1. Bharat Sanchar Nigam Limited (BSNL).
 Represented by the Chairman
 -cum-Managing Director,
 New Delhi-1.

2. The Chie General Manager,
 (BSNL), AssamTelecom Circle,
 Ulubari Guwahati-7, Assam.

3. The Telecom District Manager, BSNL
 Nagaon Telecom Division, Nagaon.

4. The Sub-Divisional Officer Telecom
 Jorhat.

5. Union of India, represented by the
 Secretary to the Government of India,
 Ministry of communication, Sanchar Bhawan,
 New Delhi-1.

..... Respondents

T.A.No. 52 of 2009 in W.P.(C) No.32 18/2006

1. Md. Misba Uddin Laskar,
 Son of Late Lukman Ali Laskar.
 Resident of Vill: Bhakatpur
 P.O. Rangirkhuri, Silchar, Dist.Cachar.

2. Sri Suroj Rabidas
Son of Sri Ankur Rabidas
R/O Vill- Chotokalachura, P.O.-Dwarbond, Dist: Kachar.
3. Sri Nikhil Chandra Roy
S/O Late Nirode Chandra Roy
Vill: Saidpur Pt.-II, P.O.Saidpur, Dist-Kachar. Petitioners

-Versus

1. Bharat Sanchar Nigam Limited (BSNL)
Represented by its Chairman-Cum-
Managing Director,
(Govt of India Enterprise.), New Delhi-1.
2. The Chief General Manager, (BSNL),
Assam Telecom Circle, Ulubari Guwahati-7.
3. The General Manager Telecom,
Silchar, SSA, Silchar.
4. Union of India, represented by the
Secretary to the Government of India,
Ministry of communication, Sansar Bhawan,
New Delhi-1. Respondents.

T.A.No.53 of 2009 in W.P.(C) No.513 of 2007

1. Sri Naba Kumar Gogoi,
S/O Sri Kaneswar Gogoi
Resident of : Paltan Bazar
DFist.Dibrugarh. Petitioner
2. The Union of India]
Represented by the Secretary
To the Govt. of India,
Ministry of communication,
Sansar Bhawan, New Delhi-1.
3. Sub Divisional Engineer (ADMN),
O/O The General Manager, BSNL
Telecom District Dibrugarh.
4. The General Manager
Bharat Sansar Nigam Limited
Telecom District, Dibrugarh Respondents.

T.A. No. 54 of 2009 in W.P.(C) No.4239/2006

1. Shri Mukut Gogoi
S/O Mukeswar Gogoi
3.No.Naba Katia
P.O. Rajgarh
Dist.-Dibrugarh
2. Shri Subodh Sarkar
S/o Phulchand Sarkar
Vill. Longboi Pather
P.S.Rajgarh
Moran, Dist.Dibrugarh

..... Petitioners

-Versus-

1. Union of India
Represented by the Secretary
To the Govt. of India,
Ministry of communication
Sanchar Bhawan, New Delhi-1
2. The Chief General Manager
BSNL, Telecom
Assam Telecom Circle,
Guwahati.
3. Sub-Divisional Engineer (Admn.)
O/O the General Manager
BSNL Telecom
Dist.Dibrugarh
4. Bharat Sanchar Nigam Limited
O/O the General Manager,
Department of Telecommunication
Guwahati, Assam
5. The Circle Secretary,
The All India Telecom Employees Union,
Assam Telecom Circle

.... Respondents

T.A.No.55 of 2009 in W.P.(C) No.4235 of 2006

1. Dilwar Rahman, S/O Late Azizur Rahman
Vill: Rajgarh, P.O.Rajgarh
Dibrugarh District

... Petitioner

-Versus-

1. Union of India
Represented by the Secretary
To the Govt. of India, Ministry of communication,
Sanchar Bhawan, New Delhi-1.
2. The Chief General Manager,
BSNL, Telecom, Assam Telecom
Circle, Guwahati.
3. Sub-Divisional Engineer(Admn)
O/O the General Manager
BSNL Telecom, Dist:Dibrugarh.
4. Bharat Sanchar Nigam Limited
O/o The General Manager Department of
Telecommunication
Guwahati, Assam.
5. The Circle Secretary,
The All India Telecom Employees Union
Assam Telecom Circle

... Respondents

T.A.56 of 2009 in W.P.(C) No.2866 of 2006

1. Shri Nishi Kanta Dutta
S/O Niranjan Dutta
Resident of Bogapani colony
P.O. Bogapani, Dist. Tinsukia, Assam,
A casual Labourer under Sub-Divisional
Officer/Digboi Telecom Exchange
2. Union of India
Represented by the Secretary
To the Govt of India
Ministry of Communication,
Sansar Bhawan, New Delhi-1.
3. Sub-Divisional Engineer (Admn)
O/O the General Manager
Telecom Dist.Dibrugarh.
4. Bharat Sanchar Nigam Limited,
O/O the General Manager
Telecom, District, Dibrugarh.
5. The Circle Secretary,
The All India Telecom Employees Union
L.S.& G.D

... Respondents.

T.A.57 of 2009 in W.P.(C) No.516 of 2007

1. Sri Biplab Sen & Bipul Sen
2. Sri Bibhash Bhattacharjee
Both Resident of P.O. Makum Pathar,
Margherita Town, Dist.Tinsukia. Petitioners

-Versus-

1. The Union of India
Represented by the Secretary
To the Govt. of India,
Ministry of communication,
Sanchar Bhawan, New Delhi-1
2. The Chief General Manager,
BSNL Telecom, Assam Telecom Circle,
Guwahati.
3. Sub Divisional Engineer (Admn),
O/O The General Manager, BSNL
Telecom District, Tinsukia.
4. The General Manager,
Bharat Sanchar Nigam Limited,
Telecom District ,Tinsukia Respondents

T.A.No.58 of 2009 in W.P.(C) No.3237 of 2006

Shri Golap Baruah
S/O Late Dhomiram Baruah
R/O- Near UBI, Digboi Telephone Exchange,
Digboi. Petitioner

-Versus-

1. Union of India
Represented by the Secretary
To the Govt. of India,
Ministry of Communication,
Sanchar Bhawan, New Delhi-1.
2. The Chief General Manager,
Telecom, Assam Telecom Circle
Guwahati.

3. Bharat Sanchar Nigam Limited
O/O the General Manager, Guwahati

4. The Circle Secretary,
The All India Telecom Employees Union ... Respondents

T.A.No.59 of 2009 in W.P.(C) No.8432/2005

1. Shri Subhash Karmakar,
Resident of Vill, Lumding Bazar,
Lumding, Dist.Nagaon

2. Shri Nitai Ch. Mitra
Resident of North Lumding, Sankarpatti
Lumding, Dist: Nagaon

3. Shri Bikash Malakar,
Resident of Vill Pachimnandalalpur
Lumding, Dist Nagaon

4. Shri Mati Malakar,
Pub Nandalalpur, P.O. Dimrupar
Lumding, Dist Nagaon

5. Shri Basu Malakar
Resident of Vill & P.O. Dimrupur
Lumding, Dist. Nagaon.

6. Shri Biswajit Malakar
Resident of Pachim Nandalapur
P.O.Dimapur, Hajai
Lumding Dist.Nagaon Petitioners.

7. Shri Lakshikanta Malakar,
Resident of Pochim Nandalalpur
P.O.Dimapur, hojai
Lumding, Dist.Nagaon

-Versus-

1. Union of India, represented by the
Secretary to the, Govt of India,
Ministry of communication,
Sanchar Bhawan, New Delhi-1

2. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited (BSNL)
New Delhi-1.

3. The Chief General Manager, (BSNL)
Assam Telecom Circle, Ulubari, Guwahati-7, Assam
4. The Telecom District Manager, BSNL,
Nagaon Telecom Division, Nagaon
.... Respondents.

T.A. No. 60 of 2009 | W.P. (C) No. 2705 of 2006

1. Shri Suresh Sahu,
S/O Jagarnath Sahu, resident of Graham Bazar,
Dibrugarh, Assam
2. Sri Ajit Chakraborty
S/O Sri Promod Chakraborty
Resident of Graham Bazar, Dibrugarh, Assam
3. Sri Nagen Das,
S/O Late Nihar Das resident of
Lahoal Dibrugarh
.... Petitioners

-Versus-

1. Union of India
Represented by the Secretary
To the Govt. of India, Ministry of Communication
Sanchar Bhawan, New Delhi-1
2. The Chief General Manager,
Telecom Assam Telecom Circle, Guwahati, Assam.
3. Sub-Divisional Engineer (Admn)
O/O the General Manager, Telecom, District Dibrugarh
4. The Bharat Sanchar Nigam Limited,
O/O the General Manager, Telecom
District-Dibrugarh.
5. The Circle Secretary,
The All India Telecom Employees Union
I.S. & Gr.D
.... Respondents.

T.A. No. 61 of 2009 in W.P. (C) No. 7940 of 2005

1. Shri Binay Das
Son of Late Gobinda Das
R/O: Hengrabari, G.P.H.E Office
Guwahati-6.

2. Shri Madhu Singh Hira,
 Son of Late Mohiram Hira,
 R/O, Vill. & P.O.: Kaki No.1,
 Dist: Nagaon (Assam) ... Petitioners

-Versus-

1. Union of India, represented by the Secretary to the Government of India
 Ministry of Communication
 Sanchar Bhawan, New Delhi-1.
2. The Chairman-cum-Managing Director,
 Bharat Sanchar Nigam Limited (BSNL).
 New Delhi-1.
3. The Chief General Manager, Task Force
 N.E Telecom Region.
4. The Chief General Manager, B.S.N.L.
 Ulubari, Guwahati-7.
5. The Sub Divisional Officer, B.S.N.L,
 Hojai Telephone Exchange, Nagaon Respondents

T.A.62 of 2009 in W.P.(C)No.8886 of 2005

1. Shri Dhanapati Lakhkar
 S/O Late Haren Lakhkar, Resident of Vill. Lachima
 Post Office Srathebari, Dist. Barpeta
2. Shri Ajit Das,
 S/O Sri Ratan Chandra Das
 Resident of Vill/P.O. Dadara, Dist. Kamrup, Assam.
3. Shri Mohan Das,
 S/O Late Khargeswar Das
 Resident of Vill. Akadi, P.O. Dihina, Hajo,
 Dist. Kamrup, Assam.
4. Shri Tarani Boro
 S/O Late Rahi Ram Boro
 R/O Vill.P.O. Gapia
 Dist. Kamrup, Assam.
5. Shri Bhainur Ali
 S/O Late Khasfur Ali
 Resident of Vill/P.O. Maranjana ,
 Dist. Kamrup, Assam.

6. Shri Umesh Ch.Das,
S/O Late Habiram Das
Resident of Vill. Akadi,
P.O.Dihina Hajo, Dist. Kamrup, Assam.

7. Shri Attar Ali,
Resident of Vill: Bamunigaon,
P.O.- Changsari,
Dist. Kamrup, Assam

...Petitioners.

-Versus-

1. Union of India, represented by
the Secretary to the Government of India,
Ministry of communication,
Sanchar Bhawan, New Delhi-1.

2. The Chairan-cum-Managing Director,
Bharat Snsar Nigam Liited (BSNL),
New Delhi-1.

3. The Chief General Manager, (BSNL),
Task Force, Assam Telecom Circle
Guwahati-1, Assam.

4. The Director Task Force
Silchar, Dist: Silchar.

5. The Deputy General Manager, Task Force
Office of the Chief General Manager,
Telecom Task Force
Guwahati-1, Assam

6. The Deputy General Manager
Task Force,
At Shillong, Laitumukhrah
Shillong.

7. The Divisional Engineer, (TP-II)
Bhangagarh, Guwahati-5

...Respondents

T.A.63 of 2009 in W.P.(C) No.7988/2005

1. Shri Kamala Kanta Sikia
Son of Sri Mohiram Saikia
R/O: Tinsukia Gaon
P.O.Lalmati,
Dist. Tinsukia (Assam).

2. Shri Monoj Chakraborty
Son of Anadiranjan Chakraborty
R/O:Shreepriya Congress Colony
Tinsukia
Dist: Tinsukia (Assam).
3. Shri Ashis Deb
Son of Sri Manindra Ch.Deb
R/o: Shreepriya Tigraihabi, Tinsukia
Dist:- Tinsukia.
4. Shri Dyulal Bora
S/O Late zUma Kanta Bora
R/O, Telephone Exchange, TSK, Dist.TSK

...Petitioners

-Versus-

1. Union of India, represented by
Secretary to the Government of India,
Ministry of communication, Sanchar Bhawan,
New Delhi-1.
2. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited (BSNL).
New Delhi-1.
3. The Chief General Manager, Telecom(BSNL), Assam
Telecom Circle, Ulubari Guwahati-7.Assam
4. The General Manager, Telecom (BSNL),
Dibrugarh Scoundary Switching Area (SSA),
Dibrugarh
5. The Divisional Engineer, Telecom (BSNL)
E-10-B Tinsukia
6. The Sub-Divisional Officer (Phone)-I
Telecom, BSNL, Tinsukia
7. The Sub-Divisional Officer (Phone)-II
Telecom, BSNL, Tinsukia

...Respondents.

T.A. No. 64 of 2009 in W.P.(C) No.5217 of 2005

Sri Birbal Das
S/o Tarun Chandra Das
Resident of Hajo Dist.- Kamrup, Assam.

...Petitioner

-Versus-

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1. Union of India, represented by
Secretary to the Government of India,
Ministry of communication
Sanchar Bhawan
New Delhi-1.
2. The Chief General Manager,
Telecom(BSNL), Assam
Telecom Circle
Ulubari Guwahati-7, Assam.
3. The Telecom District Manager
Assam Telecom Circle
Kamrup, Guwahati.
4. The Chief Managing Director
Bharat Sanchar Nigam Limited
New Delhi.
5. The Sub Divisional Officer
Telephones, Rangia.Respondents

T.A. No. 65 of 2009 in W.P.(C) No. 3312 of 2006

1. Shri Prabin Changmai
S/o Pramadhar Changmai
Resident of Moranhat, Dibrugarh.
2. Shri Hemanta Kr. Singh
S/o. Kuseswar Singh
Resident of Ranipath
Moranhat, Dibrugarh.
3. Shri Birendra Kr. Singh
S/o Shri Kuseswar Singh
Resident of Ranipath
Moranhat, Dibrugarh.Petitioners

-Versus-

1. Union of India, represented by
Secretary to the Government of India,
Ministry of communication
Sanchar Bhawan,
New Delhi-1.
2. The Chief General Manager,
Telecom (BSNL), Assam
Telecom Circle
Ulubari Guwahati-7, Assam.

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3. Sub-Divisional Engineer
(Admn) O/o the General Manager
Telecom District
Dibrugarh.
4. Bharat Sanchar Nigam Limited
C/o The General Manager
Guwahati.
5. The Circle Cecretary
The All India Telecom
Employees Union. ...Respondents

T.A. No. 66 of 2009 in W.P.(C) No. 2865 of 2006

1. Pradip Sahu, S/o Sri Sankar Sahu
Resident of Bamunbari
P.O.- Bamunbari
Dist- Dibrugarh.
2. Mofijur Rahman, S/o Late Usuf Rahman
Resident of Chalkhowa Rly. Station
P.O.- Chalkhowa
Dibrugarh.
3. Sri Raju Deb, S/o Sri Bakul Deb
Resident of Bamunbari
P.O.- Bamunbari
Dist- Dibrugarh.
4. Sri Jadav Changmai
Son of Sri Puneswar Changmai
Resident of Bamunbari
P.O.- Bamunbari
Dist- Dibrugarh. ...Petitioners

-Versus-

1. Union of India, represented by
Secretary to the Government of India,
Ministry of communication
Sanchar Bhawan, New Delhi-1.
2. The Chief General Manager,
Telecom(BSNL), Assam
Telecom Circle
Ulubari Guwahati-7, Assam.

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- 3. Sub-Divisional Engineer
(Admn) O/o the General Manager
Telecom District
Dibrugarh.
- 4. Bharat Sanchar Nigam Limited
C/o The General Manager
Telecom District
Guwahati.
- 5. The Circle Cecretary
The All India Telecom Employees Union.
L.S. & Gr.-D
Guwahati, Assam.

...Respondents

For the Applicants: By Advocates: Mr. S. Sarma, Ms. B. Devi, Mr. M. Singh, Ms. G. Singha, Mr. P. Bayan, Ms. S. Sarma, Mr. P.N. Goswami, Mr. M. Chanda, Mr. D.K. Saikia, Ms. T. Das, Mr. S. Dutta, Mr. S.C. Choudhury, Mr. B. Malakar, Mr. G.B. Das, Mr. R. Das, Ms. S. Buragohain, Mr. P.S. Lahkar, Ms. S.K. Ghosh, Ms. U. Dutta, Mr. L.R. Dutta, Mr. S. B. Prasad, (Mr. M.R. Das, Ms. P. Das), Mr. I. Hussain, Ms. S. Seal, Mr. I.H. Saikia, Mr. G. Goswami, Mr. H.K. Das, Mr. A. Dasgupta, Ms. B. Das, Mr. U.K. Nair, Mr. B. Sarma, Mr. B. Chakraborty, Mr. P. Roy, Mr. B.J. Ghosh, Mr. J. Alam.

For the Respondents: Mrs. M. Das, Sr. CGSC, Mr. K.K. Das, Addl. CGSC, Mr. B.C. Pathak, Mr. Y. Doloi & Mr. D. Baruah for BSNL. *x*

O R D E RMUKESH KUMAR GUPTA, JUDICIAL MEMBER

Identical question of law is involved in this series of Transferred Applications (for short TA's) and therefore, we are deciding the same by present common order. Initially, these TAs were filed before the Hon'ble Gauhati High Court at Guwahati and later, on conferment of jurisdiction over the BSNL to this Tribunal in terms of DOPT Notification dated 31.10.2008, same were transferred to this Tribunal.

2. The principal relief claimed is regarding grant of benefits of "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989 (hereinafter referred as 'Scheme'). Applicants seek grant of temporary status as well as regularisation retrospectively with all consequential benefits. In TA. No 10 of 2009 (filed by two applicants) additional relief sought is quashing of order dated 29th June, 1998 vide which their temporary status granted vide Order dated 15th/22nd Dec, 1997 had been cancelled and representation made to restore such benefits had also been rejected vide communication dated 31st Jan, 2005.
3. Before proceeding on merits, it would be expedient to notice the **historical background** in which aforesaid Scheme had been devised by the Government of India.
4. Hon'ble Supreme Court in **Daily Rated Casual Labourer of Department of Posts v. Union of India and others**, 1988 (1) SCC 122, required the Department of Posts to frame a scheme for regularisation of daily rated casual mazdoors. Pursuant thereto, Government of India, Department of Posts framed a Scheme. Deptt. of Telecommunications also framed the scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989, (hereinafter for short referred as 'Scheme') which has come into force from 01.10.1989 onwards & is applicable to the casual labourers employed by the Deptt. of Telecommunications. As per para 4 of said

Scheme, vacancies in Grade 'D' cadre in various offices of Department of Telecommunications are to be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointment on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility qualification prescribed in the relevant Recruitment Rules. Para 4 B thereof, provides that till regular Group D vacancies are available to absorb all the casual labourers to whom said Scheme is applicable, the casual labourers would be conferred a Temporary Status as per details given in para 5. Para 5 provides that temporary status would be conferred on all casual labourers "**currently employed and who have rendered a continuous service at least one year**, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week)". Conferment of said status would be without reference to the creation/availability of regular Group D posts and further conferment of such status would not involve any change in duties and responsibilities. The engagement would be on daily rates of pay on a **need basis**. Such casual labourers who acquire temporary status would not, however, be brought on to the permanent establishment unless they are selected through regular selection process for recruitment to Group D posts. Later, Department of Telecommunications, vide O.M.No.269-1/93 STN-II(Pt) dated 12.02.1999 withdrew the powers of all DoT officers to engage casual labourers as it had noticed that said department had imposed a ban on recruitment/ engagement of Casual Labourers vide letter No.269-4/93-STN-II dated 22.06.1988, which directions were ignored & flouted by the concerned officials and they continued to engage casual labourers. Vide another letter No.269-4/93-STN.II dated 12.02.1999 the Telecom Commission decided that as a one time measure on special consideration powers were delegated to all the Heads of Circles, Metro Districts, Chief General Managers, MTNL, New Delhi and Mumbai and Heads of Administrative Units to create posts of Regular Mazdoors for regularizing them under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989, who have completed 10 years of service as on 31.03.1997 to the extent of numbers indicated in Annexure-A, which had been compiled based on information received from the Circles/Units. It further conveyed the approval of Telecom Commission for

delegation of powers to grant temporary status to casual labourers to the extent of numbers indicated against the respective circles in Annexure-B which had also been compiled based on information furnished by the circles/units concerned. It provides that there should not be any variation in the figures and in case there is any change, Heads of Circles should refer the cases to TCHQ explaining the reasons thereof. It further conveyed that non-compliance of aforesaid instructions in true letter and spirit would be viewed as a serious lapse. It was further observed that Circles are hesitating to fix responsibility on the erring officers/officials to had employed such casual labourers despite ban. As per Annexure-B for Assam Circle, casual labourers to be given temporary status as on 01.08.1998 was nil, though under the North East category the figure shown had been as 350.

APPLICANTS' GRIEVANCES

5. For the sake of convenience, the facts of TA No 3 of 2009 have been delineated.
6. Their basic grievance had been that though they had been working as casual labourers and completed 240 days, yet they had not been conferred temporary status in terms of the aforesaid Scheme. Initially All India Telecom Employees Union preferred O.A.Nos.299 and 302 of 1996 before this Tribunal seeking grant of temporary status as well as regularisation. They had earlier approached the department seeking conferment of said status and regularisation by filing representation which remained un-disposed. Though the matter regarding regularisation of casual labourers had been discussed in the JCM level at New Delhi; but no decision had been taken and hence aforesaid O.A.s. Vide order dated 13.08.1997 said OAs were disposed of holding that applicants being similarly situated to casual labourers working in the Department of Posts were entitled to the benefits of the Scheme and, therefore, respondents were directed to extend them similar benefits. Since the required action had not been taken, All India Telecom Employees Union as well as certain individual casual labourers approached this Tribunal once again vide O.A.Nos.107, 112, 114, 118, 120, 131, 135, 136, 141, 142, 145, 192, 223, 269 and 293 of 1998. Said OAs were disposed of vide common order dated 31.08.1999 requiring applicants to file individual

representations as well as direction to respondents to consider the same after scrutinizing and examining each case in consultation with the records by passing reasoned and speaking order. Despite aforesaid directions as well as the Department of Telecommunication Circular dated 12.02.1999, barring in few cases, said status had not been granted. Applicants (2 in Number) in TA. No. 10/2009 were granted temporary status but it had been withdrawn, validity of which had been challenged in said T.A. Representation made to restore the said status had been rejected vide communication dated 31st Jan, 2005, validity of which is under challenge in TA No 10 of 2009.

7. Similar had been the factual aspects in OA NO 47 of 2009 (initially filed as WP (C) No3252/2006), where Temporary Status had been initially granted, but later on it was cancelled & withdrawn. Sole applicant therein, initially engaged w.e.f. 1.3.88, was granted Temporary Status vide Order dated 16.12.1997, which was cancelled vide Order dated 27.6.1998, validity of which was challenged vide OA No 141 of 1998, which was disposed of requiring the respondents to scrutinize and pass individual order. Rejection order passed, in compliance of aforesaid direction, had once again been challenged in OA No 133/03, which was dismissed vide Order dated 23.6.2003., against which WP(C) No 10369/2003 was preferred, which in turn was disposed of vide Order dated 29.8.2005, requiring him to file representation. Thereafter, on filing representation, impugned Order dated 14.10.2005 was passed stating that he did not complete 240 days in any year, which is impugned in present proceedings.

8. As far as TA. NO 7 of 2009 (filed by 12 applicants) is concerned, they were initially appointed during 1988-1998 & entrusted highly technical job and were paid under the ACG-17 system. They were forced to work with contractor since 1998. In reply filed it was stated that applicant No 1, Mohd Nur Zaman had earlier filed OA No 316 of 2000, alongwith 20 others, which was disposed of vide Order dated 28.9.2001 only in respect of five person, excluding him. Therefore, present proceeding is barred on application of the principles of res-judicata. None of the applicants have completed 240 days of service. Copy of Order dated 1.3.2006 passed in

respect of Nur Zaman was placed on record along-with reply to substantiate that his claim had been considered by the Committee & he was found not to have worked for the required period, and thus ineligible for said status. No rejoinder was filed to the reply filed on 28.8.2007.

APPLICANTS' CONTENTIONS:

9. Sh. H.K.Das, Ld. Counsel opening the arguments on behalf of applicants submitted that:

1. 1989 Scheme is an ongoing Scheme, applicable to all those who completes 240 days of service as & when they complete one year. Term 'one year' has not been defined under said Scheme. Therefore, it is neither financial nor calendar year, but relatable to 12 months of engagement, beginning from the day of initial engagement irrespective of the month he was employed. Judgment in State of Karnataka v. Umadevi's (3) (2006) 4 SCC 1, neither concerned with the validity of the said Scheme nor made any observation that such Scheme should not be followed. The said Scheme is still in operation.
2. Applicants are still employed with the respondents and satisfied the requirement of the Scheme having completed 240 days in more than one year. Some of them have served for more than two decades, yet no such Temporary Status, as envisaged by the Scheme has been conferred and as such they have been exploited, which amounts to unfair practice.
3. Earlier they approached this Tribunal, but no conclusive findings had been recorded because of paucity of complete material. Respondents are in possession of all the required material, which ought to have been produced by them. Unfortunately this has not been done by the respondents. As such their conduct is not fair. Earlier on directions issued by the Tribunal, they formed Verification Committee, and later another committee was constituted which is known as Responsible Committee. Without verifying the complete records, Committee recorded its findings dated 1.3.2006. Without producing complete records before said committee, the respondents cannot be allowed to claim

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 that applicants had not completed 240 days of service in a year & consequently not eligible for grant of Temporary Status followed by regularization, in terms of Scheme.

4. Later some of them have been appointed on contract basis too. Circular dated 12.2.1999 had been issued for special consideration to wipe out the complexities in implementing the Scheme of 1989, yet no tangible benefits have been conferred on casual workers.

10. Sh. M.Singh, Ld. Counsel appearing in TA NO 5 of 2009 contended that earlier said applicants (9 in number) had filed two different OAs, including OA NO 23/2003 which was disposed of vide Order dated 23.7.2004 and matter was referred to Responsible Committee to examine each case. No Terms of Reference was specified. No norms were laid down. Manner & procedure to be adopted by such committee was also not detailed. Committee members did not act fairly & justly. No documents/material was placed before it which became the basis for arriving its conclusion. Applicants were kept in dark about the reasons for its findings. Comparison of documents namely Annexure A-1 (year-wise service particulars of applicants with the documents/material prepared by TDM, Jorhat, where said applicants were working) viz. a viz. Annexure A-6 (Minutes of the proceedings of Responsible Committee) would reveal that number of days in every year the applicants had worked, show large variation of dates, without any justification & reasons. Therefore no credence could be given to the orders passed by Responsible Committee. Findings recorded did not either reject their documents produced nor assigned any reasons for its decision. Nature of document produced was not described in its minutes. What were the documents produced by the respondents were also not detailed. Thus findings of said committee are not based on any legal evidence but mere ipsi-dixit. They being class IV employees are not aware about the legal implications. Applicants have also doubted the bonafides of documents, if any, produced before such committee. No real & effective hearing was given to them, emphasized Ld. Counsel. There had never been any court order to disengage them. It was never their case that applicants were appointed illegally. Plenty of work is still available against which some of

them are still engaged though through the Contractor on the pretext that some services have been outsourced. 132

11. Sh. S.Sharma, Ld Counsel appearing in TA NO 64 of 2009 contended that applicant therein was engaged in Jan, 1993 & is still continuing. He had completed 240 days in a year. He was basically a permanent employee and had been paid salary in said capacity namely on voucher known as ACG-17.

12. Sh. Manik Chanda, Ld. Counsel appearing in TAs No. 7, 10 & 25 of 2009 contended that there is slight variation in facts inasmuch as some of them were earlier granted temporary status which was later cancelled. In T.A.No.25/2009, 14 applicants in number were engaged during 1988-98 and later forcefully sent to work under Class I contractor of the Department. However they continue to be engaged as on date. 9 persons including two applicants in TA No 10/2009 were conferred temporary status vide order dated 15/22nd Dec, 1997, which status was cancelled on 29.6.98, validity of which had been challenged vide O.A.No.141/98 by two applicants namely All India Telecom Employees Union & Nihar Dey. Said OA was disposed of vide common order dated 31.8.99 along with various other O.A.s namely 107,112,114,118,120,131,135,136,142,145, 192, 223, 269 & 293 of 1998 requiring the respondents to examine each case and pass reasoned order because due to paucity of material it was not feasible for the Tribunal to come to a definite conclusion. Said judgment had attained finality. Thereafter similarly situated persons also filed O.A.No.28/2001, by Pritu Bhusan Roy, who was also conferred temporary status and later withdrawn vide order dated 27.6.98. Said O.A. was allowed vide order dated 24.8.2001 holding that action of scrutinizing committee to confine its enquiry upto 1.8.98 was not sustainable. Later, applicants in TA No 10/2009 also preferred individual O.As. No.182 and 183 of 2003, which were decided vide common Order dated 26.4.04 requiring the respondents to pass speaking order. Pursuant thereto, order dated 31.1.05 was passed wherein it has been stated that the engagement report from the field unit based on certification on the lines is factually incorrect and cannot be accepted and the records establish that they had not been

engaged for any work after 28.6.98. It was further stated that they did not complete 240 days in any year and do not fulfill the essential condition for grant of temporary status under departmental scheme. Validity of such orders is challenged in present T.A. Learned counsel contended that in the meantime four similarly situated persons had preferred O.A. Nos. 332/2000. Out of said four persons, two of them were granted temporary status along with applicants vide order dated 15th/22.12.1997. Said O.A. had been allowed vide order dated 5.9.2001 in the light of judgment of O.A.No.28/2001 wherein vide interim order dated 2.7.98 the respondents were directed not to disengage and they were treated in **deemed service** w.e.f. 2.7.98 till 26.9.2000 when their individual representations were rejected. In such circumstances, it was contended that applicants being similarly situated should have also been treated similarly and alike & aforesaid period should also have been taken into consideration for determining the period of their engagement. Vide order dated 31.1.2005, the committee had not recommended them for conferment of temporary status holding that they had not been engaged for any work after 28.6.1998. Learned counsel contended that order passed in the case of O.A.28/01 as well as 332/2000 decided on 24.8.2001 & 5.9.01 respectively have attained the finality and therefore, binding upon the respondents. Ld. Counsel forcefully contended that applicants in TA NO 10 of 2009 being placed similarly to applicants in OA No 332/2000 & 28 of 2001, are entitled to be treated at par. Applicants in aforesaid OAs had been granted temporary status, which is still enjoyed by them, and therefore there is no justification to treat them differently. It was vehemently contended that **deemed period** was taken into consideration in respect of applicant in said OA, while similar treatment had not been accorded to applicants. Thus invidious discrimination had been committed, which is violative of Article 14 of the Constitution. In support of said contention reliance was placed on following judgments:

- i) (1990) 4 SCC 613 Lt. Governor of Delhi v. Dharam Pal
- ii) (2006) 6 SCC 548 Anand Regional Cooperative Oil Seed Grover Union Ltd. v. Saileh Kumar Harshad Bhai Shah
- iii) (2007) 7 SCC 689 Commissioner, Karnataka Housing Board v C. Muddaiah
- iv) (2007) 11 SCC 92 U.P.Electricity Board v. Puran Chand Pandey

v) 2008 (1) SLR 146 b. Radha krishan v Registrar CAT, Chennai.

13. Shri A. Dasgupta, Ld. Counsel appearing for sole applicant in T.A.35/09 contended that applicant was initially engaged on 5.8.96 and suddenly disengaged on 30.9.97. He had completed 240 days based on calendar year. Earlier, he had approached this Tribunal vide O.A.467/2001 which was disposed of vide order dated 26.8.02 requiring the respondents to pass appropriate order: "**for conferment of temporary status**", holding that he had completed 240 days. Said judgment has attained finality. Therefore it was incumbent upon respondents to confer him temporary status in the light of the Scheme. When no action had been taken to implement aforesaid directions, he filed M.P.44/04 and in its reply thereto, the respondents had stated that they were taking steps in terms of direction dated 26.8.02 and a responsible committee has already been constituted which shall consider applicant's claim. However vide communication dated 14.6.05, findings of the responsible committee dated 8.6.05 had been conveyed which confirmed that he had completed 240 days during 12 calendar months and his claim has also been referred to Corporate office of BSNL for consideration and conferment of temporary status and further he will be communicated on said subject as soon as a decision was received. Learned counsel contended that the said hope has been belied and no status has been conferred till date, which amounts to contempt of this Tribunal.

14. In reply to aforesaid, learned proxy counsel appearing for Mr. Y. Doloi, Counsel for respondents contended that applicant had not impleaded necessary parties as he had impleaded only the Task Force N.E. Telecom and not the officials of Assam Circle. Furthermore, vide their reply it was stated that applicant had never worked in any Task Force of BSNL. Assam Circle and N.E. Task Force are different branches of BSNL having their own, separate & different jurisdiction, neither similar nor overlapping to each other. Applicant seems to have been engaged by Kamrup SSA which fall within the jurisdiction of Assam Telecom Circle. Therefore, no relief can be granted, emphasized learned counsel for the respondents. We may note that no rejoinder has been filed by the applicant though reply was filed by respondents on 29.7.07.

15. Shri M. Khataniar, Ld. Proxy Counsel appearing for Shri P.N. Goswami, Counsel for the applicants in T.A. No 6/09 contended that the 2 applicants had joined in Jan, 1993 and Jan, 1995 respectively and continuously working since then and therefore, they having satisfied the requirement of the Scheme are entitled to relief as prayed for. In reply filed by the respondents it was stated that they have never been engaged by the respondents as casual labourers or otherwise at any point of time. Certificates appended by them were prepared by some Trade Union personnel of doubtful integrity. The matter has been referred to police and therefore, the fake and forged certificate cannot be relied upon while considering their claim. Vide reply para (x) it was stated: "**the scheme under reference has become inoperative and as the same has been declared unconstitutional with retrospective effect by the Hon'ble Supreme Court**". No rejoinder has been filed to the reply filed by the respondents.

We may note that Ld. Counsel appearing in other cases have in principle adopted aforesaid contentions, and in such circumstances we are not burdening the records.

RESPONDENTS' STAND

16. By filing reply the respondents contested the claim made and stated that moot question raised in these petitions is whether the applicants are entitled to the benefit of "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989" or not. Said scheme provides that the casual labourer who has completed at least 240 days in engagement as casual labourer in the department in 12 calendar months and had been on continuous employment as on 1.10.89 would be entitled to temporary status under said Scheme circulated through the Govt. of India Deptt. Of Telecom circular dated 7.11.89. The Department of Telecom issued another O.M. dated 12.2.1999 whereby the power to engage casual labourer from the office of DOT had been withdrawn on account of the bar imposed for recruitment of casual labourers vide letter dated 22.6.1988 as well as misuse of said authority. Another circular was issued on 12.2.99 whereby clarification was issued to the extent that a casual labourer who had already been conferred with temporary status

and completed 10 years of service were to be regularized as per vacancies in Annexure 'A' appended thereto. By the said circular it was also clarified that those casual labourers who were engaged by the department in spite of the banned order were to be given temporary status strictly against the places and vacancies indicated vide Annexure 'B' appended thereto. Since some anomalies still existed with regard to the date from which the benefits as mentioned in earlier circular dated 12.2.99 would be applicable, Department of Telecom issued circular dated 1.9.99 and clarified the date of conferment of such class of casual labourers which would be effective from 1.9.99 and in case of regularization to the temporary status casual labourer eligible as on 31.3.1997 would be from 1.4.97. Vide Government of India DoT letter dated 17.10.90 it was also clarified that part time casual labourers are not entitled to temporary status/regularisation under the aforesaid scheme. On merits it was stated that applicants had never completed 240 days of employment in any single year. The certificates issued by the Contractors have no relevance and binding upon the respondents. Vide common order dated 31.8.99, this Tribunal, passed in O.A. Nos.107, 112, 114, 118, 120, 131, 135, 136, 141, 142, 145, 192, 223, 269 and 293 of 1998 vide para 7, in specific concluded that: "**due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We therefore feel that the matter should be re-examined by the respondents themselves taking into consideration of the submission**" of parties. The applicants were also directed to file individual representation besides direction to the respondents to "**scrutinize and examine each case in consultation with the records**" and thereafter pass a reasoned order on merits of each case. In compliance thereto, the respondents constituted a high powered expert verification committee to verify the departmental records and also the records of the applicants supporting their respective claims. Their claim had been meticulously examined and it was found that applicants had never completed 240 days in a year during the course of their engagement. The respondents are not answerable or responsible in any manner or responsible for their engagement and their relationship with the job of the Contractor.

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17. Shri B.C. Pathak, learned counsel for the respondents in sizeable number of cases forcefully contended that in Umadevi's judgment (supra) the very foundation of the scheme i.e. judgment in Daily Rated Casual Labourer has been overruled. It was emphasized that applicants engaged as casual labourer were not employed against any sanctioned post. Similarly, they were not engaged in accordance with the rules in vogue. Their appointments being illegal cannot be regularised. Furthermore, the Scheme of 1989 was one-time measure except in the circumstance clarified vide circular dated 12.2.99. Applicants have no legal and vested right for regularization. Furthermore illegal acts of officials earlier of DOT and now of BSNL cannot be legitimized. Learned counsel further emphasized that the Scheme of 1989 is no longer in operation after the Constitution Bench judgment in Umadevi's(3). Illegality cannot be perpetuated by grant of temporary status and consequently regularization, as prayed for. Reliance was placed on P&T Financial Handbook Vol. I & III to contend that payment to labourers hired for contingencies prescribed therein had to be made under Rule 331 of Vol. I and the maximum period for which a managerial labourer can be hired cannot exceed 100 days. Reliance was also placed on Appendix 'A' appended thereto to contend that list of items have been prescribed and classified under the term "other contingencies" which included wages and allowances of labourer or mazdoor employed casually. Reliance was placed on series of judgments namely: 1997 3 SLJ 86(CAT- Allahabad **Vikram Singh and others v. UOI**) to contend that part time casual labourers are not entitled to regularization. To similar effect reliance was placed on 1992 (2) SLJ 513 (CAT-HP **Karam Singh and others v. State of HP and others**) and 1992 (1) SCC 489 **State of Punjab and others v. Surendra Kumar and others**. To another contention raised that said scheme is a one-time and not an ongoing process, reliance was placed on 2002 (4) SCC 573 **UOI v. Mohan Pal and others** and 2006(1) SLJ 64 (SC) **Union of India v. Gagan Kumar**. To a further contention that onus to prove working for 240 days in a year lies on workman, reliance was placed on 2007 (13) SCC 343 **Ranip Nagar Palika v. Babuji Gabhaji**. (2009) 7 SCC 205 **GM, Uttarakhand Jal Santhan v. Luxmi Devi & Ors**, was relied upon to contend that Umadevi's (3) judgment is retrospective in operation. Further reliance was placed on following rulings:-

- i) (2004) 7 SCC 112 **A.Umarani v. Registrar, Co-operative Societies & Ors.** to contend that if appointment is illegal, the same cannot be regularised.
- ii) (2008) Suppl GLT 164 **BSNL v. Ashim Kr. Das**- casual labour cannot be regularized automatically.
- iii) AIR 1997 SC 2120 **State of Haryana v. Surender Kumar & Ors.** court will not legitimize illegal acts of officers.
- iv) AIR 1996 SC 2173 **State of UP v. Harish Chandra**- No mandamus can be issued to refrain the authorities from enforcing law or to act contrary to law.
- v) (2007) 6 SCC 694 **UCO Bank & Ors v. R.L.Capor**- illegality cannot be perpetuated.
- vi) 1988 (1) SLR 360 (P&H)(DB) **Sarabjit Singh v. Punjab University, Patiala**. - wrong appointment cannot be perpetuated by misinterpreting the provisions of statute.
- vii) (2001) 7 SCC 1 **Steel Authority of India Ltd. v. National Union** & (2002) 4 SCC 609 **M.C.Greater Mumbai v. K.V.Shamik Sangh & Ors.**
- viii) AIR 1990SC 10 **S.S.Rathore v. State of M.P.** - repeated representations do not extend the period of limitation.
- ix) (1999) 8 SCC 304 **R.C.Sharma v. Udhamp Singh Kamal & Ors**- repeated representations do not give fresh cause of action.

18. Placing on records the findings of Verification Committee, it was highlighted that none of the applicants had completed 240 days of service in one year. It also recorded another aspect namely that none of them had been in engagement with the Department since June, 1998 and therefore they were not entitled to grant of temporary status even as per the extended circular dated 12.2.1999.

ISSUES ARISING FOR CONSIDERATION:-

19. Basically two important legal issues of larger public interest arise for consideration namely:- 1. Whether the applicants have satisfied the requirement of 1989 Scheme. & 2.Whether they could legally enforce their claim seeking implementation of Casual Labourers (Grant of Temporary

Status and Regularisation) Scheme of Department of Telecommunications, 1989 particularly after the judgment in Umadevi's(3).

20. Before proceedings further it would be expedient to notice the legal position, which is as follows:

LEGAL POSITION:-

21. Law relating to regularization had been elucidated in detail by the Constitution Bench in **State of Karnataka v. Umadevi**,(3) (2006) 4 SCC 1 Hon'ble Court adverted to the theme of constitutionalism in a system established on the rule of law, expanded meaning given to the doctrine of equality in general and equality in the matter of employment in particular, multifaceted problems including the one relating to unwarranted fiscal burden on the public exchequer created on account of the directions given by the Courts for regularization of the services of persons appointed on purely temporary or adhoc basis or engaged on daily wages or as casual labourers, referred to about three dozen judgments. Ratio laid down therein could be summarized as follows:

1. Merely because a temporary employee or a casual wage worker is continued for a time beyond the terms of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. Merely because an employee had continued under cover of an order of the court, described as "**litigious employment**" be not entitled to any right to be absorbed or made permanent in the service.
2. While directing that appointments, temporary or casual, be regularized or made permanent, the courts are swayed by the fact that: a) the person concerned has worked for some time and in some cases for considerable length of time, and b) he was not in a position to bargain-not at arm's length. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be

continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible.

3. Articles 14, 16 & 309 were inserted in Constitution so as to ensure that public employment is given only in a fair and equitable manner by giving all those who are qualified, an opportunity to seek employment. In the guise of upholding rights under Article 21 of the Constitution, a set of persons, who got appointed casually or those who have come through the backdoor, cannot be preferred over a vast majority of people waiting for an opportunity to compete for State employment.
4. A regular process of recruitment or appointment has to be resorted to, when regular vacancies in posts, at a particular time, are to be filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or some other consideration. Regular appointment must be the rule.
5. Adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirement of Article 14 read with Article 16 of the Constitution. If it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued.

22. Vide para 18, in Umadevi's judgment it was further observed that:

"Without keeping the above distinction in mind and without discussion of the law on the question or the effect of the directions on the constitutional scheme of appointment, this Court in Daily Rated Casual Labour v. Union of India directed the Government to frame a scheme for absorption of daily-rated casual labourers continuously working in the Posts and Telegraphs Department for more than one year. This Court seems to have been swayed by the idea that India is a socialist republic and that implied the existence of certain important obligations which the State had to discharge. While it might be one thing to say that the daily-rated workers, doing the identical work, had to be paid the wages that were being paid to those who are regularly appointed and are doing the same work, it would be quite a different thing to say that a socialist republic and its executives, is bound to give permanence to all those who are employed as casual labourers or temporary hands and that too without a process of selection or without following the

mandate of the Constitution and the laws made thereunder concerning public employment."

(emphasis supplied)

23. Ultimately vide para 54 in Umadevi's (supra), Hon'ble Supreme Court in no uncertain term declared that: "**those decision which run counter to the principle settled in this decision, or in which directions running counter to what we had held herein, will stand denuded of their status as precedents.**"

24. In **U.P. SEB v. Pooran Chandra Pandey** (2007) 11 SCC 92, two-Judge Bench, taking recourse to observation made in seven-Judge Bench in **Maneka Gandhi v. Union of India** (1978) 1 SCC 248, that reasonableness and non-arbitrariness is part of Article 14 of the Constitution & Government must act in a reasonable and non-arbitrary manner otherwise Article 14 of the Constitution would be violated, concluded that said law is of general application, which aspect had not been dealt with in Umadevi's case, decided by five-Judge Bench. Therefore Umadevi's decision cannot be applied to a case where regularization has been sought for in pursuance of Article 14 of the Constitution. It was observed therein that it is well settled that a smaller Bench decision cannot override a larger Bench decision of the Court. But said view had not been approved by three-Judge Bench decision in **Official Liquidator v. Dayanand** (2008) 10 SCC 1, holding that limited issue which fell for consideration (in Pooran Chandra Pandey) was whether the daily-wage employees of the society, the establishment of which was taken over by the Electricity Board along with the employees, were entitled for regularization in terms of the policy decision taken by Board and whether the High Court committed an error by invoking Article 14 of the Constitution for granting relief to the writ petitioners. It had no occasion to make any adverse comment on the binding character of the constitution Bench judgment in Umadevi's case.

24. In (2009) 5 SCC 193 **Pinaki Chatterjee and others v. UOI & Ors**, it was clarified that departmental instructions issued prior to and contrary to law laid down in **Umadevi's (3) case**, (2006) 4 SCC 1, could not be applied to grant regularization. Appellants therein were appointed in Group C posts in the Electrical Department of the Railway Electrification Project and

despite working for a long time their services were not regularized, had approached this Tribunal seeking direction to finalise their absorption in service, which OA had been disposed of vide judgment & order dated 5.7.2001 observing that their claim to be regularized in Group C posts as asserted was not acceptable, instead they were required to be regularized in Group D. Challenge made to said findings were not acceded, by the High Court, and in such circumstances matter reached before the Hon'ble Supreme Court. They were basically relying upon circular of Railway Board dated 11.5.1973. It was held by the Apex Court that said circular letter of the Railway Board which had been issued long back, however did not take into consideration the limitation of power of a State to make appointment in total disregard of mandatory provisions of the recruitment rule and or the constitutional provisions. Reliance was also placed on three-Judge Bench decision in **Official Liquidator v. Dayanand** (2008) 10 SCC 1, wherein vide para 90-91 it was observed that:

"The learned Single Judges and Benches of the High Courts refuse to allow and accept the verdict and law laid down by coordinate and even larger Benches by citing minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to the constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance litigation. Those who have been entrusted with the task of administering the system and operating various constituents of the State and who take oath to act in accordance with the Constitution and uphold the same, have to set an example by exhibiting total commitment to the constitutional ideals. This principle is required to be observed with greater rigour by the members of judicial fraternity who have been bestowed with the power to adjudicate upon important constitutional and legal issues and protect and preserve rights of the individual and society as a whole. Discipline is sine qua non for effective and efficient functioning of the judicial system. If the courts command others to act in accordance with the provisions of the Constitution and rule of law, it is not possible to countenance violation of the constitutional principle those who are required to lay down the law."

25. In (2009) 9 SCC 514 **State of Punjab & others v. Surjit Singh and others**, vide para 30 it was clarified that para 55 of the judgment in **Umadevi's(3) (supra)**, did not lay down any law and directions issued therein were of limited controversy. **Umadevi's(3) case (supra)** was further explained & distinguished in (2009) 8 SCC 556 **Maharashtra SRTC v.**

Casterbibe Rajya Parivahan Karmchari Sanghatana, vide paras **34-36**
observing that:

"34. It is true that Dharward Disstt. PWD Literate Daily Wages Employees' Assn arising out of industrial adjudication has been considered in Umadevi(3) and that decision has been held to be not laying down the correct law but a careful and complete reading of the decision in Umadevi(3) leaves no manner of doubt that what this Court was concerned in Umadevi(3) was exercise of power by the High Court under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the employees have been engaged in contractual, temporary or casual workers not based on proper selection as recognized by the rules of procedure and yet orders of their regularization and conferring them status of permanency have been passed.

35. Umadevi(3) is an authoritative pronouncement for the proposition that the Supreme Court (Article 32) and the High Court (Article 226) should not issue directions of absorption, regularization or permanent continuance of temporary, contractual casual, daily wage or ad hoc employees unless the recruitment itself was made regularly in terms of the constitutional scheme.

36. Umadevi(3) does not denude the Industrial and Labour Court of their statutory power under Section 30 read with 32 of the MRTU and PULP Act to order permanency of the workers who have been the victims of unfair labour practice on the part of the employer under Item 6 of Schedule IV where the posts on which they have been working exist. Umadevi(3) cannot be held to have overridden the powers of the Industrial and Labour Courts in passing appropriate order under Section 30 of the MRTU and PULP Act, once unfair practice on the part of the employer under Item 6 of Schedule IV is established."

(emphasis supplied)

26. Said decision also emphasized that there is no quarrel with the proposition that courts cannot direct creation of posts. Reference was made to (2001) 7 SCC 346 **Mahatama Phule Agricultural University v. Nasik Zilla Sheth Kamgar Union**, (2005) 6 SCC 751 **State of Maharashtra v. R.S.Bhonsle**, (2001) 7 SCC 356 **Gram Sevak Prashikshan Kendra v. Workmen**, (2007) 1 SCC 408 **Indian Drugs & Pharmaceuticals Ltd. v. Workmen**, (2008) 1 SCC 683 **Aravali Golf Club v. Chander Hass**, (2003) 2 SCC 632 **P.U. Joshi v. Accountant General**, to reiterate that creation and abolition of posts regularisation are purely executive functions. The Courts cannot direct the creation of posts. Court cannot arrogate to itself this purely and executive or legislative function. Similarly it is also true that the status of permanency cannot be granted by the Court where no such post exists.

27. In (2008) 1 SCC (L&S) 1101 **Controller of Defence Accounts, Dehradun and Others v. Dhani Ram & Ors** it was reiterated that the Scheme relating to temporary status was not ongoing scheme and temporary status could be conferred under the Scheme only subject to fulfillment of the conditions stipulated therein. Furthermore, it does not appear a general guideline to be applied for the purpose of giving 'temporary' status to all casual workers, **as and when they complete one year's continuous service.** (emphasis supplied)

28. In (2009) 2 SCC 407 **State of Punjab v. Bahadur Singh and others**, Umadevi's (3) judgment, particularly para 53 thereof, was further explained & High Court directions to regularize work-charged employee who had worked in that capacity for 22 years were quashed & the matter was remitted back for fresh consideration in the light of position explained as well as that irregularity in the appointment can be regularized but not illegality. Furthermore regularization does not mean permanency.

OUR ANALYSIS

29. At the outset we may note that all these **49 cases** fall within the jurisdiction & different Distt. of State of Assam with total number of **applicants 166**. TAs No 3,7,11,25,27,38, 47,49,59 pertain to Distt. Nagaon, while TAs No 5,40,48,51 to Distt. Jorhat, TAs No 6, 8, 42 to Distt. Barpeta, TAs No 9,30,31,35, 45, 61,62,64 to Kamrup Distt, TAs No 10 & OA No 47 (though filed before Hon'ble High Court as WP (C) No 325206) to Distt. Karimganj, TAs No 13,14,34,50,53,54,55,60,65 & 66 of 2009 to Distt. Dibrugarh, TAs No 28 & 39 to Distt. Nalbari, TAs No 29 & OA 84/2009 to Bongaigaon, TAs No 63, 56,57 & 58 to Tinsukia, TAs No 41,44,52 to Cachar, TA No 36 to Darrang & 43/2009 to Hailakundi Distt.

30. We may also note that there is no dispute on certain factual aspects namely, except in T.A. No.35 of 2009, the committee constituted by the respondents and proceedings conducted by it did not pass any favourable order in respect of applicants requiring the respondents to grant temporary status. Furthermore, in T.A.10/09 "**provisionally**" approved temporary status on 15/22.12.1997 was rescinded on 29.6.98, which aspect had been challenged vide O.A.141/98 but it did not elicit any favourable

order, rather due to paucity of material the matter had been remanded back, vide common order dated 31.8.99, requiring the respondents to examine each case and to pass necessary order. Ultimately the order passed by the respondents on 31.1.05, is challenged in present proceedings in specific conveyed that their engagement report from the field unit based on certificate relied upon cannot be accepted and the record established that they did not complete 240 days in any year and further that they had not been engaged after 28.6.98. We may further note the fact that validity of Order dated 29.6.98 had been challenged vide O.A.No.141/98 by two applicants namely All India Telecom Employees Union & Nihar Dey and not by the applicants in TA No 10 of 2009. Could they in such circumstances contend that challenge made in present TA is within time?

31. As far as the contentions raised by Sh. Manik Chanda, Ld. Counsel in TAs No 10 of 2009 is concerned, we noticed fallacy in it inasmuch as that two applicants therein who were conferred temporary status vide order dated 15/22nd Dec, 1997, which status was cancelled on 29.6.98 had never challenged said order. Rather validity of similar order had been challenged vide O.A.No.141/98 by two applicants namely All India Telecom Employees Union & Nihar Dey, which was disposed of vide common order dated 31.8.99 along with various other O.A.s namely 107,112,114,118,120,131,135,136,142,145,192,223,269 & 293 of 1998 requiring the respondents to examine each case and pass reasoned order because due to paucity of material it was not possible for the Tribunal to come to a definite conclusion. Similarly another contention that they are at par with other persons who were parties to OA No 332/2000 which was allowed vide order dated 5.9.2002, directing the respondents to treat some period as deemed engagement is concerned, we may observe that applicants therein had not been party to any similar case, no interim direction of said cases had been issued in their favour at any stage. In such circumstances how they can claim parity? In our considered opinion, there is no similarity between them and question of treating them alike did not arise and there is no violation of Article 14 of the Constitution. As such reliance placed on judgments become totally irrelevant & baseless. On random examination we may observe that bare

perusal of Annexure 1 appended to TA No 5/2009 reveal that good number of persons seems to had worked for 360-365 days in a year. Even as on 1.8.1998 persons were shown to have worked for 240 days, which under no circumstances can be accepted and the Verification Committee rightly rejected the reliance placed by the applicants on such documents. Similar is the fate of other cases, and there is no substance in the arguments advanced by any of them.

32 Initially the Scheme of 1989 which came into force on 1.10.89 vide para 5 provided that temporary status would be conferred on all casual labourers "currently employed and who have rendered a continuous service of at least 1 year" (240/206 days in case of office observing 5 days). Later, as a **one-time measure** and on **special consideration**, another circular 12.2.99 was issued and concerned units were directed to create post of regular mazdoor for regularizing the casual labourers who had completed 10 years of service as on 31.3.97 to the extent of numbers indicated in Annexure-A thereof. Similarly, Annexure-B appended thereto conveyed the approval of Telecom Commission to grant temporary status to casual labourers to the extent of numbers indicated to the respective circles detailed therein which figure had been compiled based on information supplied by the circles/units concerned. It also had a caveat that there should not be any variation in the figures and in case there was any change, Heads of Circles should refer the cases to TCHQ explaining the reasons. As noticed hereinabove as per said **Annexure-B**, for **Assam Circle** the figure detailed had been nil **as on 1.8.98**, while for N.E. category the figure was 350. We may also note very significant & important aspect that it is not the case of Applicants that they fall within the category of NE, and therefore figures against NE has no relevance for our purposes. We have already noticed hereinabove that all the cases which are being dealt with by the present common order pertain to Assam Circle and as per the Annexure-B there was no casual labourer who was required to grant temporary status. If this is the factual position, which has otherwise not been contested, disputed, challenged or controverted or proved contrary by the applicants, or any word pleaded on this aspect, how could they claim that they were working as casual labourers within Assam Circle and also entitled to temporary status as on 1.8.98 the date

prescribed by the said circular, remain totally unexplained, highlighted or clarified to this Tribunal. As such this aspect cast serious doubt about the claim laid as a whole.

33. The further question which arises for consideration is whether applicants have satisfied the requirement of circular dated 12.2.99. In others words have they fulfilled 10 years service as casual labour. Pleadings raised in these cases ex-facie would show that such has not been their own case. We may note that as per averments made by them (in Writ Petitions) in TAs all the applicants in TAs No 5, 6, 8, 9, 11, 14, 28, 29, 30, 31, 35, 39, 40, 42, 45, 53, 55, 57, 58, 62, 63, 64, 65 & OA No 84 of 2009 were engaged only on or after the year 1989, and therefore under no circumstances they could have completed 10 years of service as casual labour 1.9.1999 as clarified vide DoT Circular dated 1.9.1999. In rest of cases, according to applicants own averment, sizeable number of them had been engaged only after 1989 & some of them were engaged prior to said year, which figure is very marginal/insignificant. According to respondents stand, barring a few, they had disputed engagement from earlier dates but in any case pleaded that they had not satisfied requirement of engagement of 240 days in any year. Though applicant in TA NO 35/2009 had satisfied the requirement of 240 days in 12 recruitment month but not in a "year", and in any case he did not satisfy the requirement of DoT circular dated 12th Feb, 1999, and therefore he was also not entitled to any benefits.

34. The next question which also arises for consideration is how to determine one year as prescribed vide para 5 of the Scheme of 1989. The term "year" has not been defined under the Scheme. Should it be financial year, calendar year, or 12 months from the date of engagement. We should note that Section 3 (66) of the General Clauses Act, 1897 defines said term "year". It reads thus: "**year means a year reckoned according to the British calendar.**"

The committee, which recommended sole applicant in T.A. NO. 35/09 for conferment of temporary status holding that he had completed 309 days during 1.10.96 to 30.9.1997, thus ex-facie calculated said 240 days based on last 12 last months of engagement. Hon'ble Supreme court

in (2008) 1 SCC (L&S) 1101 **Controller of Defence Accounts, Dehradun and Others v. Dhani Ram & Ors.** had in unequivocal terms observed that temporary status cannot be conferred to casual laboruers "**as and when they complete one year's continuous service.**" The aforesaid observation thus provides a guideline that it is not last 12 calendar months or mere completion of one year service of engagement which will make a casual labourer entitled for temporary status. Twin conditions were required to be satisfied namely, "**currently employed and who have rendered a continuous service at least one year**", out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week)". Furthermore this condition ought to have been satisfied as on 1.10.89 i.e. the date on which the 1989 Scheme came into force. None of the applicants have established that said requirements of the Scheme were satisfied and thus they had acquired the eligibility & entitled to reap the benefits provided under the said Scheme.

35. Now dealing with the legal position we may observe that while devising a scheme of 1989, admittedly judgment of Hon'ble Supreme Court in Daily Rated Casual Labourer of Department of Posts v. Union of India and others, 1988 (1) SCC 122, had been the guiding factor. It is undeniable fact that said judgment has been specifically overruled in State of Karnataka Vs. Umadevi(3). Furthermore, vide para 54 thereof Hon'ble Court went on to observe that all those decisions which run counter to the principles settled in that judgment or in which direction running counter to what has been held therein "**will stand denuded of their status as precedence.**" Thus further issue of public importance & larger ramification which arises for consideration is what is the fate of the Scheme devised by the Department of Telecom. Is it in existence? Could it be enforced through judicial orders/intervention either by this Tribunal or any other judicial forum? Could it be said that mere absence of challenge to said Scheme of 1989 would not make any difference to test the factum of its existence. We may observe at this stage itself the respondents in their reply filed, after Umadevi's had been pronounced, did comment & stated that said Scheme has lost its significance and cannot be enforced, and said contention raised had not been refuted by filing any rejoinder. It is undisputed that said Scheme was issued in

compliance of Hon'ble Supreme Court direction in Daily rate case as well as in exercise of powers available to Central Govt. under Article 77 of the Constitution of India. We may note that the said Scheme is not the end product of the exercise of power under proviso to Article 309 of the Constitution. As such it can safely be concluded that it is only administrative in nature and had not taken the shape of statutory rule. In *Umadevi*(3) (supra), Hon'ble Supreme Court after scanning the provision of Article 14, 16, 32 & 226 as well as its earlier judgments on the subject very strongly emphasized that :

"only something that is **irregular** for want of compliance with one of the elements in the process of selection which does not go to the root of the process, **can be regularized** and that it alone can be regularized and granting permanence of employment is a totally different concept and cannot be equated with regularization," (emphasis supplied)

36. Furthermore, the ratio discernible from *Pinaki Chatterjee* (supra) is that departmental instructions as well as the Scheme issued prior to and contrary to law laid down in *Umadevi's* (3) case could not be applied to grant temporary status as well as regularization. It was held therein by the Apex Court that circular of the Railway Board which had been issued long back did not take into consideration the limitation of power of a State to make appointment in total disregard of mandatory provisions of the recruitment rule and or the constitutional provisions. Said ratio is aptly & squarely applicable in the facts & circumstances of present cases as the Scheme of 1989 had been issued by the Department of Telecom way back in the year 1989, did not take into consideration the limitation of power of a State to make appointment in complete & brazen disregard of mandatory provisions of recruitment rules, created a new class of employee, recruited from back door. Moreover the very foundation of the said Scheme has been struck by *Umadevi's* (3) (supra). Said Scheme cannot be given the shape of statutory recruitment rules framed under the exercise of power of Proviso to Article 309 of the Constitution. Thus our inevitable conclusion is that none of the applicants had satisfy the requirement of the Scheme & they cannot seek enforcement of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989 by judicial process.

37. Another aspect which also requires examination is whether this Tribunal should issue some directions to the respondents to adjust the applicants in some manner so that they continue in employment and allow the benefits based on the facts that good number of them have rendered about 2 decades of service, as projected though seriously disputed by the respondents & some of them continue to be in service in some other capacity even as on date. We have sympathy with those who had been working for the respondents & discharged their duties at the time when required & the respondents were in need to engage them, but that does not mean that their claim should be allowed. Before making any further comment on this aspect we may note that the law on said aspect has also been laid down by the apex court, in (2007) 1 SCC 408 **Indian Drugs & Pharmaceuticals Limited Vs. Workman**, vide para 16 thereof it was observed that: "We are afraid that the Labour Court and the High Court have passed their orders on the basis of emotions and sympathies, but in **cases in Court have to be decided on legal principle and not on the basis of emotions and sympathies**". Further more in (2008) 2 SCC 310 **Uttar Haryana Bijli Vitran Nigam Ltd. and others Vs. Surji Devi** vide para 16 it was further reiterated that sentiments and sympathies alone can not be a ground for departing from the law and take a view different from what is permissible in law. In **Teri Oat Estates (P) Ltd. v. U.T.Chandigarh**, (2004) 2 SCC 130, vide para 36 at page 144, observations were made to the same effect that: "We have no doubt in our mind that sympathy or sentiments by itself cannot be a ground for passing an order in relation whereto the appellants miserably fail to establish a legal right. It is further trite that despite an extraordinary constitutional jurisdiction contained in Article 142 of the Constitution, this Court ordinarily would not pass an order which would be in contravention of a statutory provision."

38. In (2007) 12 SCC 779 **Nadia Distt. Primary School Council & another Vs. Sristidhar Biswas and others**, it was observed that Court should exercise restraint before passing order saddling the State with financial burden. We may also note that Hon'ble Supreme Court in (2009) 5 SCC 212 **Destruction of Public & Private Properties in Re Vs. State of Andhra Pradesh & others** reiterated and followed earlier judgment in **Union of**

India Vs. Association for Democratic Reforms, (2002) 5 SCC 294 (at page 309 para 19) wherein it has been observed that: "**It is also established law that no direction can be given, which would be contrary to the Act and the Rules**". When the law is so settled, we felt it would not be justified to ignore the mandate of law. Aforesaid ratio is squarely applicable in present cases. In this view of the matter we do not find any justification in the claim laid by the applicants. It would not be justified to ignore that said mandate merely on grounds of sympathies and emotions holding that the applicants are entitled to temporary status & regularisation irrespective of the aforesaid settled law position.

39. We have also examined as to whether orders passed by the verification committee requires any interference or not. On careful examination of the matter particularly in view of observations made hereinabove, we find that the said committee had duly considered all relevant materials placed before it by either side. Applicants have failed to make out any case establishing any illegality, irrationality or mistake committed by it while considering their claim. Furthermore, we find that directions issued by this Tribunal on earlier occasion had been scrupulously complied with. Orders passed by the respondents are detailed and analytical. Applicants have failed to make out that they have any legal right to claim temporary status and consequently regularization.

In view of discussion made hereinabove, we are of the considered view that TAs as well as OA noticed hereinabove, being without any merits are liable to be dismissed. Accordingly the same are dismissed. No costs.

Sd/- M.K.Gupta

Member (J)

Sd/-M.K.Chaturvedi

Member (A)

SERVICE LAW**TRANSFER OF CENTRE/UNDERTAKING**

— **Transfer of Centre — Abolition of post — Lien** — *Appellants holding substantive posts of Lecturers/Readers in Kurukshetra University, appointed to higher posts in PG Centres at Sirsa/Hissar which were then under control of Kurukshetra University — Before appellants' services could be regularised, by creation of a new university viz. Guru Jambeshwar University, Hissar and by operation of S. 35 of Guru Jambeshwar University Hisar Act, 1995, those Centres stood transferred to the jurisdiction of the new University in their entirety and thereby they went outside the territorial jurisdiction of Kurukshetra University — In the circumstances, held, the appellants cannot claim to be continuing in those higher posts in Kurukshetra University — They can only lay claim to the posts in Kurukshetra University in which they had lien — Respondent (in CA No. 1272 of 1998), who was appointed as Lecturer directly in a PG Centre, on transfer of the Centre to the new University, cannot also claim to be absorbed in Kurukshetra University — No juniors to the appellants and the said respondent retained in service in violation of [last-come, first-go" principle] — Hence none of them entitled to any relief against Kurukshetra University — Kurukshetra University Act, 1986 (28 of 1986), S. 16 — G. Varandáni v. Kurukshetra University, (2003) 10 SCC 14 : AIR 2003 SC 3870.*

Bench Strength 2. Coram : **S. Rajendra Babu** and **Doraiswamy Raju**, JJ. [Date of decision : 13-8-2003]

Jawaharlal Nehru University v. Dr K.S. Jawatkar, 1989 Supp (1) SCC 679: 1989 SCC (L&S) 501: (1989) 11 ATC 278, distinguished

[Search Text : "last come first go"]

(2003) 10 SCC 14.
R 10

14

SUPREME COURT CASES

(2003) 10 SCC

(2003) 10 Supreme Court Cases 14

(BEFORE S. RAJENDRA BABU AND DORAISWAMY RAJU, JJ.)

G. VARANDANI

Appellant;

Versus

KURUKSHETRA UNIVERSITY AND ANOTHER .. Respondents.

Civil Appeals No. 8703 of 1997[†] with Nos. 1272 of 1998, 6339 of 2003[‡]
and 6338 of 2003^{††}, decided on August 13, 2003

Service Law — Transfer of centre/undertaking — Abolition of post —
Lien — Appellants holding substantive posts of Lecturers/Readers in
Kurukshetra University, appointed to higher posts in PG Centres at
Sirsa/Hissar which were then under control of Kurukshetra University —
Before appellants' services could be regularised, by creation of a new
university viz. Guru Jambheshwar University, Hissar and by operation of S.
35 of Guru Jambheshwar University Act, 1995, those Centres stood
transferred to the jurisdiction of the new University in their entirety and
thereby they went outside the territorial jurisdiction of Kurukshetra
University — In the circumstances, held, the appellants cannot claim to be
treated as continuing in those higher posts in Kurukshetra University —
They can only lay claim to the posts in Kurukshetra University in which
they had lien — Respondent (in CA No. 1272 of 1998), who was appointed
as Lecturer directly in a PG Centre, on transfer of the Centre to the new
University, cannot also claim to be absorbed in Kurukshetra University —
No juniors to the appellants and the said respondent retained in service in
violation of "last-come, first-go" principle — Hence none of them entitled to
any relief against Kurukshetra University — Kurukshetra University Act,
1986 (28 of 1986), S. 16 — Guru Jambheshwar University Hisar Act, 1995
(17 of 1995)

Jawaharlal Nehru University v. Dr K.S. Jawatkar, 1989 Supp (1) SCC 679 : 1989 SCC
(L&S) 501 : (1989) 11 ATC 278, distinguished

Appeals except CA No. 1272 of 1998 dismissed

R-M/ANTZ/28831/SL

Advocates who appeared in this case :

M.N. Krishnamani, Senior Advocate (Krishan Mahajan, R. Ayyamperumal, Baldev
Atreya, Rakesh K. Sharma, Tribhuvan Dahiya, Uma Datta, Nidhesh Gupta, Naveen
Singh, Ms Minakshi Vij, Dr K.S. Chauhan, Chand Kiran, Dr K.P.S. Dalal, S.K. Jain,
A.P. Dhamija and A.K. Sanghi, Advocates, with him) for the appearing parties.

Chronological list of cases cited

1. 1989 Supp (1) SCC 679 : 1989 SCC (L&S) 501 : (1989) 11 ATC 278,
Jawaharlal Nehru University v. Dr K.S. Jawatkar

18f, 18f-g, 18h,
20e-f, 20f-g

g

The Judgment of the Court was delivered by

RAJENDRA BABU, J. — Special leave granted in SLPs (C) Nos. 22833
and 21612 of 1997.

[†] From the Judgment and Order dated 5-8-1997 of the Punjab and Haryana High Court in CWP
No. 15256 of 1996

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[‡] Arising out of SLP (C) No. 22833 of 1997

^{††} Arising out of SLP (C) No. 21612 of 1997

Limitation Act, 1908

Part II — Limitation of Suits, Appeals and Applications

Section 5. Extension of period in certain cases

5. Extension of period in certain cases.—Any appeal or application for a review of judgment or for leave to appeal or any other application to which this section may be made applicable ¹[by or under any enactment] for the time being in force may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period of limitation may be sufficient cause within the meaning of this section.

For Disclaimer, see under Help.

[Search Text : Limitation Act, 1908]

G. VARANDANI v. KURUKSHETRA UNIVERSITY (*Rajendra Babu, J.*) 15

2. The above appeals have been filed by one or the other of the parties before the High Court against the decision rendered in this group of cases. So far as CA No. 8703 of 1997 is concerned, it is against the decision in CWP No. 15256 of 1996, which came to be disposed of on 5-8-1997 by an order, "For orders, see CWP No. 18312 of 1996." While dealing with the case in CWP No. 18312 of 1996, the Division Bench made the observation even at the threshold that the said judgment shall dispose of Civil Writ Petitions Nos. 14263, 16256, 16005 and 18312 of 1996 as the question of law canvassed is identical and the facts alone are taken from CWP No. 18312 of 1996 filed by one Sunil Deshta.

CA No. 8703 of 1997: this is against the order in CWP No. 15256 of 1996

3. As on 21-1-1994 the appellant in this appeal was serving as a confirmed Reader in the Faculty of Law of Kurukshetra University, when he applied for selection to the post of Professor at the Kurukshetra University Postgraduate Regional Centre, Sirsa, in terms of the advertisement issued inviting applications therefor on 27-7-1994. This appellant was said to have been selected as a Professor for the Law Faculty Centre at Sirsa and was placed in charge of the Centre, by their regular appointment letter dated 15-8-1994 placing him on probation for a period of one year with effect from the date of joining. The pay scale offered and the allowances admissible as per the University Rules for the Postgraduate Regional Centre, Sirsa/Hissar etc. were also indicated therein. While so, on 29-12-1995 the appellant came to be appointed as Dean, Faculty of Law, at the said Centre for a term of three years w.e.f. 1-1-1996 to 31-12-1998. On 2-7-1996, it appears that the appellant's confirmation as Professor-in-charge of Law at Sirsa was postponed and the appellant was allowed to keep his lien on the substantive post of Reader in the Faculty of Law at Kurukshetra. On 16-8-1996, the Government of Haryana, in exercise of powers under Section 4 of the Kurukshetra University Act, 1986, excluded the Sirsa Centre from its jurisdiction and on 19-8-1996, Kurukshetra University issued a notification that in terms of the Haryana Government notification, the Sirsa Centre stood transferred to Guru Jambheshwar University, Hissar, w.e.f. 26-7-1996. There is no dispute over the fact that the posts of the Sirsa Centre were also transferred to the jurisdiction of the new University at Hissar by the operation of Section 35 of the G.J. University Act, 1995. This appellant seems to have made representations on 17-8-1996 and again on 19-8-1996 to the authorities of Kurukshetra University about his status and claim that he continued to be an employee of Kurukshetra University and, therefore, ought to be taken back as Professor in the main Faculty of Law of which he claimed to be an integral part under the Kurukshetra University Act and statutes made therein. The appellant was informed that he should first get himself relieved of his charge at the Sirsa Centre from G.J. University to enable him to join as a Reader in the Faculty of Law, Kurukshetra University at Kurukshetra. It is at this stage Writ Petition No. 15256 of 1996 seems to have been filed not only to quash the relevant proceedings, but also for a direction to Kurukshetra University to take back the appellant as Professor, Department of Law, with continuity of service with all consequential benefits.

4. The first respondent Kurukshetra University contested the claim contending that the post advertised was specifically for the Postgraduate Regional Centre at Sirsa, to which the appellant was recruited and was not meant for the Department of Law at the University Campus, Kurukshetra; that the appellant was not confirmed in the said post and having regard to the sanctioned strength of Professors in the Department of Law at Kurukshetra, the appellant could not be taken back as Professor and as informed on 28-8-1996 he was at liberty to join his substantive post of Reader, which he held. It was also pointed out that when one of the posts of Professors fell vacant and the appellant applied for the same and interviews were held for the purpose, he was found not fit to be even included in the panel of four persons prepared then and one Dr V.K. Aggarwal, who was number one in the merit panel, was appointed on 12-8-1994. It was also contended that the Law classes held at Sirsa would not show that the said Centre was part of the Department of Law at Kurukshetra. In the light of the Guru Jambheshwar University Act, 1995 and transfer of the Postgraduate Regional Centre at Sirsa to the said University located at Hissar, the claim of the appellant was untenable, as noticed earlier. Applying the principles laid down in the other common judgment, this writ petition came to be dismissed. Hence, the said appeal.

CA No. 1272 of 1998: this appeal is filed by Kurukshetra University against the order passed in CWP No. 7457 of 1997 on 3-10-1997

5. The respondent was appointed by a letter dated 7-9-1994 as a Lecturer in Law for the K.U. Postgraduate Regional Centre at Sirsa/Hissar, subject to the terms and conditions specified therein. Applications also were invited separately for the posts at Kurukshetra and the PG Centres at Sirsa/Hissar. Though it appears that simultaneously selections were held for the post of Lecturer in the Department of Law at Kurukshetra as well as the Postgraduate Regional Centre at Sirsa/Hissar, this respondent applied only for the post at the PG Centre and not in the Department of Law in the Campus of Law in Kurukshetra University and his claims were considered and selected for the PG Centre only. On the passing of the Guru Jambheshwar University Act, 1995 and notified on 22-9-1995 the said University came into being and Section 35 of the said Act provided for the transfer of the Regional Centre at Hissar and Sirsa and the courses run thereunder and the posts created and filled therefor with the properties etc. relating thereto at the commencement of this Act to vest in the new University and thereby not only the Hissar Centre came within the scope and jurisdiction of the Guru Jambheshwar University Act, 1995, but he had also been paid salary only from Guru Jambheshwar University from November 1995 onwards. The respondent herein on 7-4-1997 submitted a representation to the appellant University that he be adjusted/absorbed in the Department of Law of Kurukshetra University, at Kurukshetra, and when it was rejected on 5-5-1997 he filed CWP No. 7457 of 1997 to quash the same and absorb him in the appellant University. The Division Bench (different from the one which rendered the earlier decision) which heard the writ petition separately on

G. VARANDANI v. KURUKSHETRA UNIVERSITY (*Rajendra Babu, J.*) 17

3-10-1997, while adverting to the decision dated 5-8-1997 of the earlier Division Bench in CWP No. 18312 of 1996, summarily seems to have

a allowed the writ petition in the same terms as in the aforesaid decision without even considering which portion of the said judgment applied to this case. Hence, the respondents before the High Court have come in appeal.

CA No. 6338 of 2003 [arising out of SLP (C) No. 21612 of 1997]: this appeal has been filed by the writ petitioner in CWP No. 14263 of 1996 before the High Court, which came to be decided against him by the order dated 5-8-1997

b 6. The appellant in this appeal has been working as a Lecturer in Law in Kurukshetra University at Kurukshetra. In 1993, the Postgraduate Regional Centres were created at Hissar and Sirsa and one post of Reader in Law and two posts of Lecturers in Law were created for the Postgraduate Regional Centres at Hissar and Sirsa on 21-1-1994 and pursuant to the advertisement c and application of this appellant for the post of Reader in the PG Centre, this appellant was appointed by a letter dated 31-12-1994 as the Reader in Law for K.U. Postgraduate Regional Centre, Sirsa/Hissar, subject to the terms and conditions specified therein and was placed on probation for a period of one year indicating therein that if the work is not found satisfactory, he will be reverted to the substantive post of Lecturer, Department of Law, and also d directing to give an undertaking in the form of an affidavit that he will serve at the PG Regional Centre, Sirsa/Hissar. As in the other cases, with the formation of the new Guru Jambheshwar University and the transfer of the PG Regional Centres to the new University by the operation of the statutory provisions contained in Section 35 of the Act and the exclusion of the Centre at Sirsa by Kurukshetra University from its territorial jurisdiction, this e appellant has prayed that he may be allowed to continue his services with Kurukshetra University. This appellant was informed that if he gets relieved from the new University, he might join as Lecturer in Law in the substantive post held by him prior to the selection as Reader in Law at the PG Centre. This resulted in the appellant filing the above-noticed writ petition and the same was contested by the University as in the other cases, raising identical f grounds. This writ petition came to be dismissed by the common order noticed above. Hence, this appeal.

CA No. 6339 of 2003 [arising out of SLP (C) No. 22833 of 1997]: this is against the order in CWP No. 16005 of 1996

g 7. This appeal has been filed against the common order made on 5-8-1997 dismissing the writ petition filed by the appellant claiming relief against Kurukshetra University, to quash the order allowing to join back in the University as Lecturer and for a direction to take him back as Reader in the Law Department of the University at Kurukshetra. This appellant joined Kurukshetra University on 2-1-1979 as Research Assistant in Law in the Law Department; that on 1-10-1984 he joined as a Lecturer in the Law Department, Kurukshetra University, Kurukshetra, and was working as such till 1994. When pursuant to the advertisement issued, as in the other cases, he h applied and was selected and appointed by a letter dated 12-8-1994 as Reader

at the PG Regional Centre, Sirsa/Hissar, subject to the terms and conditions specified therein. As in the other cases, with the constitution of the new Guru Jambheshwar University and by the operation of the statutory provisions, the PG Regional Centres with the respective posts and properties attached thereto, stood transferred to the new University and when the appellant wanted to join Kurukshetra University and continue therein, he was informed that if he gets relieved from the other University, he could join and that too only as a Lecturer which was the substantive post he held and not as a Reader. On this, the appellant filed a writ petition seeking similar relief as in the other cases, which was seriously contested on the same lines by the University and the writ petition filed by the appellant came to be ultimately dismissed. Hence, this appeal.

8. Heard the learned counsel appearing on either side. It is necessary to place on record that CA No. 8702 of 1997 filed in this Court by Kurukshetra University against the decision in CWP No. 18312 of 1996 — the decision in which the claims in all those CWP's dealt with by the Division Bench of the High Court came to be considered in the light of the fact situation in that case relating to one Sunil Deshta, came to be dismissed as having become infructuous on account of the writ petitioner respondent in this Court leaving the employment of the appellant and having joined Shimla University.

9. Whereas the learned counsel for Kurukshetra University challenged the judgments insofar as they went against it, the contesting private respondents, who were petitioners before the High Court, reiterated their stand before the High Court, by contending that inasmuch as they were selected and appointed at the PG Centres only by Kurukshetra University, their employer is only the said University and they cannot, therefore, against their will and without their consent, be transplanted into the new G.J. University, be it by the provisions contained in the enactment which constituted the said University and provided for the transfer of the PG Centres at Sirsa/Hissar with the employees for the time being, the properties etc. attached thereto. Strong reliance is placed upon the very decision in Jawaharlal Nehru University v. Dr K.S. Jawatkar¹ which was relied upon by the Division Bench of the High Court to grant relief in favour of the petitioners in CWP No. 18312 of 1996 and also deny relief for the others. Before us benefit of it was claimed on behalf of the appellant in CA No. 1272 of 1998 as well. The learned counsel for Kurukshetra University sought to distinguish the earlier decision of this Court in Jawaharlal Nehru University case¹ as not applicable to the cases on hand and also urged that in view of the very observations contained in para 8 of the said decision and the offer made by Kurukshetra University in these cases, no relief could have been accorded to the petitioners in CWP Nos. 18312 of 1996 and 7457 of 1997 as well and those writ petitions also ought to have been dismissed by the High Court.

10. We have carefully considered the submissions of the learned counsel on either side. On going through the decision in Jawaharlal Nehru University case¹ it could be seen that the case therein related to the claims of a person

¹ 1989 Supp (1) SCC 679 : 1989 SCC (L&S) 501 : (1989) 11 ATC 278

G. VARANDANI v. KURUKSHETRA UNIVERSITY (*Rajendra Babu, J.*) 19

and his service — on being appointed as Assistant Professor on regular basis and whose services were said to have been confirmed also, as such w.e.f. 29-8-1979 but the decision to transfer to another University in that case was taken on 31-3-1981. Even in such a case, it has been held as follows: (SCC p. 685, para 8)

"8. Inasmuch as the transfer of the Centre of Postgraduate Studies from the appellant University to Manipur University could not result in a transfer of the employment of the respondent from the one to the other, it must be concluded that the respondent continues in the employment of the appellant University. *The transfer of the Centre of Postgraduate Studies to Manipur University may be regarded as resulting in the abolition of the post held by the respondent in the appellant University.* *In that event, if the post held by the respondent is regarded as one of a number of posts in a group, the principle 'last-come, first-go' will apply, and someone junior to the respondent must go.* If the post held by him constitutes a class by itself, it is possible to say that he is surplus to the requirements of the appellant University and is liable to be retrenched. But it appears that the respondent has been adjusted against a suitable post in the appellant University and has been working there without break during the pendency of this litigation, and we cannot, therefore, permit the appellant University to retrench him." (emphasis supplied)

11. So far as the cases of the appellants in CA No. 8703 of 1997 and the other private appellants other than the University are concerned — the Division Bench itself chose to deny the relief that was granted to the writ petitioners in CWP No. 18312 of 1996 for the reason apparently that they applied and got appointments to the posts specially created for the PG Centres at Sirsa/Hissar, though for higher positions but those persons not only remained probationers in such posts but also retained their lien in and over the posts of which they were permanent incumbents in the Department of Law at the University Campus at Kurukshetra and could not be either regularized or made permanent in the posts held by them at the PG Centres by the time G.J. University came to be constituted and by operation of Section 35 of the said enactment relating to the said University, the PG Centres at Sirsa/Hissar stood transferred to the new University with all properties and personnel including those writ petitioners w.e.f. 26-7-1996. This change could not be said to have been brought about with any ulterior or sinister motive and the result and abolition of such posts so far as Kurukshetra University is concerned, was not bona (*sic mala*) fide or illegal.

g The appeal by the University in CA No. 8702 of 1997 in respect of one person, who was granted relief (petitioner in CWP No. 18312 of 1996), has been rendered infructuous and it became unnecessary to consider the correctness of the decision relating to the grant of relief therein. Yet another person, to whom relief was granted by another Division Bench merely following the decision in the other case without even any proper or objective consideration as to which class or category the claimant therein belonged, is

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the respondent in CA No. 1272 of 1998 and it becomes necessary to consider the correctness of the same.

12. There can be no controversy over the position that the posts, which were advertised, to which the applications were made and got appointed by all those who were before court, were for the PG Centres at Sirsa/Hissar only, though those Centres were under the control of Kurukshetra University at the relevant point of time. Indisputably, those Centres by the creation of a new University and by the operation of the statutory provisions stood transferred to the newly created University, in their entirety and they went even outside the territorial limits and jurisdiction of Kurukshetra University. The Division Bench judgment in CWP No. 18312 of 1996 itself noticed the distinguishing features between the case of Sunil Deshta on the one side and the rest of them on the other hand, while rejecting the claims of others by observing as follows:

“After examining the matter from all conceivable angles, we are of the view that the stand taken by Kurukshetra University is apt in the given circumstances. Each one of the aforesaid petitioners applied to the post/posts advertised for Postgraduate Regional Centres at Sirsa/Hissar. Even in their appointment letters, it was mentioned that each one of them will have to serve at these Centres. Since the Centres have now been transferred to Guru Jambheshwar University, even the purpose for which these Centres have been set up has ceased on account of the ambit of activities of Guru Jambheshwar University. In such a circumstance, the petitioner at best could lay a claim to the post which he was holding before he applied for any post at the Postgraduate Centre. Thus, we do not find any merit in any of these writ petitions.”

13. The said principle, which has our approval, squarely applies and governs the appeals in favour of Kurukshetra University and against the private-party appellants. Even the principles laid down in *Jawaharlal Nehru University case*¹ do not help the private-party appellants and the respondent in CA No. 1272 of 1998 to be granted any relief in their favour. It cannot be stated, nor is it the claim, in these appeals that any of the juniors of the appellants and of the respondent in CA No. 1272 of 1998 are retained in service in violation of the “last-come, first-go” principle, which has been held to apply to cases of the nature in these appeals, by this Court even in *Jawaharlal Nehru University case*¹. The High Court could not have granted any relief to any of these class of persons against Kurukshetra University and relief granted by a summary order without any application of mind to the respondent in CA No. 1272 of 1998 cannot be sustained at all.

14. For all the reasons stated above, CA No. 1272 of 1998 shall stand allowed and the remaining appeals shall stand dismissed. In cases where Kurukshetra University allowed those persons to join on the basis of their lien, the University may consider whether any pay protection or to what extent such protection may be extended, as per the rules in force. We say nothing on it but leave it to the university authorities. No costs.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 195 of 2009

Date of Decision: This, the 28th Day of April, 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Shyamal Das
Son of Late Gyantosh Chandra Das
Resident of Krishna Nagar
Ward No. 10, Hojai
P.O.- Hojai, Nagaon
Assam – 782435.

...Applicant

By Advocate: Mrs.U.Dutta

-Versus-

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
Department of Telecom
Sanchar Bhavan, 20 Ashoka Road
New Delhi – 110001.
2. Bharat Sanchar Nigam Ltd.
(A. Govt. of India Enterprise)
Represented by the Chairman and
Managing Director, BSNL
Registered office – Statesman House
Barkhamba Road, New Delhi – 110001.
3. The Chief General Manager
Assam Telecom Circle (BSNL)
Admn. Building, 4th Floor
Panbazar, Guwahati – 781001.
4. The General Manager
Nagaon Telecom District
P.O.- Nagaon, Assam. ...Respondents

By Advocate: Mrs.M.Das, Sr. C.G.S.C. for Respondent No.1 &
Mr.B.C.Pathak for Respondents 2-4

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER (J) :

Shri Shyamal Das in this O.A challenges communication dated 11.11.2008 endorsed to him vide letter dated 20.01.2009 (Annexure-XVII). He also seeks declaration that he is entitled to grant of temporary status under the provisions of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989 and further direction to the respondents to confer such status upon him.

2. It is contended that he had been working in the casual labour capacity since 1992 till 1998, and therefore, entitled to said status.

3. On the other hand by filing reply the respondents 2-4 have contested the matter and stated that as per the law laid down by Hon'ble Supreme Court in **Secretary, State of Karnataka and Others vs. Umadevi (3) and Others, (2006) 4 SCC 1** applicant is not entitled to any relief.

4. We have heard Mrs U.Dutta, learned counsel for the applicant, Mrs. M.Das, learned counsel for respondent No.1 and Mr.B.C.Pathak, learned counsel for respondents 2-4 and perused the ^{oA 4} _L other material placed on record.

5. Identical issue had been considered by this Bench in series of cases decided on 22.01.2010 in T.A.No.3/2009 and other connected matters. On scanning of aforesigned scheme and judgments rendered on the said subject since 1987 till 2009, vide para 36 thereof, this Bench concluded as follows :-

"Thus our inevitable conclusion is that none of the applicants had satisfy the requirement of the Scheme & they cannot seek enforcement of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989 by judicial process."

(emphasis supplied)

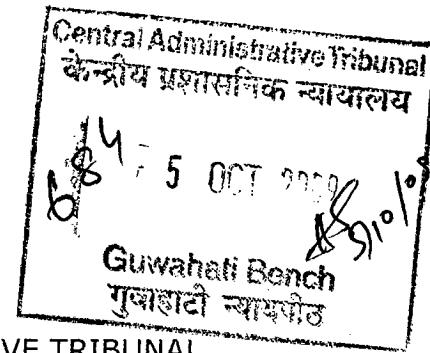
We may also note that applicant on earlier occasion had approached this Tribunal vide O.A. Nos.192/98 and 325/2000, pursuant to which, the respondents verified his records and vide communication dated 26.09.2002, conveyed him that the verification committee had found that he had rendered service during the year 1991 to 1998 for 30, 06, 151, 152, 30, NIL, 82 and 19 days respectively. Being aggrieved, he had filed O.A.147/2003 alleging that there were errors/anomalies in respect of number of working days. However, said O.A. was dismissed vide order dated 03.09.2004 against which, he had preferred Writ Petition before the Hon'ble Gauhati High Court as W.P.(C) No.991/2005. Said writ petition was disposed of vide order dated 30.10.2006 directing him to submit a representation to the concerned authority, which was to be considered by said authority as per rules/instruction. Thereafter, impugned letter dated 11.11.2008 was passed conveying him two aspects, (i) - that he did not complete 240 days in 12 preceding months during the course of his engagement and (ii) law laid down by the Hon'ble Supreme court in Uma Devi has to be enforced. Thus, ex-facie applicant has not worked 240 days in a year, which is a condition precedent under the scheme in force.

6. In view of the above position, we are of the opinion that said scheme of 1989 cannot be enforced by judicial process as the scheme itself has been rendered unworkable after the judgment of Hon'ble

Supreme Court in **Uma Devi** (supra) as well as **Pinaki Chatterjee and Ors. vs. Union of India & Ors. (2009) 5 SCC 193.**

In this view of the matter we do not find any merit in O.A.
Accordingly, O.A. fails and is dismissed. No costs.

Sd/- M.K.Gupta
Member (J)
Sd/-M.K.Chaturvedi
Member (A)



-21-

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. NO. 205 OF 2009

Sri Bidhyadhar Tanti & Ors.

.....Applicants

-Vs-

Union of India & Ors.

.....Respondents

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 Filed by
Dipankar Pd. Borah
 (Dipankar Pd. Borah)
 Advocate

5 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ**SYNOPSIS**

The humble Applicants from Serial Nos. 1 to 41 were engaged as Casual Labourers/ Mazdoors during the period of 1993 to 1998, from Serial Nos. 42 to 51 were engaged in the year 1999 and the Applicant 52 was engaged in the month of May, 2000 under the Respondent BSNL authorities in various places of Arunachal Pradesh. The Respondent authorities fixed the cut off date as on 1.8.1998 to regularize services of Casual Mazdoors which was subsequently extended upto 1.10.2000. As such, all the Applicants are eligible to be regularized as Casual Labourers/ Mazdoors. Accordingly, the concerned Respondents forwarded the names of your Applicants along with other similarly situated Labourers to the BSNL Headquarter in New Delhi on 7.6.2002 followed by forwarding letters dated 19.9.2002, 10.12.2002 and 30.3.2004. When the cases of your Applicants are pending for regularization and your Applicants are waiting anxiously for the same, the Respondent authorities placed the services of your Applicants under Contractors as Contractual Labourers on 20.7.2007. However, there are 24 similarly situated Casual Labourers serving at Arunachal Pradesh along with your Applicants and 150 Casual Labourers from Nagaland, some of whom are junior to them (Applicants) have been retained by the Respondent authorities to serve directly under the BSNL as Casual Labourers. Further, presently the Applicants are being paid daily wages of Rs. 180/- whereas those 24 persons along with 150 Casual Labourers from Nagaland are being paid daily wages of Rs. 234/- inspite of the fact that all the Casual Labourers including your Applicants are performing similar nature of works inasmuch as your Applicants have been deprived of their yearly Bonus of Rs. 3,000/- for the year 2005-2006, 2006-2007 and thereafter.

Further, the Respondent authorities have regularized many Casual Labourers who are much junior to your Applicants. By the aforesaid actions, the Respondent authorities have meted out hostile discrimination to your Applicants in every step. Your Applicants have submitted various Representations to the Respondent authorities for justice. However, no action was taken in that regard.

Hence, this Application is preferred before this Hon'ble Tribunal.

Filed by


 (Dipankar Pd. Borah)
 Advocate

5 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

LIST OF DATES

1993-2000 Applicants were engaged as Casual Labourers under BSNL.

20.7.2007 Services of the Applicants were placed under contractors on contractual basis.

1.9.1999 Letter was issued regarding regularization/ grant of temporary status to Casual Labourers who have been working in the BSNL inter alia stating that approval has been conveyed for grant of temporary status to the Casual Labourers eligible as on 1.8.1998 and on regularization of Casual Labourers with Temporary Status who were eligible as on 31.3.1997.

Annexure - 1, Page : 21

29.9.2000 It was decided to regularize the services of all the Casual Labourers working in the Department with effect from 1.10.2000.

Annexure - 2, Page : 22

2.1.2001 Order issued by Department of Telecom (DOT) for regularizing Ayahs and all Casual Labourers including Part Time Casual Labourers, left out cases, if any, will be settled by BSNL in accordance with the abovementioned order dated 29.9.2000.

Annexures - 3 & 3A, Page : 23-26

19.4.2001 Assistant Director General issued a letter directing all the Telecom authorities to send the names of left out Casual Labourers for regularization of their services.

Annexure - 4, Page : 27-28

7.6.2002 Office of the Respondent No. 6 furnished the names of your 10.12.2002 Applicants to the Respondent No. 5 numbering about 49 and 5 respectively for regularization of their services.

Annexures - 5 & 5B, Page : 29, 32

19.9.2002 Subsequently, the cases of the aforesaid 54 left out cases (Applicants) have been forwarded to the BSNL Headquarter.

Annexure - 5A, Page : 31

30.3.2004 Respondent No. 4 wrote to the Respondent No. 3 stating the facts regarding left out cases of your Applicants along with other cases from Nagaland, Manipur including 24 cases from Arunachal Pradesh whose names were furnished earlier but left out for regularization and requesting for necessary approval for regularization of the aforesaid Casual Labourers as the case was pending for three years. Along with the said letter, a Chart showing the status of the pending cases of Casual Labourers for regularization as on 30.3.2004 as well as a list of names of all the employees including your Applicants have been furnished to the Respondent No. 3.

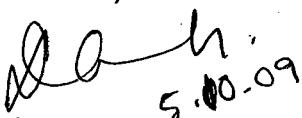
Annexures - 6, 6A & 6B, Page : 33-43

10.11.2004 Request was made to grant necessary approval for regularization of the casual labours by the Deputy General Manager (A & P), NE- II, Circle, Dimapur inasmuch as maintenance and development works in these regions are extremely difficult due to difficult terrain, lack of public transport, adverse climate condition which requires more men power further stating that this was also a reason for engaging the labours during 1999-2000 and these labours are still very much essential for the maintenance and developmental works.

Annexure - 7, Page : 44

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
5 OCT 2009
Guwahati Bench गुवाहाटी न्यायपीठ

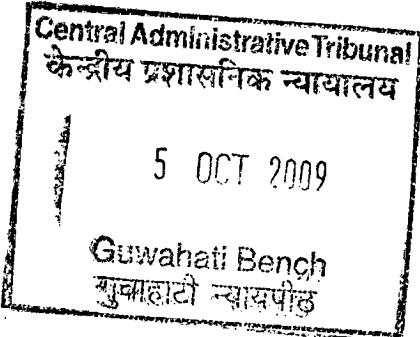
Filed by


5.10.09
(Dipankar Pd. Borah)
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application Under Section 19 of the Central Administrative Tribunal Act,
1985)

O.A. NO. 205 OF 2009



BETWEEN

- 1 Sri Bidhyadhar Tanti
Son of Late Bharat Tanti
P.O/P.S-Mahadeve Pur, Dist - Lohit, Arunachal Pradesh
- 2 Smt. Rup Mala
Son of Shri Ganesh Basfor
P.O.- Lar Bazaar P.S-Maharana Ghat
Dist - Deboria, Uttar Pradesh
- 3 Sri Purandar Sonowal
Son of Shri Nomal Sonwal
P.O & P.S-Bihpuria, Dist - N.Lakhimpur, Assam
- 4 Sri Niya Yangfo
Son of Shri kamku Yangfo
P.O- Sewa, Dist- East Kamang, Arunachal Pradesh
- 5 Sri Nagendra Barman
Son of Late Jayram Barman
P.O-Chamata, Dist- Nalbari, Assam
- 6 Sri Ram Chandra Ray
Son of Late Yogi Ray
P.O- Bidupur P.S- Rajapakar, Dist-Vaishali, Bihar
- 7 Sri Jadav Saikia
Son of Shri T.Saikia
P.O-Deotola, Dist – North Lakhimpur, Assam
- 8 Sri Promod Duwarah
Son of Shri Budhaswar Dowara
P.O-Napam Bokajan, P.S- Gorisagar, Assam
- 9 Sri Sanjoy Kumar Ray
Son of Lt. M.Ray
P.O-Bidupur, Dist – Vaishali, Bihar

Shri Siba Prasad Mahanta.

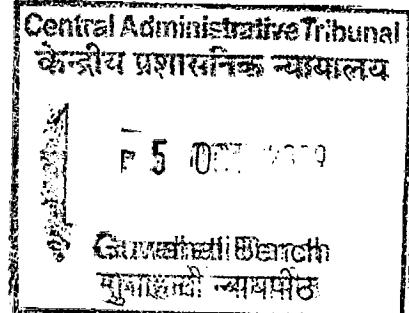
filed by
The Applicants Through
Dipankar P. Barak
Advocate
182
5.10.09

- 10 Sri Sunil Kumar
Son of Shri D.Ray
P.O-Lakhani P.S-Bidupun Bazar, Dist-Vaishali, Bihar
- 11 Sri Arabind Prasad
Son of B.P.Singh
P.O-Bidupur Dist-Vaishali, Bihar
- 12 Sri Siba Prasad Mahanta
Son of Shri P.D.Mahanta
P.O- Gonakpukhuri, Dist- Golaghat, Assam
- 13 Sri Mathur Mahajan
Son of Lt.Gouranga Mahajan
P.O - Hanglar Bazar, Dist - Karimganj, Assam
- 14 Sri Ratan Rabha
Son of Shri Sukar Rabha
P.O-Mazbat, Dist- Darrang, Assam
- 15 Sri Dandi Ram Nath
Son of Late H. Nath
P.O-Chanjani, Dist- Nalbari, Assam
- 16 Sri Jogen Borah
Son of Lt. Dulal Borah
P.O – Chamarajan, Dist- Dhemaji, Assam
- 17 Sri Nibu Tungi
Son of Shri Caiya Tungi
P.O – Sewa, Dist – East Kamang, Arunachal Pradesh
- 18 Sri Imdad Ali
Son of Md. Nizamuddin Ali
P.O – Silghat, Dist - Nagaon Assam
- 19 Sri Dhan Bahadur Tamang
Son of Shri Prem Raj Tamang
P.O- Seepakhua, Dist – Tinsukia, Assam
- 20 Sri Mohan Chandra Das
Son of Shri J.R.Das
P.O.- Balipara, Dist-Sonitpur, State-Assam
- 21 Sri Gopi Chand
Son of Shri G.Rajput
P.O- Khanpur, Dist-Kanpur, Uttar Pradesh
- 22 Sri Pranabjit Deka
Son of Lt.B.Deka

Sri Siba prasad Mahanta

P.O-Dhemaji, Dist-Dhemaji Assam
23 Sri Kamal Das
Son of Shri Dadhi Ram Das
P.O-Barbari Dist-Nalbari, State-Assam
24 Sri Anil Kumar Ray
Son of Lt. B.N.Rai
P.O-Chandoli, Dist- Shamistipur, Bihar
25 Sri Biren Boro
Son of Lt. Mohan Boro
P.O-Danubhanga, Dist-Goalpara, Assam
26 Sri Lal Babu Sah
Son of L. Sah
P.O- Duhbi, Dist- Madubani, Bihar
27 Sri Tarun Sharma
Son of Lt. Tulsi Sharma
P.O- Jamuguri Pasali, Dist- Dhemaji, Assam
28 Sri Pabitra Borah
Son of Lt. S.Bora
P.O-Deotola Dist-N.Lakhimpur, Assam
29 Sri Madan Sharma
Son of Shri Rudra Sharma
P.O-Balijuri Dist- Sonitpur, Assam

30 Sri Roma Gogoi
Son of Shri Jagot Gogoi
P.O-Mahadeve Pur, Dist- Lohit, Arunachal Pradesh
31 Sri Gangpha Wangsa
Son of Shri Wangey Wangsa
P.O-Pongehau Dist-Tirap, Arunachal Pradesh
32 Sri Ananta Deka
Son of Lt. H.Deka
P.O- Teoghat, Dist-Sivsagar, Assam
33 Sri Sanjoy Ray
Son of Lt. Narsingh Ray
P.O-Panapur Langa, Dist-Vaishali, Bihar
34 Sri Kissan Pratap Singh
Son of Lt. B.Singh
P.O-Lanka, Dist-Nagaon, Assam



Shri Siba Prasad Mahanta.

35 Sri Bhoj Bir Sonar
Son of D.R.Sonar
P.O- Mokum, Dist-Tinsukia, Assam

36 Sri Biren Mech
Son of Shri Denesh Mech
P.O-Phialobari Dist-Tinsukia, Assam

37 Sri Parwati D. Arya
Son of Lt. M.R.Arya
P.O-Janti, Dist-Almora, Utrakhand

38 Sri Bidyut Hazarika
Son of Shri B.Hazarika
P.O-Bordoloni, Dist-Demaji, Assam

39 Sri Liteswar Saikia
Son of Shri Nilakanta Saikia
P.O-Kumuraguri, Dist-Morigoan, Assam

40 Sri SaileshKumar Singh
Son of Shri Ramdhain Singh
P.O-Boruah, Dist-Chapra, Bihar

41 Sri Promod Kumar
Son of Lt. Narsingh Rajpat
P.O-Mario, Dist-Bhagalpur, Bihar

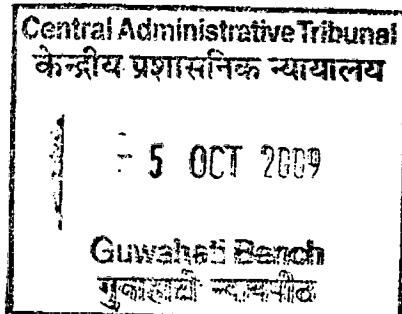
42 Sri Ram Babu Paswan
Son of Shri Bindeswar Paswan
P.O-Narar, Dist-Madhubani, Bihar

43 Sri Lakhi Prasad Sharma
Son of Shri H.P.Sharma
P.O - Pholbari Bukanodi,
Dist-N.Lakhimpur State-Assam

44 Sri Rabin Nath
Son of Lt. Golap Nath
P.O-Chakla Ghat Dist-Nagaon, Assam

45 Sri Taloko Darang
Son of Oyar Darang
P.O-Along Dist-West Siang, Arunachal Pradesh

46 Sri Dipak Dutta
Son of Tarun Dutta
P.O-Gobindapur, Dist- N.Lakhimpur, Assam



Shri Siba Prasad Mahanta.

47 Sri Man Balian Lal
Son of Shri Soikholian
P.O-Tairipok Dist- Imphal East, Manipur

48 Sri Babul Deori
Son of Lt S.R.Deori
P.O-Likhak Chapor Dist-N.Lakhimpur, Assam

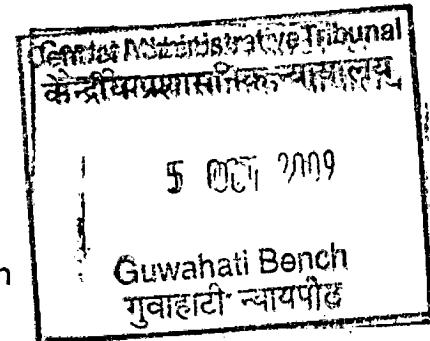
49 Smt Moyo Riba
Son of Shri Chino Riba
P.O-Basar Dist-West Siang, Arunachal Pradesh

50 Sri Dakto Riba
Son of Modak Riba
P.O-Daring, Dist-West Siang, Arunachal Pradesh

51 Sri Tek Bahadur Giri
Son of L.B.Giri
P.O-Lokhora Dist- Sonitpur, Assam

52 Shri Mikar Tada
Son of Shri Gomi Tada
P.O- Nari, Dist- East Siang, Arunachal Pradesh

(All the Applicants having common cause of action)



.....**APPLICANTS**

AND

1. Union of India,
Represented by the Secretary to the Government of India,
Ministry of Communication, Sanchar Bhawan, New Delhi - 1
2. Bharat Sanchar Nigam Limited (BSNL),
Represented by Chairman cum Managing Director,
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 1
3. Deputy Director General (Estt.),
Corporate Office, Bharat Sanchar Nigam Limited,
B-102 Statesman House, New Delhi - 1
4. Chief General Manager, Bharat Sanchar Nigam Limited,
North East Telecom Circle - II, Dimapur, Nagaland - 797112
5. Assistant General Manager, Bharat Sanchar Nigam Limited,
North East Telecom Circle - II, Dimapur, Nagaland - 797112
6. General Manager, Bharat Sanchar Nigam Limited
Arunachal Pradesh Secondary Switching Areas (SSA), Itanagar - 791111

.....**RESPONDENTS**

Shri Siba Prasad Mahanta,

5 OCT 2009

Guwahati Bench
গুৱাহাটী ন্যায়পৰিষত

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE :-

For non-regularization of the services of the Applicants who have been serving as Casual Labourers under the Respondent authorities inspite of their names having been forwarded for such regularization.

2. LIMITATION :-

The Applicants declare that the instant Application has filed within the limitation period prescribed under Section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION :-

The Applicants declare that the subject matter of the instant Application is within the jurisdiction of this Hon'ble Tribunal.

4. FACTS OF THE CASE :-

4.1 That all your humble Applicants are citizens of India and presently they are residing in the State of Arunachal Pradesh. As such, they are entitled to all the rights and privilages granted to the citizens of India and other laws of the land.

4.2 That the Applicants state that the Department of Telecom, Government of India has been renamed as Bharat Sanchar Nigam Limited, hereinafter referred to as 'BSNL'. For administrative convenience BSNL has set up Zone wise office and the Head Office of North Eastern - II zone which comprised of Nagaland, Arunachal Pradesh and Manipur is at Dimapur in the State of Nagaland headed by Chief General Manager, BSNL. For the State of Arunachal Pradesh the Head Office is situated at Itanagar, headed by its General Manager, Telecom Department (GM/BSNL).

4.3 That the common case of the Applicants inter alia is that they were engaged as full time Casual Labourers/ Mazdoors by the BSNL authority in the different districts of Arunachal Pradesh headed by the Sub Divisional Officer Telecom (hereinafter referred to as 'SDOT').

Shri Siba Prasad Mahanta.

The various dates of engagement of the Applicants are incorporated hereinbelow :-

Sl. No. of Applicants	Name of the applicants (seniority wise)	Date of Engagement	Place of Working	Central Govt. of Assam সরকারী প্রশাসনিক স্থান
1	Sri Bidhyadhar Tanti	01.11.93	Namsai	7.1.2009
2	Smt Rup Mala	01.08.95	Bomdila	Guwahati Bench গুৱাহাটী ন্যায়বোৰ্ড
3	Sri Purandar Sonwal	18.02.96	Bomdila	
4	Sri Niya Yangfo	19.02.96	Bomdila	
5	Sri Nagendra Barman	05.04.96	Bomdila	
6	Sri Ram Chandra Ray	01.06.96	Itanagar	
7	Sri Jadav Saikia	01.01.97	Itanagar	
8	Sri Promod Dowara	01.01.97	Itanagar	
9	Sri Sanjoy Kumar Ray	01.01.97	Itanagar	
10	Sri Sunil Kumar	01.01.97	Itanagar	
11	Sri Arabind Prasad	01.01.97	Itanagar	
12	Sri Siba Prasad Mahanta	01.01.97	Naharlagun	
13	Sri Mathur Mahajan	01.01.97	Naharlagun	
14	Sri Ratan Rabha	18.02.97	Bomdila	
15	Sri Dandi Ram Nath	02.03.97	Seppa	
16	Sri Jogen Borah	02.03.97	Bomdila	
17	Sri Nibu Tungi	02.03.97	Bomdila	
18	Sri Imdad Ali	02.03.97	Bomdila	
19	Sri Dhan Bhadur Tamang	01.04.97	Tezu	
20	Sri Mohan Chandra Das	02.04.97	Bomdila	
21	Sri Gopi Chand	01.05.97	Nirjuli	
22	Sri Pranabjit Deka	10.11.97	Seppa	
23	Sri Kamal Das	10.11.97	Naharlagun	
24	Sri Anil Kumar Ray	01.01.98	Naharlagun	
25	Sri Biren Bora	01.01.98	Roing	

Shri Siba Prasad Mahanta.

5 OCT 2009

Guwahati Bench
গুৱাহাটী ন্যায়পৌঠ

26	Sri Lal Babu Sah	01.02.98	Khonsa
27	Sri Tarun Sharma	01.02.98	Daporijo
28	Sri Pabitra Borah	01.02.98	Ziro
29	Sri Madan Sharma	01.02.98	Pasighat
30	Sri Roma Gogoi	01.03.98	Namsai
31	Sri Gangpha Wangsa	01.03.98	Khonsa
32	Sri Ananta Deka	01.03.98	Khonsa
33	Sri Sanjoy Ray	05.04.98	Bomdila
34	Sri K.P.Singh	01.06.98	Tawang
35	Sri B.B.Sonar	01.06.98	Tawang
36	Sri Biren Mech	01.08.98	Namsai
37	Sri Parwati.D.Arya	01.09.98	Tezu
38	Sri Bidyut Hazarika	01.09.98	Itanagar
39	Sri Liteswar Saikia	01.10.98	Roing
40	Sri S.K.Singh	02.11.98	Changlang
41	Sri Promod Kumar	01.01.99	Itanagar
42	Sri Ram Babu Paswan	11.01.99	Roing
43	Sri Lakhi.Prasad.Sharma	04.03.99	Changlang
44	Sri Rabin Nath	10.04.99	Changlang
45	Sri Taloko Darang	01.09.99	Along
46	Sri Dipak Dutta	01.09.99	Along
47	Sri Man Balian Lal	01.09.99	Along
48	Sri Babul Deori	01.09.99	Ziro
49	Smt M. Riba	01.10.99	Along
50	Sri Dakto Riba	01.10.99	Along
51	Sri Tek Bahadur Giri	01.12.99	Itanagar
52	Shri Mikar Tada	05.02.2000	Pasighat

Shri Siba Prasad Mahanta.

5 OCT 2009

Guwahati Bench
गुवाहाटी न्यायालय

- 9 -

It may be stated that all your humble Applicants have completed 240 days of work on Full Time Basis in a year till their services were placed under contractors on contractual basis with effect from 20.7.2007 where they have been still rendering their services and performing their duties in the BSNL.

4.4 That the Assistant Director General (STN), Department of Telecommunications, Sanchar Bhawan, STN-II Section, New Delhi, issued a letter dated 1.9.1999 contained under No. 269-13/99-STN-II to all the Chief General Managers, Telecom Circles as well as Telephone Districts and other concerned authorities regarding regularization/ grant of temporary status to Casual Labourers who have been working in the BSNL. It was inter alia stated that approval has been conveyed for grant of temporary status to the Casual Labourers eligible as on 1.8.1998 and for regularization of Casual Labourers with Temporary Status who were eligible as on 31.3.1997. It was further clarified that for granting of temporary status to the Casual Labourers the order dated 12.02.99 will be effected from the date of issue of this order and in case of regularization of the Temporary Status Mazdoor eligible as on 31.3.1997, this order will be effected w.e.f. 1.4.1997.

Subsequently, vide order dated 29.9.2000 contained under No. 989-94/98-STN-II, the Assistant Director General (STN) issued a direction to the abovementioned concerned authorities inter alia stating that for regularization of Casual Labourers it has been decided to regularize all the Casual Labourers working in the Department with effect from 1.10.2000 including those who have been granted Temporary Status. It has been further clarified in the said letter that the Casual Labourers including all full time Casual Labourers are to be adjusted against available vacancies of Regular Mazdoors. The Chief General Managers have been further authorized to create posts of Regular Mazdoors as per the prescribed norms and to that extent the prescribed ceiling for the Circle will stand enhanced.

It has been further clarified vide letter dated 2.1.2001 contained under No. BSNL/4/SR/2000 issued by the BSNL authorities to the effect that orders have been issued by Department of Telecom (DOT) for regularizing Ayahs and all Casual Labourers including Part

Shri Siba prasad Mahanta.

5 OCT 2009

Guwahati Bench
গুৱাহাটী বৰ্গসভা

Time Casual Labourers, left out cases, if any, will be settled by BSNL in accordance with the abovementioned order dated 29.9.2000.

Copies of the aforesaid letters dated 1.9.1999 and 29.9.2000 are annexed herewith and marked as **ANNEXURES – 1 & 2** respectively.

A typed copy of the relevant portion of the aforesaid letter dated 2.1.2001 along with its original photocopy are annexed herewith and marked as **ANNEXURES – 3 & 3A** respectively.

4.5 That the Applicants state that on 19.4.2001 the Assistant Director General issued a letter contained under No. 269-94/98-STN II Per IV directing all the Telecom authorities to send the names of left out Casual Labourers for regularization to be furnished by both the internal finance of Circle and the Chief General Manager. The relevant portion of the letter states that it has been noticed in the past that complete information has not been received from the Circles and information in piecemeal has been sent on one pretext or other. Hence, it may be noted that this is the final chance of the Circles to send the information and no request in this respect will be entertained in future. It has also been stated that there was a complete ban on engagement of Casual Labourers with effect from 22.6.1988. Action must be taken against officers responsible for engaging Casual Labourers in defiance of the Ban Orders. A statement indicating total numbers of Casual Labourers engaged during ban period, number of officers identified for the lapse and number of cases in which action has been taken should be furnished. The statement should include all cases of Casual Labourers engaged during Ban period irrespective of the fact whether they have been regularized or not. The Circles who have already sent left out cases should also send the information afresh in the prescribed Proforma.

A copy of the aforesaid letter dated 19.4.2001 is annexed herewith and marked as **ANNEXURE – 4**.

4.6 That pursuant to the abovementioned letter dated 19.4.2001 a list containing 382 cases of Casual Labourers signed by the concerned officers of the respective Circles was forwarded to the BSNL Headquarter for regularization of their services. Thereafter, necessary

Shri Siba Prasad Mahanta,

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approval has been granted by the BSNL Headquarter for regularization of 199 numbers of casual Labourers vide letter No. 269-94/98-STN II/Pers.IV dated 6.12.2001. However, cases of remaining 183 Casual Labourers have not been approved which includes 154 Casual employees from Nagaland, 5 from Manipur and 24 from Arunachal Pradesh. While forwarding the list of 382 Casual Labourers as mentioned above, the names of 54 Casual Labourers who have been serving in the BSNL in Arunachal Pradesh have been left out. Accordingly, vide letter dated 7.6.2002 contained under No. E-5/Part-II/Left out/CL/2002-03/11 and letter dated 10.12.2002 contained under No. E-5/Part-II/Left out/CL/2002-03/11 the Office of the Respondent No. 6 furnished the names of your Applicants to the Respondent No. 5 numbering about 49 and 5 respectively for regularization of their services. In the said letter dated 7.6.2002 it has been stated that the list has been prepared after scrutinizing all the previous list and even the BSNL Employees Union have been consulted while preparing the list. Subsequently, the cases of the said 54 left out cases have been forwarded to the BSNL Headquarter vide letter dated 19.9.2002 contained under No. CGMT/NE II/Admn/RM/50/93 and letter dated 7.1.2003 contained under No. CGM/NE II/Admn/RM/50/102 which pertains to Arunachal Pradesh, i.e. your Applicants.

The Chief General Manager, BSNL, Dimapur, Respondent No. 4 wrote to the Deputy Director General (Estt.), BSNL, New Delhi, Respondent No. 3 vide his letter dated 30.3.2004 contained under D.O. No. CGM/NE II/Admn/TSM/59(i)/22 inter alia stating the abovementioned facts regarding left out cases of your Applicants along with other cases from Nagaland, Manipur including 24 cases from Arunachal Pradesh whose names were furnished earlier but left out for regularization. It has been further mentioned therein that it is understood that the cases are kept pending for want of updation, consolidation and due clarification by the Circle IFA (Internal Financial Advisor) and Chief General Manager Telecom (CGMT). Hence, after updating and consolidating a fresh list containing 228 cases of Casual Labourers requiring regularization, as on that date has been forwarded with the said letter dated 30.3.2004. It has been further clarified that no fresh Casual Labour is engaged after forwarding of the said list by the Circle. A request has been made for necessary

Shri Siba prasad Mahanta.

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approval for regularization of the aforesaid Casual Labourers as the case was pending for three years. Along with the said letter, a Chart showing the status of the pending cases of Casual Labourers for regularization as on 30.3.2004 as well as a list of names of all the employees including your Applicants have been furnished to the Respondent No.3.

Copies of the aforesaid forwarding letters dated 7.6.2002, 19.09.02 & 10.12.2002 are annexed herewith and marked as **ANNEXURES – 5, 5A & 5B** respectively.

Copies of the aforesaid letter dated 30.3.2004 along with the Chart and the List of Casual Employees for regularization are annexed herewith and marked as **ANNEXURE – 6, 6A & 6B** respectively.

4.7 That while the cases of the applicants along with similarly situated persons have been pending for regularization of their services, the Deputy General Manager (A & P), NE- II, Circle. Dimapur wrote to the Additional Director General (Pers-IV), BSNL Corporate Office, 102 B Statesman House, New Delhi- 1 vide his letter dated 10.11.2004 contained under No. CGMT/NE-II/Admn/Casual Lab Corr/04-05/22 inter alia stating that maintenance and development works in these regions are extremely difficult due to difficult terrain, lack of public transport, adverse climate condition which require more men power. This was also a reason for engaging the labours during 1999-2000 and these labours are still very much essential for the maintenance and developmental works. Hence, a request was made to grant necessary approval for regularization of the casual labours furnished by this Office vide letter dated 30.03.2004 as a one time measure. In this regard, it may be stated that out of 52 Applicants, 41 applicants (Sl. Nos. 1 to 41) have been engaged as casual labour during the year 1993-1998 and 10 applicants (Sl Nos. 42 to 51) have been engaged in the year 1999 and one applicant (Sl No. 52) has been engaged in the year 2000 by their respective Line Inspectors and Sub-divisional Officers (Telecom).

A copy of the aforesaid letter dated 10.11.2004 is annexed herewith and marked as **ANNEXURE- 7.**

Shri Siba prasad Mahanta.

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4.8 That your humble applicants state that from the letter dated 30.03.04 (Annexure-6), including the chart enclosed therein (Annexure-6A) as well as the list containing the names of 228 casual employees (Annexure-6B) which have been sent to the higher authorities for regularization, it is apparent that there are 78 casual labourers from Arunachal Pradesh as mentioned therein, out of which 54 casual employees which includes your applicants and another 24 casual employees from Serial No. 151 to 174 of the above list whose cases were sent earlier for regularization but were not regularized have been sent to the higher authorities along with 150 numbers of casual employees from Nagaland totaling 228 numbers.

Surprisingly, while your applicants along with other casual employees as mentioned above have been anxiously waiting for regularization of their services, the respondent authorities have withdrawn the abovementioned 54 casual employees including your applicants from their work and placed them under contractors as Contractual Workers w.e.f. 20.07.07. However, the remaining 24 casual employees from Arunachal Pradesh, some of whom are much junior to your applicants have been retained by the Respondent authorities as casual employees directly under them without disturbing their position. Even none of the 150 casual employees whose names have been sent to the higher authorities for regularization have been treated as Contractual Workers. Although, the BSNL Employees Union (Registered) to which your Applicants are members have written to the respondent authorities on several occasions for withdrawal of 54 casual employees as contractual workers and to allow them to work under the respondent authorities as casual employees/ casual mazdoors for which their names have been forwarded for regularization to the higher authorities. However, no action has been taken in this regard by the authorities although the nature of work performed by your applicants w.e.f. 1993 to July, 2007 and after they have been treated as Contractual Workers w.e.f. 20.07.07 remained the same. It may be stated that right from the day of their initial engagement as casual labourers, your applicants have been working in various responsible fields like running single handed exchange maintenance, cash collection, planning section, computer works etc. and that too in a difficult terrain having lack of public transport, adverse climate condition etc.

Shri Siba Prasad Mahanta.

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A copy of the one of the representations dated 14.05.09 submitted to the Respondent No. 4 is annexed herewith and marked as **ANNEXURE- 8.**

4.9 That your applicants beg to state that having placed them under contractors, as mentioned above, they are being paid daily wages of Rs. 180/- whereas the remaining 174 casual employees including abovementioned 24 casual employees from Arunachal Pradesh are being paid Rs. 234/- as daily wages although they perform similar nature of works. Further, the said 174 employees are being paid yearly bonus of Rs. 3000/- regularly till date and your Applicants have been totally deprived of the said benefit for the year 2005-2006 and 2006-2007 and thereafter. Even the said 174 numbers of casual employees have been receiving the benefit of recommendation of 6th Central Pay Commission from the BSNL authorities for which your applicants have been totally deprived of. By the abovementioned action, the respondent authorities have meted out hostile discrimination to your applicants in every respect as mentioned above.

4.10 That your Applicants further state that they are eligible and entitled to receive Productivity Link Incentive (PLI) for the year 2005-2006 and 2006-2007, however the same have not been paid to them. It may be stated that in the records containing File No. A-642 N/S-1 maintained by the concerned authorities, various decisions have been taken by the BSNL authorities holding that 54 Casual Employees having completed 240 days of work for each year for three years as on 31.3.2004 are entitled to receive Productivity Link Incentive (PLI) and accordingly they have been paid the said incentive for the year 2003-2004 and 2004-2005.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION :-

5.1 For that although the cases of your Applicants along with similarly situated persons have been furnished to the higher BSNL authorities way back on 7.6.2002, 19.9.2002, 10.12.2002 and 30.3.2004 (Annexures - 5, 5A, 5B & 6) for regularization of their services, however till date no action has been taken in this regard inspite of the fact that the Deputy General Manager (A&P) NE Circle has specifically written to the Additional Director General (Pers. IV),

Shri Siba prasad Mahanta,

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BSNL, Corporate Office, New Delhi vide his letter dated 10.11.2004 (Annexure - 7) inter alia stating that maintenance and development works in these regions are extremely difficult due to difficult terrain, lack of public transport, adverse climate condition which require more manpower. This was also a reason for engaging the labours during 1999-2000 and these labours are still very much essential for the maintenance and developmental works. Hence, a request was made to grant necessary approval for regularization of the Casual labours furnished by his Office vide letter dated 30.03.2004 as a one time measure.

5.2 For that the cut off date as on 1.8.1998 as fixed by the Respondent authorities for regularization of Casual Labourers/ Mazdoors has been subsequently extended to the year 2000 w.e.f. 1.10.2000 vide order dated 29.9.2000 contained under No. 989-94/98-STN-II (Annexure-2). Hence, your Applicants who have been appointed prior to such cut off date, i.e. Applicant Nos. 1 to 41 were appointed within the period of 1993-1998, Applicant Nos. 42 to 51 were appointed in the year 1999 and the Applicant No. 52 was appointed on 2.5.2000 are very much eligible to be regularized as Casual Labourers under the Respondent BSNL authorities.

5.3 For that the Respondents have picked up and chosen Casual Employees who are much junior to many of your Applicants and have regularized their services. However, so far your Applicants are concerned they have been repeatedly discriminated and deprived by the Respondent authorities in the matter of regularization of their services, placing them under the Contractors as Contractual Labourers and further depriving them of lesser daily wages and other benefits. Hence, the action of the Respondents being illegal, arbitrary, discriminatory and unreasonable is liable to be interfered by this Hon'ble Tribunal.

5.4 For that the Respondent authorities have adopted pick and chose policy in view of the fact that out of 78 Casual Labourers from Arunachal Pradesh, the names of 24 Casual Employees were forwarded to the higher authorities on earlier occasion for regularization which was not considered by the authorities.

Shri Siba Prasad Mahanta

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Subsequently, the names of said 24 persons along with 54 casual Employees (including the 52 Applicants) have been forwarded to the authorities vide letters dated 7.6.2002, 19.9.2002, 10.12.2002 and 30.3.2004 (Annexures - 5, 5A, 5B & 6) for regularization. However when the matter is pending for regularization before the higher authorities, the local BSNL authorities placed the services of your Applicants under Contractors as Contractual Labourers to perform their similar duties in the BSNL w.e.f. 20.7.2007 and daily wages of Rs. 180/- are being paid to them through Contractors where till date they have been performing their duties without interruption. So far the abovementioned 24 Casual Employees are concerned, many of whom are juniors to your Applicants have not been placed under the Contractors and have been allowed to perform their duties directly under the BSNL authorities. Even out of 228 Casual Employees as mentioned in the Annexure - 6B, except your applicants all other casual employees have been allowed to perform under the BSNL authorities. Hence, by the aforesaid action the Respondent authorities have adopted discriminatory policies while engaging Casual Employees under them.

5.5 For that your Applicants having engaged on Contractual basis, as mentioned above are being paid Rs. 180/- as daily wages whereas the remaining 174 casual employees including abovementioned 24 casual employees from Arunachal Pradesh are being paid Rs. 234/- as daily wages although they perform similar nature of works. Further, the said 174 employees are being paid yearly bonus of Rs. 3000/- as Productivity Link Incentives regularly till date and your Applicants have been totally deprived of the said benefit for the year 2005-2006 and 2006-2007 and thereafter. Even the said 174 numbers of casual employees have been receiving the benefit of recommendation of 6th Central Pay Commission from the BSNL authorities for which your applicants have been totally deprived of. By the abovementioned action, the respondent authorities have meted out hostile discrimination to your applicants in every respect as mentioned above.

5.6 For that your Applicants being eligible and entitled to receive Productivity Link Incentive (PLI) for the year 2005-2006 and 2006-

Shri Siba prasad Mahanta.

2007 have not been paid the said incentives inspite of the fact that various decisions have been taken by the various BSNL authorities holding that 54 Casual Employees having completed 240 days of work for each year for three years as on 31.3.2004 are entitled to receive Productivity Link Incentive (PLI) for which they have been paid the PLI till the period 2004-2005.

5.7 For that on earlier occasions a group of Casual Employees approached the Itanagar Bench of the Hon'ble Gauhati High Court praying for a direction to the Respondent BSNL authorities to furnish their names to the BSNL Headquarters for regularization of their services vide W.P.(C) No. 625(AP)/2005. Immediately after filing of the said petition, the services of those Petitioners had been discontinued by the BSNL authorities. Your Applicants apprehend that since they are approaching this Hon'ble Tribunal, the Respondent authorities may take steps for discontinuance of their present services as has been done before in respect of the aforesaid Petitioners. Hence, considering the aforesaid facts this Hon'ble Tribunal may be pleased to direct the BSNL authorities not to discontinue the services of your Applicants in any manner.

It may be stated that the aforesaid W.P.(C) No. 625(AP)/2005 was disposed of directing the Respondents to forward the names of those Petitioners to the Corporate authorities at Delhi for consideration of their cases for regularization in terms of the existing policy/ guidelines/ circular to that effect issued by the authorities.

5.8 For that the action of the Respondent authorities in not regularizing the services of your Applicants as Casual Labourers being discriminatory, illegal and arbitrary and also violative of the principles of the Equity and Administrative Fair play is liable to be interfered by this Hon'ble Tribunal and the respondents may be directed to take urgent steps for regularization of the services of the Applicants forthwith.

6. DETAILS OF REMEDIES EXHAUSTED :-

That your Applicants declare that they have exhausted all the remedies available to them by filing various representations dated 9.1.2007, 24.8.2007, 27.3.2008, 10.7.2008, 11.8.2008, 2.2.2009,

Shri Siba prasad Mahanta.

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14.5.2009 etc. before the Respondent authorities and there is no alternative remedy available to them.

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

That your Applicants further declare state that they have not filed previously and Application, Writ Petition or Suit in respect of the aforesaid subject matter before any other Court or any other Bench of this Hon'ble Tribunal.

8. RELIEF SOUGHT FOR :-

Your Applicants pray that this Hon'ble Tribunal may be pleased to admit this Application, call for the records of the case and on perusal of the records and after hearing the parties, be pleased to grant the following relief(s) to the Applicants :-

- 8.1** Direct the Respondent authorities to regularize the services of your Applicants forthwith w.e.f. the date when similarly situated casual employees were regularized;
- 8.2** Direct the Respondent authorities to withdraw the Applicants as Contractual workers from the contractors and to place them directly under the BSNL authorities as Casual Labourers/ Mazdoors and to treat them at par with those 174 Casual Employees till their services are regularized;
- 8.3** Direct the Respondent authorities to pay the Productivity Link Incentives to the Applicants w.e.f the year 2005-2006 onwards amounting to Rs. 3000/- per annum;
- 8.4** Direct the Respondent authorities to grant the benefit of recommendation of 6th Central Pay Commission;
- 8.5** Cost of the Application;
- 8.6** Any other relief (s) that may be deemed fit and proper by this Hon'ble Tribunal;

9. INTERIM ORDER PRAYED FOR :-

Shri Siba Prasad Mahanta.

Considering the aforesaid facts and circumstances of the case this Hon'ble Tribunal may be pleased to:-

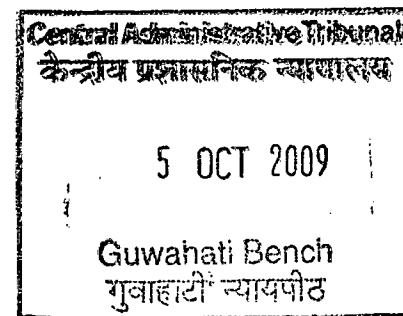
- 9.1** Direct the Respondent authorities to withdraw the Applicants as Contractual workers and to place them directly under the BSNL authorities as Casual Labourers/ Mazdoors and to treat them at par with those 174 Casual Employees;
- 9.2** Direct the BSNL authorities not to discontinue the services of your Applicants in any manner during the pendency of this instant Application;
- 9.3** Direct the Respondent authorities to pay the Productivity Link Incentives to the Applicants w.e.f the year 2005-2006 onwards amounting to Rs. 3000/- per annum;

10. PARTICULARS OF THE I.P.O. :-

- (i) I.P.O. No. - 3961425447 and 52C 248716
- (ii) Date - 1,10,2009
- (iii) Payable at - Guwahati

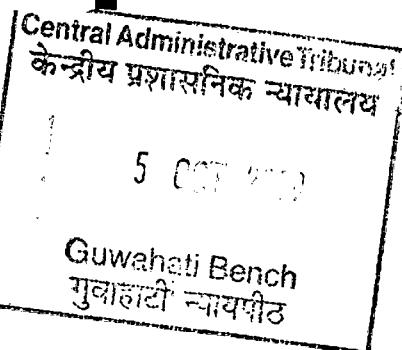
11. LIST OF ENCLOSURES :-

As stated in the Index.



Shri Siba prasad Mahanta.

VERIFICATION



I Sri Siba Prasad Mahanta, Son of Shri P. D. Mahanta, aged about 32 years, resident of P.O- Gonakpukhuri, District - Golaghat, Assam, the Applicant No. 12 of the accompanying Application being instructed and authorized by the other Applicants, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4.1, 4.2, 4.9, 4.10, 5, 6 & 7 are true to my knowledge which I believe to be true and those made in paragraphs 4.3, 4.4, 4.5, 4.6, 4.7 & 4.8 being matters of records of the case are true to my knowledge and information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And in proof I sign this verification on this the 2nd day of October, 2009 at Guwahati.

Shri Siba Prasad Mahanta.

S I G N A T U R E

5 CST 2009

Guwahati Bench
गुवाहाटी न्यायालय

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ANNEXURE-1

No.269-13/99-BTN-II
Government of India
Department of Telecommunications
Sanchar Bhawan
STN-II Section
New Delhi

To

Dated 1.9.99.

All Chief General Managers Telecom Circles,
All Chief General Managers Telephones District,
All Heads of other Administrative Offices
All the IFAs in Telecom. Circles/Districts and
other Administrative Units.

Sub: Regularisation/grant of temporary status to Casual
Labourers regarding.

Sir,

I am directed to refer to Letter No.269-4/93-BTN-II dated 12.2.99 circulated with letter No.269-13/99-BTN-II dated 12.2.99 on the subject mentioned above.

In the above referred letter this office has conveyed approval on the two items, one is grant of temporary status to the Casual Labourers eligible as on 1.3.98 and another on regularisation of Casual Labourers with temporary status who are eligible as on 31.3.97. Some doubts have been raised regarding date of effect of these decision. It is therefore clarified that in case of grant of temporary status to the Casual Labourers, the order dated 12.2.99 will be effected w.e.f. the date of issue of this order and in case of regularisation to the temporary status Mazdoor eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (BTN)

All recognised Unions/Federations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (BTN)

*Certified to be true copy
De
Advocate*

Dated : 29.09.2000

ANNEXURE-2

All CGMs, Telecom. Circles,
All CGMs, Telephonic Districts,
All Heads of Other Administrative Offices,
All the IPA's in Telecom, Circles/Districts and other Administrative Units

Sub: Regularisation of Casual Labourers

Sir,

The employees unions are demanding regularisation of all the casual labourers. This issue was under consideration for quite some time. It has been decided to regularise all the casual labourers working in the Department, including those who have been granted temporary status, with effect from 01.10.2000) in the following order -

- (1) All casual labourers who have been granted temporary status upto the issuance of Orders No. 269-4/99-STN-II dated 12.2.99, circulated vide letter No. 269-13/99-STN-II dated 12.2.99 and further vide letter No. 269-13/99-STN-II dated 9.6.2000.
- (2) All full time casual labourers as indicated in the Annexure.
- (3) All part time casual labourers who were working for four or more hours per day and converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 16.9.99.
- (4) All part time casual labourers who were working for less than four hours per day and were converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 25.8.2000.
- (5) All Ayas and Supervisors converted into full time casual labourers as per order No. 269-10/97-STN-II dated 29.9.2000.

The number of casual labourers to be regularised in categories (2) to (5) above is given in the Annexure enclosed. The figures given in the Annexure are based on information received from the Circles.

The casual labourers indicated from (1) to (5) above are to be adjusted against available vacancies of Regular Mazdoor. However, Chief Clerical Managers are also authorised to create posts of Regular Mazdoors as per the prescribed norms, and to that extent, the prescribed ceiling for the Circle will stand enhanced.

As per this office letter No. 269-4/99-STN-II dated 12.2.99, vide which temporary status was granted to casual labourers eligible on 1.8.98, no casual labourers were to be engaged after this date and all casual labourers not eligible for temporary status on 1.8.98 were to be disengaged forthwith. Therefore, there should be no casual labourers left without temporary status after 1.8.98 (Other than those indicated in serial nos. (2) to (5) above). However, if there is still any case of casual labourers left out due to any reasons, that may be referred to the Headquarters separately.

Xerox. Copy to A.G. (P. 4-6)
Sar. 111.2

- with effect from 1.10.2000
- Authorised to create post
- disengaged forthwith 1.8.98. However if left may referred to HQ.

Verified to be a
true copy

Asstt Registrar (JUD)
Gauhati High Court, Itanagar Bench
Naharlagun
Authorised 11/S 76 of Act I of 1872

Certified to be
true copy
Advocate

ANNEXURE – 3

Bharat Sanchar Nigam Limited
(A Government of India Enterprise)

No. BSNL/4/SR/2000

Dated the 2nd January, 2001

Sub : Record of discussions held on 2.1.2001 in the meeting with the three Federations presided by CMD, BSNL regarding terms and conditions for absorption of Group C & D staff in BSNL.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
5 OCT 2009
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3. ABSORPTION OF CASUAL LABOURS

Orders have been issued by DoT for regularizing Ayahs & all casual labourers including part time casual labourers. Left out cases, if any, will be settled by BSNL in accordance with order No. 269-94/98-STN-II dated 29.9.2000.

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No date

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5 OCT 2009

Bharat Sanchar Nigam Limited,
(A Government of India Enterprise)Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

No.BSNL/1/51/2000

Dated the 2nd January, 2001.

Sub:- As per record of discussions held on 21.1.2001 in the meeting with the three Federations presided by CMD, BSNL, regarding terms and conditions for absorption of Group C & D staff in BSNL.

In connection with the absorption of Group C & D staff working in BSNL, preliminary meetings were held with the three Federation(s). The decisions taken were discussed in the BSNL Board meeting held on 09.11.2000, which empowered the Management to negotiate with Unions. Accordingly, a meeting was held with the three Federations on 21.1.2001 and the following proposals were approved.

1. IMPLEMENTATION OF STANDING ORDERS OF THE INDUSTRIAL EMPLOYMENT ACT, 1946:

BSNL service rules are to be finalized after discussion with the recognized union formed by the optees of BSNL and the standing orders of Industrial Employment Act, 1946.

2. SERVICE RULES

In the meantime, it was agreed that Government will continue to apply existing rules/ regulations. This is in line as per the provision of Rule 10B of Standing Orders of Industrial Employment Act, 1946. However, certain provisional terms and conditions for absorption are enclosed at Annexure 1.

3. ABSORPTION OF CASUAL LABOURS

Orders have been issued by DoT for regularizing Ayulis & all casual labourers including part time casual labourers. Left out cases, if any, will be settled by BSNL in accordance with order No.269-94/28-31/14-11 dated 29.9.2000.

4. OPTION OF STAFF FOR ABSORPTION IN BSNL

The BSNL will absorb the optees on as is where is basis. A list of optees will be made available to the three federations/unions.

Certified to be true copy
A. Advocate

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VI. FORM OF STAFF FACED DISCIPLINARY CASES

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL, but their absorption will be subject to the outcome of the vigilante case. Their pending cases will be expedited on a fast track mode by DOT. The appeal / petition cases for these employees will also be decided by DOT authorities.

6. PROMOTIONAL AVENUES

After absorption there will be negotiations with the newly formed recognized union regarding promotional avenues. Pending adoption of Standing Orders on promotional policy, the present OTBP/BCR/ACP (whichever is applicable) etc. will continue to be followed by BSNL.

7. CHANGE OVER TO IDA PAY SCALES

The pay scales and fitment formula will also be adopted through Standing Orders after negotiations with the recognized union in respect of non-executives. After detailed discussions, it was mutually agreed that pending fitment in the IDA pay scales, the Group C & D optees will continue in the Central Government (CDA) pay scales. In addition to this, they will also be paid an adhoc amount of Rs.1000/- per month i.e.f. 1.10.2000 which will be adjusted from their IDA emoluments, perks and benefits on fixation of the same in revised IDA scales. The revised negotiated IDA pay scale will be applicable from the date of absorption i.e. 1.10.2000.

8. TIME FRAME FOR VARIOUS POST ABSORPTION ACTIVITIES

It was agreed that the optees will be called in January, 2001 providing about one month time to the employees to give their options and the entire activity is expected to be completed by the end of 28th Feb. 2001. A list of optees of BSNL will be exhibited to rectify inaccuracies, if any.

The existing system of informal meetings with applicant Unions, as on 30.9.2000 and formal meetings with the three Federations shall continue.

9. The employees who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS Pension Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.9.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS(Pension)Rules, in PSU in the IDA pay scales shall be treated as emoluments.

Central Administrative Tribunal
केन्द्रीय व्रशासनिक न्यायालय

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Guwahati Bench
गुवाहाटी न्यायालय

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10. Do has already clarified that the word "formula" mentioned in clause 8 of Rule 37-A is sans payment of pension as per Government Rules in force at that time. It has also been clarified by the DoT that BSNL will not dismiss / remove an absorbed employee without prior review by the Administrative Ministry / Department.

11. The Group C & D employees who appear for any promotional examination whether direct or departmental and qualify in such examinations / outsiders coming through direct recruitment process, would rank junior to all the other employees in the promotional cadre who had already been qualified in earlier examinations even though they got absorbed in BSNL subsequently.

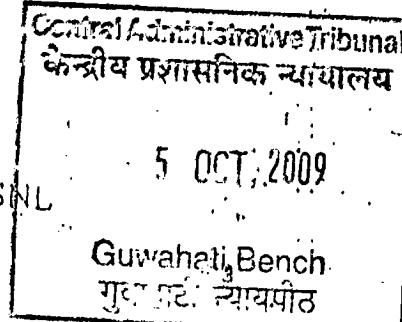
The above modalities have been worked out in consultation with the following three federations for termination of the deemed deputation status in BSNL and the parties have put their signatures in token of their consent and agreement on this date, 02.01.2001.

The Proforma for exercising the option is enclosed.

(DRD) (S. SEED)
CMD, BSNL

(KRANTI KUMAR)
DIRECTOR (HRD) BSNL

(S P PUDI WAR)
DIRECTOR (FIN) BSNL



(MALLIKARJUN)
SECRETARY GENERAL, BSNL

K. V. Dave
(K. V. VALLINAYAGAM)
SECRETARY GENERAL, FINO

(C P GUPTA)
SECRETARY GENERAL, HRD

BHARAT GANIMACH NIGAM LTD. [A Government of India Enterprise]
 CORPORATE OFFICE
 PERSONNEL - IV SECTION
 Sanchar Bhawan, New Delhi-110001

NO/2 II-4
 C.R.L.
 24/11/01

269-91/98-STN-II-Pt. IV

Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायालय

Dated: 19.01.2001

To,

All CGM, Telecom. Circles,
 All CGM, Telephone Districts
 All Heads of Other Administrative Offices
 All the IFA's In Telecom. Circles/Districts and other Administrative Units.

Sub: Regularisation of Casual labourers Left out cases.

Sir,

I am directed to refer to this office letter of even number dated 29.09.2000 on the above subject and to say that if there is still any casual labourers left out for regularisation due to any reasons, the same may please be referred to this office urgently (Proforma I) for necessary action along with reasons of delay. A certificate as to correctness and finality of the information ~~will also be furnished by Internal Finance of Circle and the Chief General Manager both.~~ The proposal furnished to this office without this certificate and without reasons for delay will not be considered.

2. It has been noticed in the past that complete Information is not received from the Circles and Information in piecemeal is sent on one pretext or other. It may, therefore, be noted that this is the final chance for the Circles to send the information. No request in this respect will be entertained in future.

3. As you must be aware, there is a complete ban on engagement of casual labourers w.e.f. 22.6.88. Action must be taken against officers responsible for engaging Casual Labourers in defiance of ban orders. Such directions have been issued earlier vide various letters from the Directorate. In particular letter no. 269-4/93-STN-II dt. 17.12.93 and 269-4/93-STN-II(Pt.) dt. 12.2.99 (Circulated vide letter no. 269-13/99-STN-II dt. 12.2.99) may please be referred in this regard. (A statement indicating total number of casual labourers engaged during the ban period, number of officers identified for the lapses and number of cases in which action has actually been taken should be furnished to this office in Proforma II.) This statement should include all cases of casual labourers engaged during ban period irrespective of the fact whether they have been regularised or not.)

(2)

Xerox copy to AGM(S)

AGM (R.G.) ✓

119

verified to be a
 true copy

Ass't Registrar/Judg
 Gauhati High Court, Itanagar Bench
 Naharlagun
 Authorised U/S 78 of Act I of 1872

By arrangement

2/10

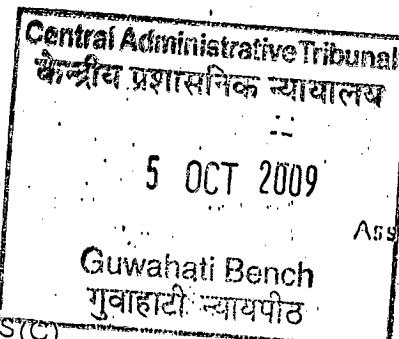
Certified to be true copy
 AGM
 AGM's seal

25-15-28-
269

2

The Circles who have already sent out cases should also send information afresh in the prescribed proforma.

The above information should reach this office by 15.5.2001



Yours Faithfully,

ৰঞ্জন মুখ্য

(O. P. MOGHA)
Assistant Director General (Pers.-IV)
Tel: 371 5375

Copy to :
1) PS to MCC/ MOS(C)
2) Advisor (I-IRD)
3) Dir (I-IRD)
4) DDG (Pers.)/ (SAC)/ (EF)/ (SR)
5) Dir. (Staff)/ (F.I); DOT
6) Jt. DDG (Pers.)
7) All recognised Associations/ Unions/ Federations
8) TE-III/ Pers. III/ SR/ SC/ Sections
9) Guard file.

14.25.4
(Vinod Kumar Sharma
Section Officer (Pers. I)

verified to be a
true copy

Asstt. Registrar (Jud.)
Guwahati High Court, Itanagar Bench
Naharlagun
Authorised U/S 76 of Act I of 1872

29/10

130602 DGM
AGM(A)

(G.R.) J.F.
D.C. V.
3/7

12.86

92

No. E-S/Part-II/Left out/CL/2002-03/11
To

The Assistant General Manager, North East Telecom Circle-II, Dibrugarh.

Sub:- List of left out cases of casual labour.

Kindly find enclosed herewith the list of left out cases of casual labour for your kind information and disposal
on your end.
This latest list is prepared after scrutinizing all the previous list and even the BSNL employees Union have
been consulted while preparing this list.

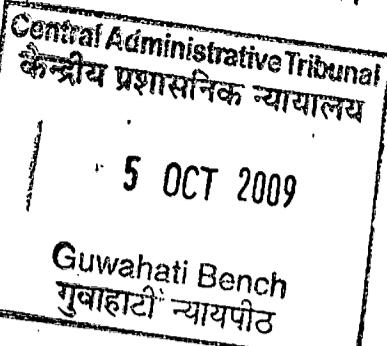
A.G.M. 02
A.O. The General Manager, APSSA
Dibrugarh

130602

12.86

Certified to be true
R.S.
Advocate

OR



Sl.No	Name of the casual labour	Date of engagement	Sub-Division
1	Shri Gengpha Wungsu	03/98	Khonsa
2	Shri Ananta Deku	03/98	Khonsa
3	Shri K.P. Singh	01/06/98	Tawang
4	Shri B.B. Sonar	01/06/98	Tawang
5	Shri Sanjoy Ray	05/04/96	Bomdilla
6	Md. Imdad Ali	02/03/97	Bomdilla
7	Shri Puradar Sonawal	18/02/96	Bomdilla
8	Smt. Rupenala	10/10/95	Bomdilla
9	Shri Ratan Rabha	18/02/97	Bomdilla
10	Shri Mohan Chandra Das	02/04/97	Bomdilla
11	Shri Nagendra Barman	05/04/96	Bomdilla
12	Shri Dandi Ram Nath	06/03/97	Seppa
13	Shri Jogen Bora	07/03/97	Seppa
14	Shri Tarun Sharma	01/02/98	Seppa
15	Shri Pabitra Borah	01/02/98	Daporijo
16	Shri Madan Sharma	01/09/98	Ziro
17	Shri Mikar Tada	05/02/00	Passighat
18	Shri Taloko Darrang	09/99	Passighat
19	Shri Dipak Datta	09/99	Along
20	Shri Manbaldan Lal	09/99	Along
21	Smt. M.R.Jba	09/99	Along
22	Shri Manoj Kumar Das	10/99	Along
23	Shri Dhan Bahadur Tamang	01/04/98	Tezu
24	Shri Bidhyadhar Tanti	01/04/97	Tezu
25	Shri Roma Gogoi	07/11/93	Tezu
26	Shri Biren Mech	01/03/98	Tezu
27	Shri Birsa Boro	01/08/98	Tezu
28	Shri Liteswar Suikia	01/01/98	Roing
29	Shri Ram Babu Paswan	01/10/98	Roing
30	Shri Mahabir Prasad Singh	11/01/99	Roing
31	Smt. P.D. Arya	1995	Roing
32	Shri Ram Chandra Ray	01/09/98	Tezu
33	Shri Sunil Kumar	01/04/96	Itanagar
34	Shri Jadav Suikia	01/01/97	Itanagar
35	Shri Promod Kumar	01/04/97	Itanagar
36	Shri Sanjay Kumar Ray	01/01/97	Itanagar
37	Shri Promod Duwarah	01/99	Itanagar
38	Shri Arbind Prasad	01/01/97	Itanagar
39	Shri L.P. Sharma	04/03/99	Itanagar
40	Shri S.K. Singi	02/11/98	Chamling
41	Shri. Rabindra Nath	19/8/99	Chamling
42	Shri. Siba Prasad Melanta	01/01/97	Chamling
43	Shri. Mathur Mahajan	07/01/97	Chamling
44	Shri. Gopu Choudhury	9/05/97	Chamling
45	Shri. Pranabjit Deka	10/11/97	Chamling
46	Shri. Kamal Das	10/11/97	Chamling
47	Shri. Anil Kr. Ray	04/01/98	Chamling
48	Shri. Niya Yanglo	17/02/96	Chamling
49	Shri. Nibin Tungri	02/01/97	Chamling

	BHARAT SANCHAR NIGAM LIMITED भारत संचार निगम लिमिटेड मुख्य महाप्रबंधक कार्यालय O/o Chief General Manager उत्तर पूर्वी II दूरसंचार परिमंडल दिमापुर - 797112 N.E. II Telecom. Circle, Dimapur - 797112
CGMT/NE-II/Adm/RM/50/93	Dated at Dimapur the 19.09.02

To

The Asst. Director General (Pers.IV)
 BSNL Corporate Office,
 Personnel -IV section,
 B-102 Statesman House,
 New Delhi - 110 001.

Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायालय

5 OCT 2009

Guwahati Bench
 गुवाहाटी न्यायपोठ

Sub :- Left out cases of Casual Labourer case of Arunachal Pradesh SSA regarding

Ref: (i) Letter No. 269-30/2002-P.IV Dated 31.07.02
 (ii) Letter No.F.No.12559-CMD(BSNL)/2001 Dated 26.07.02.

Kindly find enclosed herewith the list received from O/o GM TD Arunachal Pradesh SSA, Itanagar - left out cases of 49 Nos., forwarded to you for your kind approval for regularization.

This is with the approval of competent authority.

(A.Dung Dung) 19-9-02
 Asst. General Manager (Admn)
 O/o Chief General Manager
 N.E-II Telecom Circle,
 Dimapur - 797 112, Nagaland
 Ph.No. 03862-34358, Fax No. 33200

Copy to : Sr. DDG (Pers), Corporate office, BSNL, Statesman House, New Delhi - 1.

*Certified to be true copy
 Adm. date*

BHARAT SANCHAR NIGAM LIMITED

(A Govt. of India Enterprise)
OFFICE OF THE GENERAL MANAGER TELECOM
ITANAGAR, ARUNACHAL PRADESH - 791 111

No:E-S/Part-II/Leftout/CL/02-03/22

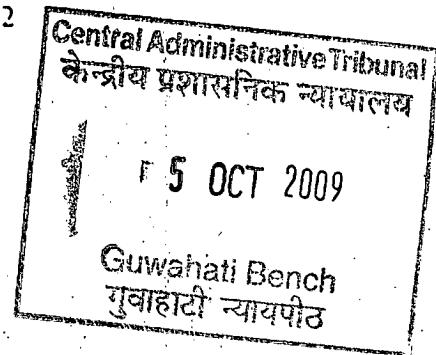
Dated at Itanagar the 10th Dec 02

To

Manaki Ramon,
Asst. Director(Admin),
NE-II Telecom Circle,
DibrupurSub: Regularisation of casual labours-Left out cases-reg

With reference to your letter no:CGMT/NE-II/Admin/ISM dated 12.11.2002 along with corporate office D.O. no:269-94/98-STN-II/Pers-IV dated 1.11.2002, the following leftout casual labours may kindly be included in the list of 49 casual labour which we have sent earlier vide letter no:E-S/Part-II/Leftout/CL/2002-03/11 dated 7/6/2002.

Sl No	Name	Date of engagement	Sub-Division	Remark
1	Sri Tek Bahadur Giri	Dec 99	SDE(TX)	
2	Sri Lal Babu Sab	Feb 98	SDOT/Khonsa	
3	Sri Dakto Riba	Oct 99	SDOT/Along	
4	Sri Bidyut Tuzarika	Aug 89	SDOT/Itanagar	
5	Sri Babul Dcori	Aug 99	SDOT/Ziro	



10/12/02
AGM
O/o the GMT, BSNL, AP SSA,
Itanagar, Arunachal Pradesh

Certified to be true copy
AS
Advocate

ए. सी. ईकनाय
गुण्डा गांडा प्रदन्धन

A. C. Debnath
Chief General Manager

**Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय**

15 OCT 2009

Dear Sir, गुवाहाटी न्यायपीठ

मार्क रांचार नियंत्रित लिमिटेड

(भारत सरकार का उद्यग)

एन. ई.-२ दूरसंचार परिवर्तन

BHARAT SANCHAR NIGAM LIMITED

(A GOVT. OF INDIA ENTERPRISE)

North East Telecom Circle - III

This is regarding regularization of pending casual labours in NE II Telecom Circle. In this connection you may kindly refer your office letter 269-94/98-STN II-Pers-IV/NE II dated 20.12.03 in response to our letter requesting for issue of early approval for the pending cases vide CGMT/NE II/Admn/TSM/59(i)/10 dated 24.11.2003, forwarded during 2001,2002 and 2003.

In pursuance of instructions contained in BSNL HQ letter 269-94/98-STN II-Pers IV dated 19.04.2001, a list containing 382 cases of casual labours to be regularized was forwarded duly signed by the Circle IFA and the then CGMT on 24.08.01 vide letter STB-60/Lab/TE/Corr/Loose dated 24.08.01. We have received approval for 199 cases from BSNL HQ vide letter No. 269-94/98-STN II/Pers.IV dated 06.12.2001 leaving a balance of 183 as pending cases(NLD -154, MNP-5 and ARP-24). Further it is also seen that two more lists were forwarded subsequently by the Circle Viz. (a) A list of 54 left out cases[CGMT/NE II/Admin/RM/50/93 dated 19.09.2002(49) and CGM/NE II/Admin/RM/50/102 dated 07.01.2003 (5)] pertaining to ARP SSA which were left out in the earlier forwarding letter.(b)A list of 150 pending cases of Nagaland SSA [CGM/NE II/Admin/RM/50/111 dated 07.02.2003], updating the pending list of 154 subsequent to the approval conveyed by BSNL HQ on 06.12.2001(Out of 154 pending cases, 4 have left the SSA).

It is understood that the cases are kept pending for want of updation, consolidation and due certification by the Circle IFA and CGMF. So, after updating and consolidating, a fresh list containing 228 cases of casual labours requiring regularization, as on date, is forwarded herewith. No fresh casual labour is engaged after forwarding of the said list by the circle and hence there are no fresh cases.

Circle Secrétaire
BSNLEU NE-II
Dinapour

Page No. 10

Page 1 of 2

2nd Floor, OCB Telephone Exchange Building Dimapur, 797112, Nagaland
Ph: 03862 - 233400, Fax : 03862 - 233400, E-mail: lebnath@bsnl.in

Certified to be true *copy*
NCS
Advocate

ए. सी. देबनाथ
मुख्य प्रबन्धक

A. C. Debnath
Chief General Manager

भारत संचार निगम लिमिटेड

(भारत सरकार का उद्यम)

एन. ई.-२ दूरसंचार परिसर्वल

BHARAT SANCHAR NIGAM LIMITED

(A GOVT. OF INDIA ENTERPRISE)

North East Telecom Circle - II

It is seen in the list that the last man was engaged in October 99, which is well before the initiation of regularization procedures on 19.04.2001. These casual labours might have been engaged at that point of time, due to acute shortage of working strength and pressure of development works in SSA's of NE II Circle. As of now in the year 2004 it is difficult to reason out engagements in 97, 98 and 99.

As the case is pending for about three years, it is requested that necessary approval for regularization may kindly be issued.

With regards,

Yours sincerely,

(A.C. Debnath) 27/10/2004

Encl: As above

Shri.S.C.Misra
DDG(Estt.),
Corporate Office,
BSNL, New Delhi

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

5 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

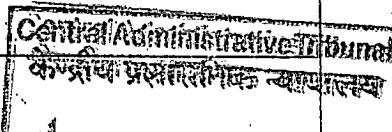
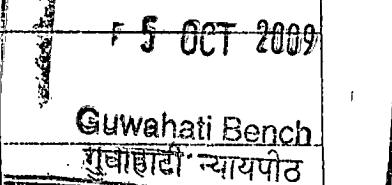
द्वितीय फ्लोर, आ०. सी. बी. दुर्माष केन्द्र भवन, डिमापुर - 797112, नागालैंड

फ़ोन: 03862-2336000, फॅक्स: 03862-233400, ई-मेल: debnath@bsnl.in

2nd Floor, OCB Telephone Exchange Building Dimapur- 797112, Nagaland
Phone 03862 - 233600, Fax : 03862 - 233400, E-mail:debnath@bsnl.in

Page 2 of 2

BHARAT SANCHAR NIGAM LIMITED
NE. II TELECOM CIRCLE
Status On Pending Cases of C/L Regularization
As on 30.03.2004.

Sl.No	Details	NLD	MNP	ARP	Total	Remarks
1	No.of cases of Casual labour Forwarded to HQ for regularization vide STB-60/Lab/TE/Corr/Loose dt 24.08.2001	227	28	127	382	 केन्द्रीय प्रशासनिक न्यायपालिका
2	Approved by BSNL HQ vide letter No.269-94/98-STN II//Pers.IV dt 06/12/2001	73	23	103	199	 F 5 OCT 2009 Guwahati Bench गुवाहाटी न्यायपोठ
3	Balance of Casual Labour cases left over as on 30.03.2004	154	5	24	183	
4	Left out cases forwarded to BSNL HQ vide CGMT/NE II/Admin/RM/50/93 dated 19.09.02 (49) and CGMT/NE II/Admin/RM/50/104 dt 07.01.03 (5)	Nil	Nil	54	54	
5	Additions/deletions in the updation	-4 *	-5 **	+54	+45	* 4 have left the SSA **3 cases under CGA already approved subsequently by the H.Qrs + 2 belonging to ETR
6	Net pending cases requiring approval	150	Nil	78	228	

Consolidated and updated list of Pending cases for regularization of Casual Labour

1.Nagaland SSA	150
2.Arunachal SSA	78
3.Manipur SSA	Nil
Total	228

Certified to be true COPY
Advocate

Proforma I

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

5 OCT 2009

Guwahati Bench

गुवाहाटी न्यायालय

1. No of Casual Labours not regularised as on date

a. With Temporary status=Nil

b. Without Temporary status=228

2. Details of (b) given in the following form

S.No	Name of the Casual Labour	Date of Engagement	Whether actually engaged on and eligible for Temp. Status as on 1/3/08	Reasons for not sending the case earlier	Remarks/any other Information
1		3	4	6	6
1	Teyongsang	12-01-97	Eligible as on date	Referred to BSNL	Still working
2	Miss Imlisangla Walling	12-01-97	Eligible as on date	HQ vide this office	Still working
3	Moanungba Ao	12-06-97	Eligible as on date	Irr. Of even number	Still working
4	Basant Pradhan	12-10-97	Eligible as on date	dated 19.09.02	Still working
5	Chanda Bhowmick	12-12-97	Eligible as on date	7.01.03 & 07.02.03	Still working
6	Haran Paul	28/12/97	Eligible as on date		Still working
7	Honlvi Sema	01-01-98	Eligible as on date		Still working
8	Afikul Ali	01-01-98	Eligible as on date		Still working
9	Gulshan Ali	01-01-98	Eligible as on date		Still working
10	Shahdok Ali	01-01-98	Eligible as on date		Still working
11	Sanipa Venun	01-01-98	Eligible as on date		Still working
12	R.Limbu	01-01-98	Eligible as on date		Still working
13	Nukshiwabang	01-01-98	Eligible as on date		Still working
14	Thungiamo Lotha	01-01-98	Eligible as on date		Still working
15	Teyiekul Anqami	01-01-98	Eligible as on date		Still working
16	Sangoluo Ritsa	20/1/98	Eligible as on date		Still working
17	Apna Phesao	02-01-00	Eligible as on date		Still working
18	Miss Iholi Yephthomi	02-01-98	Eligible as on date		Still working
19	Waitoba	02-01-98	Eligible as on date		Still working
20	Tiachuba	02-01-98	Eligible as on date		Still working
21	Mrs.Dzuvichunou	02-03-98	Eligible as on date		Still working
22	Medolhu Nyekha	02-04-98	Eligible as on date		Still working
23	N.Avelso	02-04-98	Eligible as on date		Still working
24	Nchumbemo Lotha	03-01-98	Eligible as on date		Still working
25	Furusie	03-03-98	Eligible as on date		Still working

Done

General Manager (A)

B S N L

GM, B-II Circle

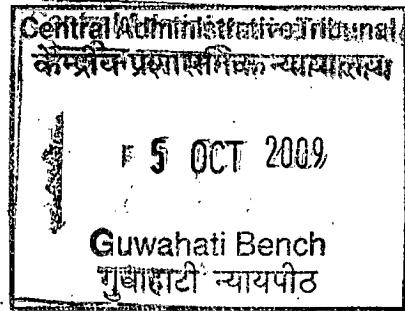
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Page 1 of 8

Certified to be true
Advocate

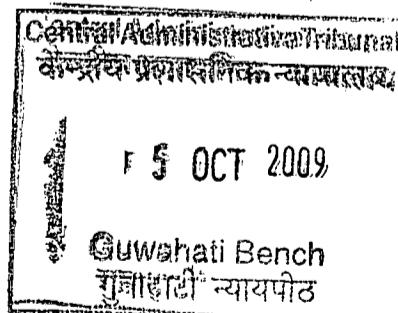
S.No	Name of the Casual Labour	Date of Engagement	Whether actually engaged on and eligible for Temp. Status as on 1/8/98	Reasons for not sending the case earlier	Remarks/any other information
26	Voprulu	04-01-98	Eligible as on date	as indicated in page 1	Still working
27	Kuzhochiyil	04-00-90	Eligible as on date		Still working
28	Wapangrenla	05-01-98	Eligible as on date		Still working
29	Imolemjien	05-01-98	Eligible as on date		Still working
30	Azicu Linyu	06-01-98	Eligible as on date		Still working
31	Kitovi Seima	06-01-98	Eligible as on date		Still working
32	Rosou Pouheno	06-01-98	Eligible as on date		Still working
33	Auhlio	06-01-98	Eligible as on date		Still working
34	Thepfulheriyil	06-01-98	Eligible as on date		Still working
35	Uttam Thapa	06-01-98	Eligible as on date		Still working
36	Moatoshi	06-01-98	Eligible as on date		Still working
37	Imtimungsang	06-01-98	Eligible as on date		Still working
38	Tamjidur Rahman	06-01-98	Eligible as on date		Still working
39	Moa Longkumar	06-01-98	Eligible as on date		Still working
40	S.Temjen Jamir	06-01-98	Eligible as on date		Still working
41	Jem Singh	06-01-98	Eligible as on date		Still working
42	Rup Kumar Borghain	06-10-98	Eligible as on date		Still working
43	Kolie Angami	07-01-98	Eligible as on date		Still working
44	Manu Das	07-01-98	Eligible as on date		Still working
45	Gautam Kalita	07-01-98	Eligible as on date		Still working
46	Udaishankar Thakur	07-01-98	Eligible as on date		Still working
47	Haidar Ali	07-01-98	Eligible as on date		Still working
48	Moanungha Ao	07-01-98	Eligible as on date		Still working
49	Sanjay Patra	08-01-98	Eligible as on date		Still working
50	Anil Kr.Roy	08-01-98	Eligible as on date		Still working
51	Surendra Roy	08-01-98	Eligible as on date		Still working
52	Ashok Kumar	08-01-98	Eligible as on date		Still working
53	S.Basumatury	08-01-98	Eligible as on date		Still working
54	Dasu Thapa	08-01-98	Eligible as on date		Still working
55	Jonglisangba	08-01-98	Eligible as on date		Still working

Dain
 A.C.S. B.B.C. Dibrugarh (P.O.)
 B S N L
 O/o. (GM, E-II Circle
 Dibrugarh - 787112



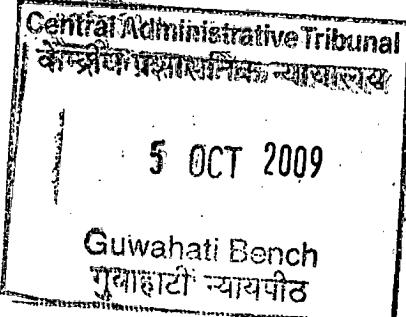
S.No	Name of the Casual Labour	Date of Engagement	Whether actually engaged on and eligible for Temp.Status as on 1/8/98	Reasons for not sending the case earlier	Remarks/any other information
56	Ralen Bahadur	08-01-98	Eligible as on date	as indicated in page 1	Still working
57	Raju	08-05-98	Eligible as on date		Still working
58	Longkok	24/8/98	Eligible as on date		Still working
59	Mrs.Kohlolobeni	09-01-98	Eligible as on date		Still working
60	Bikash	10-01-98	Eligible as on date		Still working
61	Bendang Meren	10-01-98	Eligible as on date		Still working
62	Dhira Baidya	15/10/98	Eligible as on date		Still working
63	Ketholeto Thome	31/10/98	Eligible as on date		Still working
64	Ralan Sonar	11-01-98	Eligible as on date		Still working
65	P.Basumaturity	11-01-98	Eligible as on date		Still working
66	Ashou	11-01-98	Eligible as on date		Still working
67	Vikelo Sumi	01-01-99	Eligible as on date		Still working
68	Mez Vizo	31/1/99	Eligible as on date		Still working
69	Nelphrelie	02-01-99	Eligible as on date		Still working
70	Kokhrichilo	02-01-99	Eligible as on date		Still working
71	Ajit Das	04-01-99	Eligible as on date		Still working
72	Muchule Kath	04-01-99	Eligible as on date		Still working
73	Dary	04-01-99	Eligible as on date		Still working
74	Rakhamo Lohra	04-01-99	Eligible as on date		Still working
75	Saton Toshi	05-01-99	Eligible as on date		Still working
76	R.Solo	05-01-99	Eligible as on date		Still working
77	Jakir Hussain	05-01-99	Eligible as on date		Still working
78	Anau	05-08-99	Eligible as on date		Still working
79	Khekilo	05-08-99	Eligible as on date		Still working
80	Toshi	05-08-99	Eligible as on date		Still working
81	Mrs.Abeni	05-08-99	Eligible as on date		Still working
82	Shantanu Das	05-08-99	Eligible as on date		Still working
83	Khizlhwgwello	05-08-99	Eligible as on date		Still working
84	Sunit Roy	05-08-99	Eligible as on date		Still working
85	Sibu Paul	05-08-99	Eligible as on date		Still working

Same
 1. G.M. General Manager (A)
 B.S.N.L.
 2. G.M. E-II Circle
 Dibrugarh - 787112



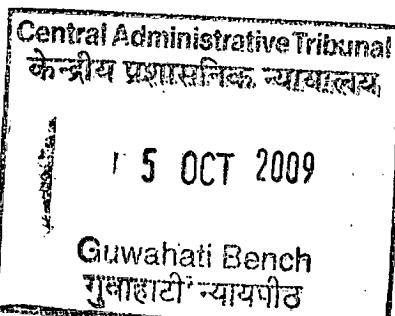
No	Name of the Central Labour	Date of Engagement	Whether actually engaged on and eligible for Temp.Status as on 1/8/88	Reasons for not sending the case earlier	Remarks/any other Information
86	Hutovl	05-10-99	Eligible as on date	as indicated in page 1	Still working
87	Nanilo	14/5/99	Eligible as on date	as indicated in page 1	Still working
88	Gwanilo Kent	06-01-99	Eligible as on date	as indicated in page 1	Still working
89	Hotoshe Sumi	07-01-99	Eligible as on date	as indicated in page 1	Still working
90	Ghokhala Sema	07-01-99	Eligible as on date	as indicated in page 1	Still working
91	Tsivilie Angami	07-01-99	Eligible as on date	as indicated in page 1	Still working
92	Shivasish Dasgupta	07-01-99	Eligible as on date	as indicated in page 1	Still working
93	Humit Mech	07-01-99	Eligible as on date	as indicated in page 1	Still working
94	Amrit Baruah	07-01-99	Eligible as on date	as indicated in page 1	Still working
95	Mrs. Anushila Deb	07-01-99	Eligible as on date	as indicated in page 1	Still working
96	Pouthullung Rongmei	07-01-99	Eligible as on date	as indicated in page 1	Still working
97	Shikavi Sema	07-01-99	Eligible as on date	as indicated in page 1	Still working
98	X. Hukato Chishi	07-01-99	Eligible as on date	as indicated in page 1	Still working
99	Biswanath Mech	07-01-99	Eligible as on date	as indicated in page 1	Still working
100	Sakuto Sumi	07-01-99	Eligible as on date	as indicated in page 1	Still working
101	M. Kadingam	07-01-99	Eligible as on date	as indicated in page 1	Still working
102	A. Temlenmengba	07-01-99	Eligible as on date	as indicated in page 1	Still working
103	Padmeswar Kachari	07-01-99	Eligible as on date	as indicated in page 1	Still working
104	Yanger Ao	07-01-99	Eligible as on date	as indicated in page 1	Still working
105	Rajesi Singh	07-01-99	Eligible as on date	as indicated in page 1	Still working
106	Kevingutuo Angami	07-01-99	Eligible as on date	as indicated in page 1	Still working
107	Birobal Singh	07-01-99	Eligible as on date	as indicated in page 1	Still working
108	S. Imsu Jamir	07-01-99	Eligible as on date	as indicated in page 1	Still working
109	Akhil Debnath	07-01-99	Eligible as on date	as indicated in page 1	Still working
110	Mhonlumi Tongoe	08-01-99	Eligible as on date	as indicated in page 1	Still working
111	Mrs. Surhovolu Avolo	08-01-99	Eligible as on date	as indicated in page 1	Still working
112	Phame	08-01-99	Eligible as on date	as indicated in page 1	Still working
113	Nzbemo Latha	08-01-99	Eligible as on date	as indicated in page 1	Still working
114	Abemo Latha	08-01-99	Eligible as on date	as indicated in page 1	Still working
115	Knosa	08-01-99	Eligible as on date	as indicated in page 1	Still working

Done
 Asstt. General Manager (A)
 B S M L
 O/o. (GM, E-II Circle
 Dimapur - 787112



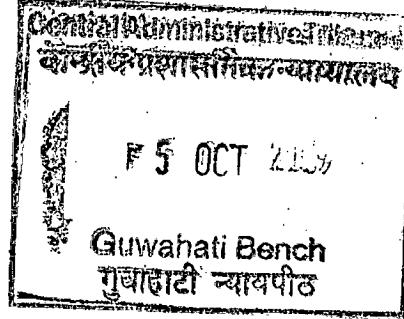
S.No	Name of the Casual Labour	Date of Engagement	Whether actually engaged on and eligible for Temp.Status as on 1/8/08	Reasons for not sending the case earlier	Remarks/any other Information
116	Repamongyng	08-01-99	Eligible as on date	as indicated in	Still working
117	Keneizetuo	08-01-99	Eligible as on date	in page 1	Still working
118	Mrs.K Helen Asumi	08-01-99	Eligible as on date		Still working
119	Phepong Konyak	09-01-99	Eligible as on date		Still working
120	Zhanyu	09-01-99	Eligible as on date		Still working
121	Ngouniba	09-01-99	Eligible as on date		Still working
122	L.Bahadur	10-01-99	Eligible as on date		Still working
123	Sarban	10-01-99	Eligible as on date		Still working
124	Vizothalie Pienru	10-01-99	Eligible as on date		Still working
125	Solomon	10-01-99	Eligible as on date		Still working
126	Sudhansu Kr.Sudhakar	10-01-99	Eligible as on date		Still working
127	Miss Imikong Senla	10-01-99	Eligible as on date		Still working
128	Lakshman Pandit	11-01-99	Eligible as on date		Still working
129	Longruseng Kent	11-01-99	Eligible as on date		Still working
130	Kovirumo Yhoma	11-01-99	Eligible as on date		Still working
131	Alkheto Sema	11-01-99	Eligible as on date		Still working
132	K.Tase	11-01-99	Eligible as on date		Still working
133	Hosuvi	11-01-99	Eligible as on date		Still working
134	Kelou Theenuo	11-01-99	Eligible as on date		Still working
135	N.Angaml	11-01-99	Eligible as on date		Still working
136	Revilekho	11-01-99	Eligible as on date		Still working
137	Melikho	11-01-99	Eligible as on date		Still working
138	I.Sukhal Sumi	11-03-99	Eligible as on date		Still working
139	Meren	12-01-99	Eligible as on date		Still working
140	Dzisa Kiro	12-01-99	Eligible as on date		Still working
141	Keisulheulio Pienyu	12-01-99	Eligible as on date		Still working
142	Aken	12-01-99	Eligible as on date		Still working
143	A.Lashu	12-01-99	Eligible as on date		Still working
144	Pulongton	12-01-99	Eligible as on date		Still working
145	Salath Curung	12-01-99	Eligible as on date		Still working

[Signature]
 General Manager (A)
 B S N D
 Ho. G.M., E-II Circle
 Dibrugarh - 785112



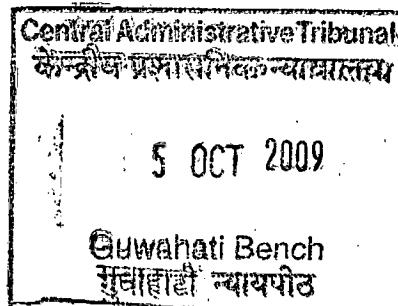
S.No	Name of the Casual Labour	Date of Engagement	Whether actually engaged on and eligible for Temp.Status as on 1/8/88	Reasons for not sending the case earlier	Remarks/any other Information
146	Shurhozoll	12-01-99	Eligible as on date	as indicated in	Still working
147	Sunil	12-01-99	Eligible as on date	In page 1	Still working
148	Sakal	12-01-99	Eligible as on date		Still working
149	Raju Rai	12-01-99	Eligible as on date		Still working
150	Raj Kumar	12-01-99	Eligible as on date		Still working
151	P.Narzari	25/12/97	Eligible as on date		Still working
152	Parme Basumatary	25/12/97	Eligible as on date		Still working
153	Ajit Deori	01-01-98	Eligible as on date		Still working
154	Rajesh Chetry	01-01-98	Eligible as on date		Still working
155	Kumar Tamang	01-01-98	Eligible as on date		Still working
156	Pradip Deori	01-01-98	Eligible as on date		Still working
157	Dwipon Jyoti Deori	01-01-98	Eligible as on date		Still working
160	Atul Dalkia	01-01-98	Eligible as on date		Still working
160	Deepak Kumar	02-01-98	Eligible as on date		Still working
160	Wanglang Wangpon	02-01-98	Eligible as on date		Still working
161	Tiksan Pansa	02-01-98	Eligible as on date		Still working
162	Chera Boro	15/2/98	Eligible as on date		Still working
163	Asam Wangsu	03-01-98	Eligible as on date		Still working
164	Buchiram Boro	03-01-98	Eligible as on date		Still working
165	Kamdev Sinha	03-01-98	Eligible as on date		Still working
166	Dilip Mochahari	03-01-98	Eligible as on date		Still working
167	Satyendaranay Sutradhar	03-01-98	Eligible as on date		Still working
168	Surja Kr.Bora	03-01-98	Eligible as on date		Still working
169	P.Baruah	30/3/98	Eligible as on date		Still working
170	Romen Brahma	04-01-98	Eligible as on date		Still working
171	Rohen Brahma	04-01-98	Eligible as on date		Still working
172	Anju Saikia	06-01-98	Eligible as on date		Still working
173	Blood Talukder	09-01-98	Eligible as on date		Still working
174	Parde Game	09-01-98	Eligible as on date		Still working
175	Gangphun Wangsa	Min 98	Eligible as on date		Still working

S. Deori
Asstt. General Manager (e)
B. S. N. L
O/o. GM, B. II Circle
Dibrugarh - 786012



S.No	Name of the Casual Labour	Date of Engagement	Whether actually engaged on and eligible for Temp. Status as on 1/8/08	Reasons for not bonding the case earlier	Remarks/any other information
176	Ananta Deka	Mar-98	Eligible as on date	as indicated in in page 1	Still working
177	K.P.Singh	06-01-98	Eligible as on date		Still working
178	B.B.Sonar	06-01-98	Eligible as on date		Still working
179	Sanjay Ray	04-05-96	Eligible as on date		Still working
180	Md.Imdad Ali	03-02-97	Eligible as on date		Still working
181	Puradar Sonawal	18/02/96	Eligible as on date		Still working
182	Rupinala	07-01-95	Eligible as on date		Still working
183	Ratan Rabha	18/02/97	Eligible as on date		Still working
184	Mohan Chandra Das	04-02-97	Eligible as on date		Still working
185	Nagendra Barman	04-05-96	Eligible as on date		Still working
186	Dandi Ram Nath	03-02-97	Eligible as on date		Still working
187	Jogen Bora	03-02-97	Eligible as on date		Still working
188	Tarun Sharma	02-01-98	Eligible as on date		Still working
189	Pabitra Borah	02-01-98	Eligible as on date		Still working
190	Mandan Sharma	09-01-98	Eligible as on date		Still working
191	Mikar Tada	02-05-00	Eligible as on date		Still working
192	Taloko Darrang	Sep-99	Eligible as on date		Still working
193	Dipak Datta	Sep-99	Eligible as on date		Still working
194	Manibalan Lal	Sep-99	Eligible as on date		Still working
195	M.Ribha	Oct-99	Eligible as on date		Still working
196	Manoj Kumar Das	04-01-98	Eligible as on date		Still working
197	Dhan Bahadur Tamang	04-01-97	Eligible as on date		Still working
198	Bidhyadhar Tanti	11-01-93	Eligible as on date		Still working
199	Roma Gogoi	03-01-98	Eligible as on date		Still working
200	Biren Mech	08-01-98	Eligible as on date		Still working
201	Biren Boro	10-01-98	Eligible as on date		Still working
202	Liteswar Saikia	10-01-98	Eligible as on date		Still working
203	Ram Hafbu Deywali	01-11-00	Eligible as on date		Still working
204	Mahabir Prasad Singh	95	Eligible as on date		Still working
205	P.D.Arya	09-01-98	Eligible as on date		Still working

Ans
A. S/o. General Manager (A)
B. S. N. L.
C/o. GM, E-II Circle
Dibrugarh - 787112



S.No	Name of the Casual Labour	Date of Engagement	Whether actually engaged on and eligible for Temp.Status as on 1/8/88	Reasons for not sending the case earlier	Remarks/any other Information
206	Ram Chandra Ray	01.06.96	Eligible as on date	as indicated in	Still working
207	Sunil Kumar	01-01-97	Eligible as on date	in page 1	Still working
208	Jadav Saikia	01-01-97	Eligible as on date		Still working
209	Prinod Kumar	01-01-97	Eligible as on date		Still working
210	Sanjay Kumar Ray	01-01-97	Eligible as on date		Still working
211	Promod Duwarah	Jan-99	Eligible as on date		Still working
212	Arbind Prasad	01-01-97	Eligible as on date		Still working
213	L.P.Sharma	03-04-99	Eligible as on date		Still working
214	S.K.Singh	11-02-98	Eligible as on date		Still working
215	Rabin Nath	04-10-99	Eligible as on date		Still working
216	Siba Prasad Mahonta	01-01-97	Eligible as on date		Still working
217	Mathur Mahajan	01-01-97	Eligible as on date		Still working
218	Gopi Chand	05-01-97	Eligible as on date		Still working
219	Pranabjit Deka	11-10-97	Eligible as on date		Still working
220	Kamal Das	11-10-97	Eligible as on date		Still working
221	Anil Kr.Roy	01-01-98	Eligible as on date		Still working
222	Niya Yangto	19/02/96	Eligible as on date		Still working
223	Nibu Tungi	Feb-97	Eligible as on date		Still working
224	Tek Bahadur Giri	Dec-99	Eligible as on date		Still working
225	Lal Babu Sah	Feb-98	Eligible as on date		Still working
226	Dakto Riba	Oct-99	Eligible as on date		Still working
227	Bidyut Hazarika	Aug-89	Eligible as on date		Still working
228	Babul Deori	Aug-99	Eligible as on date		Still working

Certificate of IFA and CGM

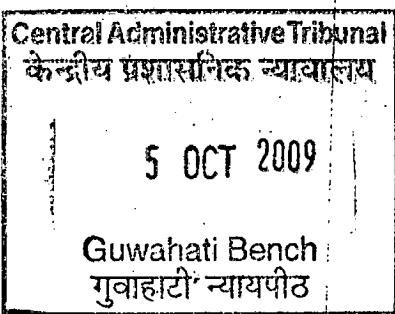
Certified that above information is correct and figures given therein are final and there are no casual labourers in the circle except those mentioned above.

A. Biswas
IFA

O/o CGM, NE-II, Dimapur.

(A. Biswas)
Dy. General Manager (F&A) IFA
NB - II Telecom Circle
Dimapur - 797112 : Nagaland.
Chief General Manager
N.E.II Circle, Dimapur.

मुख्य महाप्रबन्धक (बी.एस.एन.एल.)
Chief Manager (BSNL)
एस.ए.एन.एल. दिमापुर परिमण्डल
NE - II Circle
दीमापुर - 797112



NE-II Telecom Circle,
(Arunachal Pradesh, Manipur and Nagaland
states)
Telephone Exchange Building,
DIMAPUR-797 112, NAGALAND



भारत संचार निगम लिमिटेड
(भारत सरकार का उद्यम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

NO. CGMT/NE-II/Admn/Casual Lab Corr/04-05/22

Dated 10.11.2004.

To,

The ADG (Pers. IV)
BSNL, Corporate Office, 102 B.
Statesman House, New Delhi - 110001.

Sub: Regularisation of Casual Labour - Left out cases

Ref: Your letter No. 269-94/98-STN II/Pers/IV/NE II Dated 01.06.2004.

With reference to the above mentioned subject it is here by intimate that the concerned units where casual labours have been engaged after the cut off date, for finding out the officers in whose time the labours were initially employed. But from the reports of the units it is observed that the details of the officers during whose time the labours were engaged, are not available. The circle being a tenure circle with one year tenure in Nagaland & Manipur and two years tenure in Arunachal Pradesh the officers work for one/two years only and transferred to their parent circle on completion of tenure. The same is the practice even now. Still, efforts are being made to find out the officers during whose time the labours were engaged and it may take time to complete the exercise.

It is also to mention that the maintenance and developmental works in these regions are extremely difficult due to difficult terrain, lack of public transport, adverse climatic condition the like and require more man power. This also is a reason for engaging the labours during 99-00 and these labours are still very much essential for the maintenance and developmental works.

It is therefore requested that necessary approval may kindly be conveyed for regularization of the casual labours furnished by this office vide letter No. CGMT/ NE-II/ Admn/TSM/59(i)/ 22 Dated 30.03.2004. as a one time measure.

*M.v.
10/11/04*

Deputy General Manager (A&P)
NE-II Circle, Dimapur.
Ph. 03862- 233377 Fax - 233544.

*Copy to all District
Secy.*

Circle Secretary
BSNL NE-II
Dimapur

Regd. Office: Sanchar Bhavan, 20, Ashoka Road, New Delhi- 110 001.
Corporate Office: B- 148, Statesman House, Barakhamba Road, New Delhi- 110 001 Website: www.bsnl.co.in

*Certified to be true copy
No Advocate*



BSNL EMPLOYEES UNION

(REGD NO. - 4896)

Registered Under the Indian Trade Union Act. 1926

N. E. Circle - II

Dimapur.: 797112 - Nagaland

Ref. No. B.S.N.L.E.U./ORG/NE-II/Circle/15

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

Date. 14.10.2006

To,

The Chief General Manager
NE-II Telecom Circle
Dimapur.

5 OCT 2004

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

Sub : Cases of withdrawal of Contractualization of 54 nos. of listed left out Casual workers - reg.

Respected Sir,

The Circle Union has been received several intimation and reminders from the District and Casual & Contractual Mazdoor Union, Arunachal Pradesh regarding the withdrawal of 54 nos. of listed Casual workers from the original list of the 78 left out Casual Workers of the Arunachal Pradesh SSA. Out of 78 left out Casual workers 54 nos. has been withdrawn and continued their service as Contractual Workers and their wages are paying through contractors and rest 24 nos. of Casual workers are paying their wages through ACG-17 by O/o the GMTD.BSNL, Arunachal Pradesh.

This is a total anomaly and unjustified gesture and attitude from the part of BSNL management, Arunachal Pradesh SSA. Under any circumstances this will not be taken as justified step taken by the authority and management have no right to gamble with the future & life of all these poor 54 nos. of the Casual workers those are eagerly waiting for the regularization.

This Circle Union would like to request your good office to bestow your personal intervene to settle this vital issue and immediate withdrawal of all these 54 nos. of Casual workers from Contractor and arrangement to be done to make their payment of daily wages as the rest 24 nos. of Casual workers are paying at present.

Copy to,

The President, Casual & Contractual Mazdoor Union. APP.

Yours faithfully,

(M. B. SINGH)

Circle Secretary, BSNLEU.

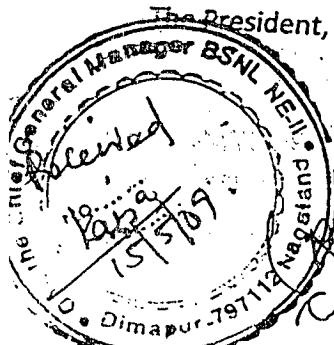
NE-II Telecom Circle.

Dimapur.

Circle Secretary
BSNLEU/NE-II
Dimapur.

M. B. Singh
K. Berghash
Circle Secy, (BSNL)
NE-II, Dimapur

Certified to be true
M. B. Singh
Advocate



केन्द्रीय प्रशासनिक न्यायालय
10 22 JAN 2010
Guwahati Bench
गुवाहाटी न्यायालय

Filed by
Hemant Kr. Gogoi
Advocate 229
22.1.10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI

O.A. No.205 / 2009

Sri Bidyadhar Tanti & 51 others

... Applicants

-vs-

Union of India & 5 others

... Respondents

[WRITTEN STATEMENTS FILED BY THE
RESPONDENT No. 2 to 6]

The written statements of the above-mentioned respondents are as follows:

1. That the copy of the above noted O.A. No. 205/2009 (hereinafter referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of the respondent Nos.2 to 6 being common and similar, the written statements as filed herewith may kindly be treated as common to all of the respondents.
2. That the statements made in the application, which are not specifically admitted by the respondents are hereby denied.
3. That before traversing the various paragraphs of the application, the respondents beg to give a brief resume of the facts and circumstances of the case as under:
 - (i) That the moot question raised in this application is whether the applicants are entitled to conferment of Temporary Status under the "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of the Department of Telecommunications, 1989" (referred to as the "Scheme of 1989") or not. The said Scheme, inter alia, provides that a casual labourer who has completed at least 240 days in engagement as casual labourer in the department in twelve calendar months preceding the date of his disengagement / retrenchment and has been in continuous engagement as on 1.10.1989 would be entitled to conferment of temporary status under the said Scheme. The said Scheme was circulated through the Govt. of India, Department of Telecom. Circular No.269-

22 JAN 2009

Guwahati Bench
গুৱাহাটী ন্যায়পৰিষত

10/89-STN dt. 7.11.1989. By the said circular, it was made clear about the applicability of the scheme to a particular class of casual labourer as a one-time scheme. The Govt. of India, Department of Telecommunications (DoT) issued another OM vide No. 269-4/93-STN-II (Pt) dated 12.2.1999. By the said OM, the Department of Telecom withdrew the power to engage casual labourer from the Officers of DoT putting emphasis on the issue that the Department has already imposed a ban on recruitment/ engagement of casual labourer vide letter dated 22.6.1988. The Scheme of 1989 was framed only to regulate the affairs of conferment of Temporary Status and the regularization of such casual labourers, who have been already in engagement and in continuous engagement. The Scheme has no provision for any fresh engagement of such casual labourer after 22.6.1988. In view of the above curtailment of power and the prohibition, any engagement of casual labourer and any certificate issued to that extent is null and void and the DoT is not bound by any such illegal action of their officers for engagement of any casual labourer after 22.6.1988.

Copies of the Scheme and the OM dated 12.2.99 are annexed as the ANNEXURE- R1 and R2 respectively.

(ii) That regarding the applicability of the scheme for which the Govt. of India, Department of Telecom. vide circular No.269-4/93-STN.II dt.12.2.99 as stated above it was clarified that, a casual labourer who has already been conferred with temporary status and completed 10 years of services were to be regularized as per vacancies as in the Annexure 'A' appended thereto. By the said circular, it was also clarified that those casual labourers who were engaged by the department in spite of the ban order were to be given temporary status strictly only against the places and vacancies as indicated in Annexure 'B' as appended thereto.

Copy of the OM dt. 12.2.99 is annexed as ANNEXURE R3

(iii) Thereafter, again some anomaly came up with regard to the dates from which the benefit should be effected to as indicated in the earlier circular dt. 12.2.99. The Govt. of India, Department of Telecom vide circular No. 269-13/99-STN.II dt. 1.9.99, issued further clarification and clarified that the date for conferment of such class of casual labourers would be effected from the date of issue of the said circular, i.e. 1.9.99 and in case of regularization to the temporary status casual mazdoor eligible as on 31.3.1997 would be from 1.4.97. By that circular, the date for consideration of casual labourer for conferment of temporary status

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for such eligible casual labourers was fixed up to 1.8.1998 subject to the provisions as in OM dated 12.2.1999.

A copy of the circular 1.9.99 is annexed as the ANNEXURE-R₄

(iv) That the respondents beg to state here that prior to the above mentioned instructions, the Govt. of India, Ministry of Finance, vide OM No. 49014/16/89-Estt(C) dated 26.2.1990 (which is applicable to the respondents also) issued the order thereby imposing ban on engaging causal worker for performing duties of Group C post and by the said circular the Govt. also issued strict guidelines to impose penalty in case any deviation is made to the said instruction. Similarly, the Govt. of India, Department of Posts also issued similar instruction vide letter No. 45-37/91-SPB.1 dated 5.6.1991.

The copies of the relevant portion of the said circular dated 26.2.1990 and letter-dated 5.6.1991 are annexed hereto as Annexure R₅ & R₆ respectively

(v) That after the framing of the Scheme, some clarification were sought by the department as to whether the benefit of the Scheme could be extended to the part-time casual labourer or not. The competent authority, in the clarification made it clear that the part-time casual labourers are not entitled to temporary status/ regularization under the scheme. This was decided by the Govt. of India, Department of Telecom letter No. 269-10/89-STN dated 17.10.1990. By the said clarification however it was stated that such part-time labourer may be brought on the strength of full-time causal labourer subject to availability of work and suitability.

The relevant portion of the clarification-dated 17.10.1990 is annexed hereto as ANNEXURE R₇

(vi) That just 2 days before the transfer of the assets and liabilities of Telecom Services and Telecom operations of the Department of Telecom (DOT) to the newly created company, Bharat Sanchar Nigam Limited (BSNL), the DOT issued another letter vide No.269-94/98-STN-II dated 29.9.2000 regarding the regularization of casual labourers. By that circular letter the said authority issued

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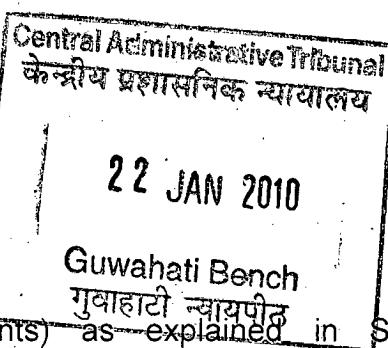
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direction to all the Chief General Managers to regularize eligible casual labourers up to 1.8.1998 as per provisions of letter No.269-4/93-STN-II dated 12.2.1999 and to disengage those ineligible forthwith.

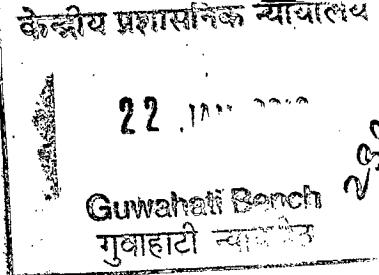
A copy of the said circular letter dated 29.9.2000 is annexed as ANNEXURE: R8.

(vii) That the applicants in this case were no longer in engagement. The law is well settled that casual labourer and part-time workers are not similar and they are not similarly situated and such part time workers cannot claim regularization under the Scheme framed by the Govt. for casual labourer. Law is settled in "**Vikram Singh & others –vs- Union of India & others reported in 1997(3) SLJ 86 (Allahabad)**" where it was clearly held that the part-time workers are not eligible for regularization under the Scheme. In another case the Division Bench of the Central Administrative Tribunal, Shimla Bench in "**Karam Singh & others –vs- State of Himachal Pradesh & others reported in 1992(3) SLJ 513**", by putting reliance upon the Hon'ble Supreme Court's decision in "**State of Punjab & others –vs- Surinder Kumar & others reported in, 1992(1) SCC 489**" held that part-time workers cannot claim to be regularized. Moreover, the Scheme is not an ongoing one but was introduced as a one-time measure as explicit from the Clause 5 of the said scheme. The Hon'ble Supreme Court in "**Union of India –vs- Mohan Paul as reported in (2002) 4 SCC 573**" and "**Union of India –vs- Gagan Kumar, as reported in (2006)1SLJ 64 (SC)**" has clearly held that the Scheme of 1993 is a one time scheme. In the said decision the Hon'ble Supreme Court made a reference to the Clause 4 of the said Scheme. The Clause 5 of the Scheme of the 1989 is exactly similar to that of Clause 4 of the Scheme of 1993.

(viii) That on the other hand the Hon'ble Supreme Court in a recent path finding decision as in "**Secretary, State of Karnataka & others –vs- Uma Devi (3) & others as reported in (2006) 4 SCC 1**" has held, absorption, regularization or permanent continuance of temporary, contractual, casual, daily wager or adhoc employees appointed / recruited and continue for long time in public employment dehors the Constitutional Scheme of the public employment and also issuance of direction for, and for stay of regular recruitment process for the posts concerned as impermissible on the face of provisions of Article 14 and 16 of the Constitution of India. By the said decision the Hon'ble Apex Court has further clarified in para 53 read with para 15 of the said judgment that, "there may be cases where



irregular appointments (not illegal appointments) as explained in S.V. Narayanappa, R.N. Nanjundappa and B.N Nagarajan and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employee have continued to work for more than 10 years or more but without the intervention of orders of the courts or Tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of principles settled by this court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed who have worked for 10 years or more in duly sanctioned post but not under cover of order of the Courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that are required to be filled up in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent those not duly appointed as per the constitutional scheme." By the said judgment, the Hon'ble Supreme Court also further clarified that those decisions which run counter to the principle settled in that decision, or in which decisions running counter to what the court has held therein, would stand denuded of their status as precedent. By the said decision, the Hon'ble Apex Court has overruled the earlier decision rendered in "Daily Rated Casual Labourer v. Union of India" reported in 1988(1) SCC 122 on the strength of which the Department of Posts and Telegraph prepared the Schemes as stated hereinabove. That being the legal status, the Scheme has lost its very foundation and cannot operate as the same has been declared as to be based on invalid law. The Hon'ble Supreme Court in Uma Devi (3) case in para 18 has clearly held that such provisions are impermissible in view of the decision taken in the said decision by a Bench constituting as many as 5 judges. In the said decision, it has also been held in **para 43 that if it is a contractual appointment, the appointment comes to an end at the end of the contract. If it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued.** Similarly, a temporary employee could not claim to be made permanent on the expiry on the term of his appointment. The Hon'ble Apex Court further clarified that merely because a temporary employee or a casual wage worker is



continuing for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules.

It is also pertinent to state here that by the aforesaid decision in Umadevi (3), the Hon'ble Supreme Court has declared the Scheme so made as unconstitutional. The law laid down by the judgment in Umadevi (3) has also been given retrospective effect / operation.

- (ix) That the requirements under the Scheme for entitlement of benefit is to show by the casual labourer that he has completed 240 days in preceding 12 calendar months from the date of retrenchment and he has been in engagement while the Scheme was introduced. The law is well settled that the burden of proof of completion of such 240 days lies on the casual labourer / workman as in "**Mohan Lal -vs- Management of Bharat Electronics Limited**" as reported in (1981) Lab. I.C. 806 (813) (SC) and as in "**Ranip Nagar Palika -vs- Babuji Gabhaji Thakore & others**" as reported in (2007) 13 SCC 343. But in the instant case, there is no such cogent and irrefutable proof to sustain such claim of the applicants and they have not proved the same as required by law.
- (x) That in view of the above settled provisions of law and under the facts and circumstances of the case, the case of the applicants cannot be considered for any such conferment of temporary status or for regularization under the provisions of the said Scheme. As indicative and clear from the para 18 read with para 43 and 53 of the said judgment of the Hon'ble Apex Court, the Casual Labourer (Grant of Temporary Status and Regularization) Scheme of the Department of Telecommunications, 1989 has also become redundant and has no force to operate any longer. Hence, this application is liable to be dismissed.

PARAWISE REPLY

4. That with regard to the statements made in Para 1 of the application, the answering respondents state that the names of left over cases of casual labourers were simply forwarded to the Corporate Office, New Delhi as per guidance. There was no recommendation or justification given by any authority for their automatic regularization of services. The case of regularization is related

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to the provisions of the Scheme of 1989 and not otherwise. Therefore there being no such order in this regard, the very particulars of the application under this para is vague, fictitious and not supported by any definite evidence or law to give any right to claim regularization.

5. That with regard to the statements made in para 2 of the application, the answering respondents state that the application is grossly barred by law of limitation as provided under Section 21 read with Section 20 of the Administrative Tribunal Act, 1985. Law is also well settled that successive representations would not give rise to fresh cause of action, the 1st representation being dated 2.1.2007 and the application is filed on 6.10.2009. There is no application for Condonation of delay also filed with the OA.
6. That with regard to the statements made in para 3 of the application, the answering respondents state that all the applicants are not BSNL employee, so it is outside the jurisdiction of Hon'ble Tribunal.
7. That with regard to the statements made in para 4.1 and 4.2 of the application, the answering respondents reiterate the foregoing statements made in this written statements and admit nothing, which are not borne by any records / evidence.
8. That with regard to the statements made in para 4.3 of the application, the answering respondents state that the applicants at Sl. No.36 to 52 do not come within the zone of consideration under the said Scheme as the extended period of the Scheme for the limited purpose was fixed at 1.8.1998. The applicants shown at Sl. No.1 to 35 never could fulfill the requirement of number of days of engagement in preceding 12 calendar months from 1.8.1998. There is no record or any piece of evidence to show that any one of the applicants has completed 240 days in 12 calendar months. As such they were not considered for conferment of temporary status / regularization under the Scheme. Their names were forwarded as in Annexure: 6A and 6B of the OA as left out cases although they were not eligible. It is categorically submitted here that none of the applicants completed 240 days in continuous engagement prior to 1.8.1998, while the period after 1.8.1998 has no significance under the Scheme as the Scheme became inoperative thereafter. All these applicants are not engaged by the BSNL and they are not BSNL employees.

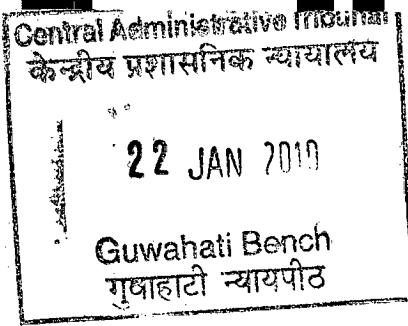
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9. That with regard to the statements made in para 4.4 to 4.7 of the application, the answering respondents reiterate and reassert the statements made in this written statements. As it appears, the contents, intents and purport of the circular dated 1.9.1999 and 12.2.1999 read with OM dated 29.9.2000 and letter dated 2.1.2001 were misconstrued and misunderstood by some of the officials of DOT / BSNL at that relevant point of time and initiated action contrary to such intent and purport of those OM / circulars. Therefore the competent authority did not act on such wrong advice and as a result the applicants were left out of the benefit of Scheme being ineligible. The law is well settled that there cannot be any mandamus to direct the Government to refrain from enforcing law or to do something contrary to law. Law is well settled that court shall not legitimize any illegal acts of officers or allow to perpetuate illegality.

10. That with regard to the statements made in para 4.8 of the application, the answering respondents state that the allegations made in this paragraph and in Annexure 8 of the OA are misleading and baseless for the reasons as stated hereinabove. The 24 numbers of casual labours were engaged on full time basis and they were being paid through A Roll of BSNL. However, as per Corporate Office letter No.273-8/2007/pers-IV dt. 7.9.2007, the mode of payment through A-Roll has been stopped. It is further stated that BSNL has discontinued any part time, daily wage or casual basis engagements including all the applicants after finalization of tender for supply of contract labour on 20.7.2007. Hence the question of placing the applicants under contractor as contractual labour does not arise as all the labour requirements are being supplied by the contractors. The respondents also state that the question of conferment of temporary status and regularization is a matter to be dealt with within the strict parameter of the Scheme of 1989, which is not an ongoing process, rather was a one time measure. Any other extraneous reasons like difficult terrain etc. could not be attracted to override the provisions of the Scheme or to extend the benefit beyond the scope of the Scheme. Any engagement of casual labourer at any point of time outside the scope of given criteria under the said Scheme would not attract any legal right of any such person to claim regularization or conferment of temporary status.

The copies of the said letter dated 7.9.2007 and the contract agreement with contractor are annexed herewith as ANNEXURE R₉ and R₁₀ respectively.



11. That with regard to the statements made in para 4.9 and 4.10 of the application, the answering respondents state that the allegations are vague, vexatious and without any supporting proof thereof. The applicants before claiming any such parity or equal treatment, if there is any such discrimination, the burden lies on them to show as to how they have been discriminated. There is absolutely nothing to substantiate their claim.
12. That with regard to the statements made in **para 5.1 to 5.8** the answering respondents state that the grounds apparently attempted to be set up by the applicants are no grounds at all in the eye of law as nothing is supported by any law, rules or any cogent and irrefutable facts and evidence. Hence the application is filed without any legally sustainable ground and the same is therefore liable to be dismissed with cost as devoid of any merit. The question of disengagement of casual labourer and question of lesser payment of wages and the matter of contract labourers pertain to some other area of laws having different avenues of remedy conferred on some other Tribunal / Judicial Forum under the Industrial Disputes Act, 1947, Minimum Wages Act, 1936, Payment of Wages Act, 1948, Contract Labour (Regulation & Abolition) Act, 1970 etc. Therefore this Hon'ble Tribunal may not exercise any such power to entertain such matter raised in the OA.
13. That with regard to the statements made in **para 6 and 7** of the OA, the answering respondents state that the application itself being barred by limitation and there being no petition for condoning delay, the remedies sought for and the declaration made cannot sustain in law.
14. That with regard to the statements made in **para 8, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 9, 9.1, 9.2 and 9.3** the answering respondents respectfully submit that under the facts and circumstances of the case, relevant laws and rules and the evidence on records and the statements made hereinabove answering the various allegations made by the applicants and rebutting the grounds, the applicants are not entitled to any relief whatsoever and the relief sought for being untenable in the eye of law; the application is liable to be dismissed with cost by holding it as devoid of any merit. On the given facts and evidence on records and the statements made in this written statements read with the provisions of law, the interim order passed by this Hon'ble Tribunal giving the direction to the respondents to not to

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disengage the applicants without the leave of the Hon'ble Tribunal, is liable to be altered, modified or vacated as the applicants were disengaged by the respondents and they are now working as contract labourer engaged by the contractors as their workmen.

In the premises aforesaid, it is therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall also be pleased to dismiss the application with cost.

Verification

I, Shri Manoj Kumar Dash, son of Prakashlal Dash aged about 50 years, resident of Dr, Satellite complex, BSNL, Itanagar at present working as the A.G.M (A & P) in the office of the General Manager, ARPSSA, BSNL, Itanagar....., being competent and duly authorized to sign this verification do hereby solemnly affirm and state that the statements made in para 1, 2, 3(vi), 3(viii), 3(ix), 3(x), 4 to 9 and 11 to 14 are true to my knowledge and belief, those made in para 3(i), 3(ii), 3(iii), 3(iv), 3(v), 3(vi) and 10 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 19 day of January, 2010 at Guwahati.

Manoj Kumar Dash

Asst. General Manager
(A & P)
TELECOM, BSNL
DEPARTMENT (A.P.)

ANNEXURE R1

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IN THE DEPARTMENT OF TELECOMMUNICATIONS

1. Regularization of Casual Labourers of Department of Telecom and Conferment of temporary status – 1. A Scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of atleast one year has been approved by the Telecom Commission. Details of the Scheme are furnished in the Annexure.
2. Immediate action may be taken to confer temporary status on all eligible casual labourers in accordance with the above Scheme.
- 3.1 Instruction were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/ Districts. Casual labourers could be engaged after 30.3.1985, in Project and electrification Circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. According to the instructions subsequently issued, fresh recruitment of casual labourers even for specific works for specific periods in Projects and Electrification Circles also should not be resorted to.
- 3.2 In view of the above instructions normally no casual labourers engaged after 30.3.1985, would be available for consideration for conferring temporary status. In the unlikely event of there being any cases of casual labourers engaged after 30.3.1985, requiring consideration for conferment of temporary status, such cases should be referred to the Telecom Commission with relevant details and particulars regarding the action taken against the officers under whose authorization/ approval the irregular engagement/ non-retrenchment was resorted to.
- 3.3 No casual labourer who has been recruited after 30.3.1985 should be granted temporary status without specific approval from this Office.
4. The Scheme furnished in the Annexure has the concurrence of Member (Finance) of the Telecom Commission, vide No. SMF/78/89, dated 27.9.1989.

[G.I Dept. of Telecom, Circular No. 269-10/89-STN, dated the 7th November, 1989]

Certified to be true Copy.

Hemanta Kr. Gogoi
Advocate

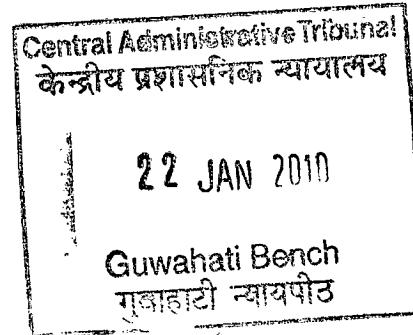
Annexure

Causal Labourers (Grant of Temporary Status and Regularisation) Scheme

1. This Scheme shall be called "Causal Labourers (Grant of Temporary Status and regularization) Scheme of the Department of Telecommunications, 1989".
2. This Scheme will come into force with effect from 1.10.1989 onwards.
3. This Scheme is applicable to the casual labourers employed by the Department of Telecommunications.

PROVISIONS

4. The provisions in the Scheme would be as under-



(A) Vacancies in the Group 'D' Cadres in various offices of the Department of Telecommunications would be exclusively filled by regularization of casual labourers and no outsiders would be appointed to the cadre except in the case of appointments on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility conditions including the educational qualifications prescribed in the relevant recruitment rules.

However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies.

In the case of illiterate casual labourers, the regularization will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties.

They would be allowed age relaxation equivalent to the period for which they had worked continuously as casual labourer for the purpose of age limits prescribed for appointment to the Group 'D' cadre, if required.

Outside recruitment for filling up the vacancies in Group 'D' will be permitted only under the condition when eligible casual labourers are NOT available.

(B) Till regular Group 'D' vacancies are available to absorb all the casual labourers to whom this scheme is applicable, the casual labourers would be conferred a temporary Status, as per the details given below.

5. Temporary Status

- (i) Temporary Status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of atleast one year, out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing five days week). Such casual labourers will be designated as Temporary Mazdoor.
- (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

No change in duties

- (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 a need basis. He may be deployed anywhere within the recruitment unit/ territorial circles 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.

Entitlement

- 6. 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 regular Group 'D' official including DA, HRA and CCA.
 - (ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for atleast 240 days (206 days in administrative offices observing 5 days week) in the year.
 - (iii) Leave entitlement will be on pro rata basis, one day for every 10 days of work. Casual leave or any kind of leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularization. They will not be entitled to the benefit of encashment of leave on termination of services for any reason of their quitting service.
 - (iv) Counting of 50% of service rendered under Temporary Status for the purpose of retirement benefits after their regularization.

(v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with temporary Group 'D' employees for the purpose of contribution to general provident Fund and would also further be eligible for the grant of Festival Advance/ Flood Advance on the same conditions as are applicable to temporary group 'D' employees, provided they furnish two sureties from permanent Government servants of this Department.

(vi) Until they are regularized, they would be entitled to Productivity Linked Bonus only at the rates as applicable to casual labour.

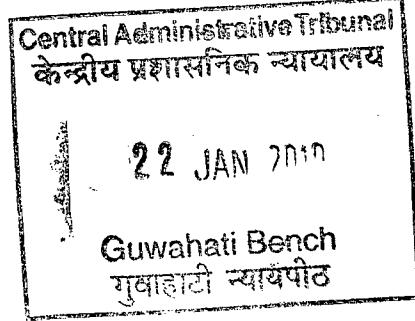
7. No benefits other than those specified above will be admissible to casual labourers with temporary Status.

Termination of Service

8. Despite conferment of temporary status, the services of a casual labourer may be dispensed with in accordance with the relevant provisions of the Industrial Disputes Act, 1947, on the ground of non-availability of work. A casual labourer with temporary status can quit service by giving one month's notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in the enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefits of encashment of leave on termination of services.

10. The Department of Telecommunications will have the power to make amendments in the Scheme and/or to issue instructions in detail within the framework of the Scheme.



ANNEXURE R2

[G.I., Dept. of Telecom, O.M. No. 269-1/93 STN-II(Pt), dated the 12th February, 1999]

Powers of all DoT officers to engage casual labourers withdrawn, -

1. The undersigned is directed to refer to Para 193 of P & T manual Vol. X which permits engaging of Labour on daily or monthly wages either direct or through contractor. The Department of Telecommunication has imposed a ban on recruitment / engagement of Casual Labourers *vide* letter No. 269-4/93-STN-II, dated 22.6.1988.
2. After issue of letter, dated 22.6.1988, a need was felt for amending the Para 193 of P & T manual, Vol. X. Accordingly, the issue was examined in detail. It has been decided to delete Para 193 of P & T Manual, Vol. X with immediate effect. Paras 150 to 177 of FHB, Vol. III, Part-I, Chapter 6, dealing with payment to casual labourers engaged on muster roll are also deleted.
3. Consequently the powers of all DoT officers to engage casual labourers, either on daily or monthly wages, direct or through contractors as well as the authority of the Accounts Officers for making payment to the labourers engaged on daily or monthly wages, either direct or through contractor are hereby withdrawn with immediate effect.
4. The instructions contained in this O.M. will not, however, apply to hiring any labourers for works of contingent nature lasting not more than fifteen days during exigencies and natural calamities. Payments to labourers hired during such contingencies should be made under Rule 331 of P & T FHB Vol.I. The maximum period for which an individual labourer can be hired during a year should not sixty days.
5. This issues with the concurrence of Internal Finance *vide* their Dairy No. 47/ FA-I-98, dated 13.1.1998.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Certified to be true Copy.
Hemanta Kr. Gogoi
Advocate

ANNEXURE R3

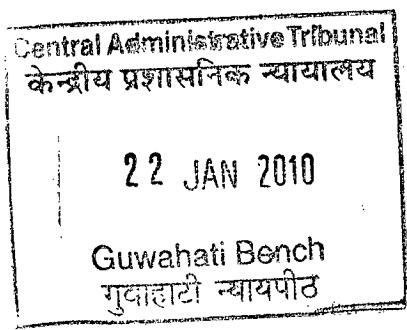
[G.I., Dept. of Telecom, No. 269-4/93-STN. II, dated the 12th February, 1999]

Sanction of posts of Regular Mazdoors for regularization of Temporary Status Casual Mazdoors. – I am directed to refer to this office letter No. 269-10/89-STN, dated 7.11.1989 wherein scheme called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989" was communicated. As per the said scheme, casual labourers who were engaged before 30.3.1985 and had completed 10 years of service, were made eligible for regularization. Based on the above, instruction were issued *vide* this office letter No. 5-1/92-TE-II, dated 17.3.1992, 6.7.1993, 20.5.1994, 8.5.1995 and 30.9.1996.

Even though there is a complete ban on recruitment of casual labourers, it has come to light that many circles, defying the ban orders, had recruited casual labourers even after the ban orders. Since, these casual labourers have completed 10 years of service, Employees Union are pressing for the regularization of the remaining casual labourers who were recruited after 30.3.1985 and completed 10 years of service, on the analogy of earlier decisions of Supreme Court on the subject.

Under these circumstances, the matter has once again been examined and it has been decided by the Telecom Commission as a one time measure on special consideration to further delegate powers to all the Heads of Circles, Metro Districts, Chief General Managers, MTNL, New Delhi and Mumbai and Heads of Administrative Units to create posts of Regular Mazdoors for regularising the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989, who have completed 10 years of service as on 31.3.1997 to the extent of numbers indicated in Annexure 'A' which has been compiled based on the information received from the Circles / Units. The posts are to be created within the prescribed ceiling as on 31.3.1991. the other conditions stipulated in the letter, dated 17.3.1992 remain unchanged.

Approval of Telecom Commission is also conveyed for delegation of powers to grant temporary status to casual labourers to the extent of number indicated against the respective circles in Annexure 'B' which also has been compiled based upon the information furnished by the Circles / Units concerned.



Certified to be true Copy.

Hemanta Kr. Goga
Advocate

As the numbers indicated in the Annexure 'A' and 'B' are furnished by the Circles / Units concerned, there should not be any variation in the figures. In case, there is change, Heads of Circles should refer the cases to TCHQ explaining the reasons therefore.

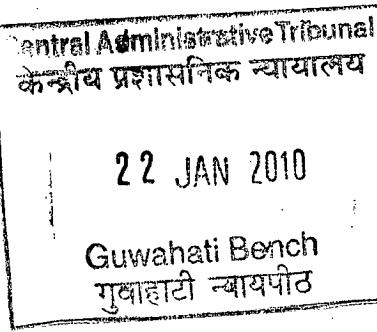
Recruitment of casual labourers was completely banned with effect from 22.6.1988 and instructions were issued time and again for identifying the officers/ officials responsible for engaging casual labourers inspite of the ban orders. The non compliance of the instructions issued by this office in true letter and spirit led to the Department having to bear a huge avoidable financial burden. This is a serious lapse. It is observed that Circles are hesitating to identify and fix responsibility on the errant officers/ officials. Therefore, Heads of Circles/ Units are once again requested to initiate necessary action against the officers/officials concerned and intimate the action taken against them to this office by 28.2.1999 as directed by the Chairman, Telecom Commission.

This issues with the concurrence of Internal Finance Vide their Dy. No. 47/FA-I/98, dated 13.1.1998.

Annexure "A"

TSMs eligible for regularization as on 31.3.1997 (engaged between 1.4.1986)

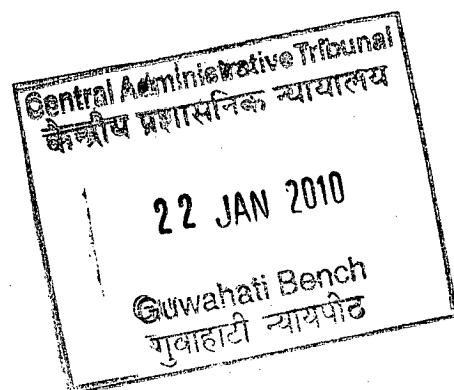
Circle	TSM to be regularised	MTNL BY	11
SLTTC	0	NCES	0
A&N	0	NE	24
AP	329	NETF	31
AS	77	NTP	179
BH	48	NTR	108
BRBRAITT	0	OR	5
CHENNAI TD	82	PB	27
CTD	97	QA	0
DNW	0	RAJ	48
ETP	0	RE NAGPUR	0
ETR	0	STP	0
GUJ	151	STR	5
HP	0	T&D JBP	0
HR	7	TN	37
J&K	4	TS CA	0
KRL	26	UPE	106
KTK	102	UPW	15
MH	238	WB	3
MP	21	WTP	189
MTNL DI	39	WTR	72
		TOTAL	2081



Annexure "B"

Casual labourers to be given Temporary Status as on 18.9.8

Circle	CLs to be granted temporary status	MTNL BY	23
SLTTC	0	NCES	0
A&N	0	NE	350
AP	NA	NETF	249
AS	NA	NTP	50
BH	347	NTR	NA
BRBRAITT	0	OR	16
CHENNAI TD	4	PB	12
CTD	450	QA	0
DNW	1	RAJ	56
ETP	318	RE NAGPUR	105
ETR	229	STP	6
GUJ	177	STR	29
HP	790	T&D JBP	0
HR	25	TN	160
J&K	27	TS CA	0
KRL	24	UPE	200
KTK	188	UPW	NA
MH	NA	WB	50
MP	NA	WTP	119
MTNL DI	15	WTR	26
		TOTAL	4046



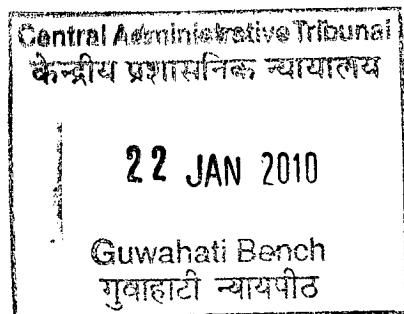
ANNEXURE R4

G.I., Dept. of Telecom., No. 269-13/99 – STN.II, dated 1st September 1999

Grant of temporary status from 12.2.1999 to the Telecom casual labourers who are eligible as on 1.8.1998 and regularization of eligible TSMs w.e.f. 1.4.1997. – I am directed to refer to letter No. 269-4/93-STN.II, dated 12.2.1999 circulated with letter No. 269-13/99-STN.II, dated 12.2.1999 on the subject mentioned above.

In the above referred letter, this office has conveyed approval on the two items, one is grant of temporary status to the casual labourers eligible as on 1.8.1998 and another on regularization of casual labourers with temporary status who are eligible as on 31.3.1997.

Some doubts have been raised regarding date of effect of these decisions. It is, therefore, clarified that in case of grant of temporary status to the casual labourers, the order, dated 12.2.1999 will be effected w.e.f. the date of issue of this order and in case of regularization to the temporary status Mazdoors eligible as on 31.3.1997, this order will be effected w.e.f. 1.4.1997.



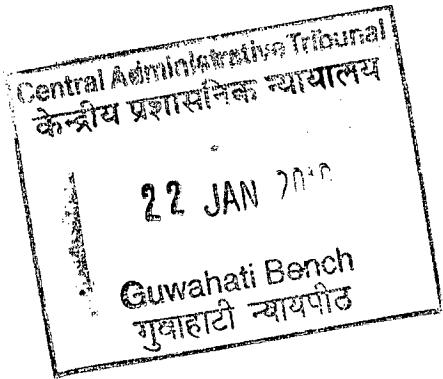
Certified to be true Copy.

Hemanta Kr. Gogoi
Advocate

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

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

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



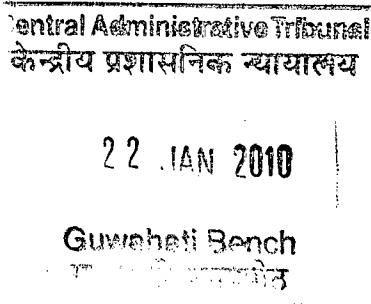
Certified to be true Copy

Hemanta Kr. Gogoi
Advocate

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

Clarification (1) – Further to letter No. 45-95/87-SPB-I, dated 12.4.1991 (order 2 above), it is hereby clarified that the Scheme is effective from 29-11-1989 and hence the eligible casual labourers may be conferred temporary status and the benefits indicated in the above said circular w.e.f. 29.11.1989.

2. Eligibility for weekly off to casual labourers continue to remain the same as before, viz., after 6 days of continuous work, they will be entitled to one weekly off. They will also be entitled for 3 paid National Holidays.
3. Leave salary to the casual labourer with temporary status will be paid at the rate of daily wages being paid to the casual labourers concerned.
4. Casual labourers who work in offices observing 5 days a week are not entitle to Paid Off on Saturday on Sunday. In other words, the Weekly paid off after 6 continuous working days is permissible only to those casual workers who work at the rate of 8 hours per day in establishments having 6 days a week.
5. The Scheme is also applicable to casual workers in the Civil wing of this Department. It is not, however, applicable to any person working on casual basis in Group 'C' posts.
6. Vacancies of casual labourers caused by their absorption in Group D posts are not to be filled by recruiting fresh casual labourers. In other words, engagement of fresh casual labourers is not permissible as already reiterated time and again.



Certified to be true Copy

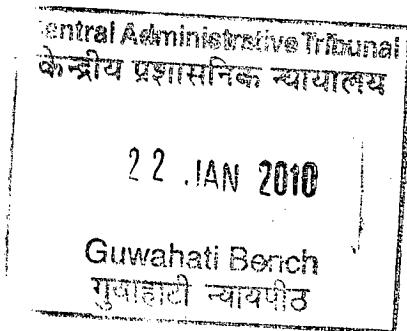
Hemanta Kr. Gogoi
Advocate

ANNEXURE R7

G.I., Dept. of Telecom, Lr. No. 269-10/89-STN, dated the 17th October, 1990

Point (8) – Part Time – Can temporary status be conferred on a part time employee?

Clarification – No. They may, however, be brought on the strength of full time casual labourers, subject to availability of work and suitability. For this purpose, work requirements of different types and at neighbouring units can be pooled. Subject to their completing 240 days or 206 days of work on full time basis, as the case may be, in the preceding 12 months they may be considered for grant of temporary status. However, part-time casual labourers will be merged with full time casual labourers/ temporary mazdoors in a common single panel in accordance with the existing instructions for the purpose of regularization of service.



Certified to be true Copy.
Hemanta K. Gogoi
Advocate

No. 269-14/99-STN-II

Department of Telecom. Services
Sanchar Bhawan, 20, Ashoka Road, New Delhi.
(STN-II Section)

Dated : 29.09.2000

All CGMs, Telecom. Circles,
All CGMs, Telephone Districts,
All Heads of Other Administrative Offices,
All the IFA's in Telecom. Circles/Districts and other Administrative Units

Sub: Regularisation of Casual Labourers

Sir,

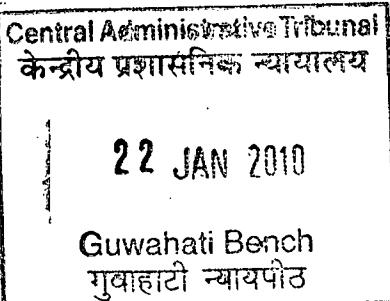
The employees unions are demanding regularisation of all the casual labourers. This issue was under consideration for quite some time. It has been decided to regularise all the casual labourers working in the Department, including those who have been granted temporary status, with effect from 01.10.2000, in the following order -

- (1) All casual labourers who have been granted temporary status upto the issuance of Orders No. 269-4/93-STN-II dated 12.2.99, circulated vide letter No. 269-13/99-STN-II dated 12.2.99 and further vide letter No. 269-13/99-STN-II dated 9.6.2000.
- (2) All full time casual labourers as indicated in the Annexure.
- (3) All part time casual labourers who were working for four or more hours per day and converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 16.9.99.
- (4) All part time casual labourers who were working for less than four hours per day and were converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 25.8.2000.
- (5) All Ayas and Supervisors converted into full time casual labourers as per order No. 269-10/97-STN-II dated 29.9.2000.

The number of casual labourers to be regularised in categories (2) to (5) above is given in the Annexure enclosed. The figures given in the Annexure are based on information received from the Circles.

The casual labourers indicated from (1) to (5) above are to be adjusted against available vacancies of Regular Mazdoors. However, Chief General Managers are also authorised to create posts of Regular Mazdoors as per the prescribed norms and to that extent, the prescribed ceiling for the Circle will stand enhanced.

As per this office letter No. 269-4/93-STN-II dated 12.2.99, vide which temporary status was granted to casual labourers eligible on 1.8.98, no casual labourers were to be engaged after this date and all casual labourers not eligible for temporary status on 1.8.98 were to be disengaged forthwith. Therefore, there should be no casual labourers left without temporary status after 1.8.98 [Other than those indicated in serial nos. (2) to (5) above]. However, if there is still any case of casual labourers left out due to any reasons, that may be referred to the Head Quarters separately.



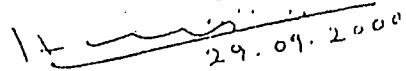
Certified to be true Copy.

Hemanta Kr. Goga
Advocate

--- 2 ---

This issues with the concurrence of Telecom Finance vide their
Diary No. 3536/2000/FA-I Dated 29.09.2000.

Yours faithfully


29.09.2000

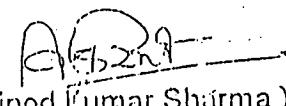
(HARDAS SINGH)

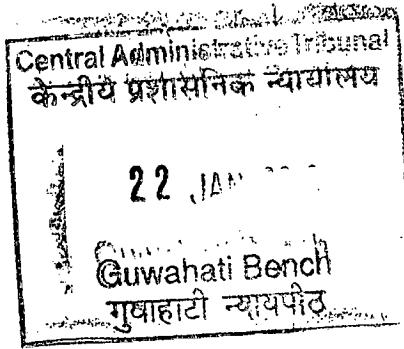
ASSISTANT DIRECTOR GENERAL (STN)

Tel No. : 371 6723 / 303 2561

Copy to :-

- 1) PS to MOC/ MOS(C)
- 2) Advisor (HRD)
- 3) DDG(Pers.)/ (E)/ (F)/ (SR)
- 4) Dir.(ST-I) / (F-I)
- 5) All recognised Associations/ Unions/ Federations
- 6) TE-II/ STN-II/ SR/ SCT Sections
- 7) Guard file.


(Vinod Kumar Sharma)
Section Officer (STN-II)



5th FLOOR, BHARAT SANCHAR BHAVAN, NEW DELHI-110 001
(PERSONNEL - IV SECTION)

F. No. 273-B/2007-Pers-IV
Dated: 7th September, 2007

To
The Chief General Manager,
Bharat Sanchar Nigam Limited,
North East-II Circle,
Dimapur

Sub: Mode of payment through Acquaintance Roll to Casual
labourers in NE-II Circle-reg

Sir,

I am directed to invite your attention to your office letter No. CGAT/NE-II/Admin/TSM/07-08/50 dated 17.9.2008 on the above mentioned subject addressed to Director (Fin), BSNL and to say that the proposal to make/use the Acquaintance Roll as a mode of payment to the Casual Labourers of NE-II Circle is against the rules on this subject and hence untenable. In view of the above, I am directed to request you to withdraw any such proposal immediately under intimation to this office.

This issues with the approval of Director (Fin) and Director (HRD), BSNL.

Yours faithfully,

R.S. Nirmal
(P.S. VENKATARAMAN)
ASSTT DIRECTOR GENERAL (PERS-IV)
TEL No. 23734132
FAX No. 23729255

Copy to: DDG (CA), BSNL CO, New Delhi

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

22 JAN 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

Certified to be true Copy

Hemanta Kr. Goswami
Advocate



प्रदेश ARUNACHAL PRADESH

009021

AGREEMENT

This agreement made on the 20th day of JULY 2007, between Bharat Sanchar Nigam Limited and having its registered office at New Delhi (hereinafter referred to as BSNL) represented by General Manager Telecom, ARP SSA, Itanagar, Arunachal Pradesh, on the ONE PART

D

Ms. CONO ENTERPRISE, DAIMOKH having its registered Office at SUMARK, NIST- PAPUM PARB, ARUNACHAL PRADESH (hereinafter called the Contractor), which expression shall include their heirs, executors, administrators and assignees/partner or partner for, the being constitute the said firm, their or his survivors and their respective heirs, executors, administrators and assignees of on the OTHER PART.

WHEREAS, the Contractor has agreed to carry out the work of supply of labour for operation, office keeping and allied works in ARP SSA at the specified location's of BSNL as per the rate and location given at Annexure-I and Annexure-II respectively.

AND WHEREAS, in this respect both the above parties have agreed to work upon the terms and conditions hereinafter recorded.

NOW, THIS AGREEMENT WITNESSETH AS FOLLOWS.

1. This agreement shall come into effect from 01-08-2007.
2. That the contractor shall supply labour for operation, office keeping and allied work in the areas mentioned at Annexure-II.
3. That BSNL shall pay to the contractor for the labour supply at the rates given in Annex-I on monthly basis.
4. The contractor shall ensure compliance of all statutory laws including Government rules and regulations regarding employment and working conditions of labour employed by them including payment and various statutory facilities enforced from time to time.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

22 JAN 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

Certified to be true Copy

Hemanta Kr. Gogoi
Advocate

CONO Enterprise
Itanagar
20/07/07

Guwahati Bench
गुवाहाटी न्यायपोठ

The labour employed by contractor shall be made in presence of an officer of BSNL. The contractor will be responsible for any fines imposed on them for violation of such rules.

There will be additional requirement of labours in other areas other than those mentioned in Annex-I from time to time. The contractor shall accordingly provide the labour to the concerned areas on the same terms and conditions within a fortnight from receipt of work order from the BSNL as per the rate given in Annex-I.

The work under this contract involves execution of work listed in para 7 below, which has to be carried out on the same day and the work can not, under any pretext, be delayed.

The contractor has to carry out the following works in various exchanges/offices of Arunachal Pradesh SSA.

Category-I :

- (i) Office related unskilled works like file movement work, dispatch work through post office / courier and any other similar works.
- (ii) Departmental faxing and Xerping in respective sections.
- (iii) Cleaning of Exchanges/Offices.
- (iv) Digging of trenches, pole erections, pulling of cables during breakdowns, etc as per the requirements of the field units.

(b) Category-II:

- (i) Assistance to telecom related works.

8. The work contract involves important file movements and the contractor is solely responsible for the safe custody and delivery of the files to the designated officers.

9. In case of absenting / work not being carried out satisfactorily the contractor should make alternative arrangements.

10. Period/renewal of contract -

The period of contract is one year from the date of effect of this agreement. However, it may be extended for another one year with the approval of the General Manager Telecom, at same rate, terms and conditions of existing agreement.

11. The approximate number of labour required is around 200. However, the General Manager Telecom, BSNL, Itanagar, reserves the right to increase or decrease the requirements as per the actual field requirements.

12. The General Manager Telecom, BSNL, Itanagar, reserves the right to increase or decrease the number of persons to the tune of $\pm 30\%$, based on the actual field requirements, at any time during validity of the work order by giving one month notice in advance.

13. The contractor should strictly abide by the provisions of various Acts of the State in force in connection with the employment of contract labour viz., Contract Labour R & A Act 1970, Workmen's Compensation Act and EPF Act. It is the responsibility of the contractor to ensure minimum wages, as per minimum wages Act as fixed by the Labour Commissioner concerned to the persons employed and ESI if applicable and his quotation of rates shall reflect this responsibility. The contractor is solely responsible for all the above payment. He should not wait for BSNL's payment to pay to his staff. Service Tax as applicable shall be paid by the contractor.

*DR. J.P. D'SOUZA
General Manager (A & P)
BSNL*

*1/1a Sona Enterprises
28/10/2017
A. Holder*

22.11.2010

Guwahati Bench
गुवाहाटी न्यायालय

Contractor should strictly adhere to the statutory regulations viz. Minimum Wages Act, EPF Act, Contract Labour (R&A) Act 1970 and Rules 1971 and any other regulations covered under Labour Act.

Responsibility of the contractor:

The Contractor shall be responsible for the discipline of the labour provided by him. If at any time, it is found that the labour are indulging in any act of misbehavior or misconduct etc. the General Manager, BSNL, Itanagar or his representative shall have the right to have him/ her replaced through the contractor.

- i) He shall maintain complete personal data of labour employed by him such as Passport Photo, Name, Father's Name, Permanent address, Village, District, Police Station concerned, Signature and Finger prints etc.
- ii) The Contractor is responsible to maintain all required records, registers etc., as contemplated by the provision of concerned Acts of the State / Central Govt.
- iv) The labour supplied by the contractor should have previous experience in telecom and computer related works.
- v) The labour proposed to be employed by the contractors shall have to be approved by the office of General Manager Telecom, BSNL, Itanagar, before engaging with all the relevant data as mentioned above in sub-para 16(ii).
- vi) No labour can be engaged or disengaged by the contractor without prior approval of the General Manager Telecom, Itanagar, for the work pertaining to Arunachal Pradesh SSA.
- vii) In case of additional requirement of labour, contractor should be in a position to supply them at contract rates only without delay.
- viii) The labourer supplied by the contractor must maintain proper code of conduct in BSNL premises and shall not develop any sort of relationship with the inhabitants in and around the premises.
- ix) The Contractor shall be responsible for the welfare of the labour employed by him as per the various State and Central Government Acts and regulations such as Minimum Wages Act, EPF Act, ESI Scheme, if applicable, and any other regulations covering Labour contract.
- x) No Child Labour will be permitted. The Contractor should employ the labour between the age group of 21 and 50 years.
- xi) The Contractor will be solely responsible for the payment of salaries, allowances and other benefits to his employees and the company shall in no way responsible for the same. He should not wait for the BSNLs payment to pay to his staff. He should make payment on or before 7th of the following month positively without fail.
- xii) In case if it is found by the BSNL that any property or materials of the BSNL is lost or put to loss / damage due to the negligence of the contractor, the contractor will be held fully responsible and should reimburse the cost of loss / damage so incurred. The decision of the BSNL as to the quantum of loss and negligence is final.

20/11/2010
General Manager (A & P.
G.M. BSNL
Arunachal Pradesh

1/16 Sonu Enterprises
11/12/2010
20/11/2010
1/16 Sonu Enterprises
11/12/2010
20/11/2010

22 JAN 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

In case any labour of the contractor suffers injury / damage or meets with an accident during the discharge of duty the entire cost of compensation should be borne by the contractor and the BSNL will stand indemnified against any claims for damage/ compensation.

In case any complain is received with respect to the non payment of the labour of the contractor, BSNL reserves the right to stop all the payment to the contractor at any time.

v) Use of departmental accommodation or compound buildings after the duty hours for any purpose including cooking/ halt is not permitted.

Payment Terms:-

(a) All the bills should be sent within 10 days of the succeeding month. The bills received after 15th will not be considered. Bills are to be submitted to the SDE(Plg), O/oGMDT, BSNL, Itanagar, Arunachal Pradesh on completion of month's work on production of bills with the certificate and pass order from the concerned unit officer and countersigned by concerned DETs within 10th of the following month. The bill shall contain the following details:

- Attendance sheet.
- Copy of wages register i.e. payment proof of the labours duly countersigned and checked by SDOT's/SDE's/DET's concerned.
- The payment copies of the service tax, EPF and EPF allied contribution of previous month.
- The EPF statement of both employer and employees contribution.

(b) No advance payment will be made under any circumstances.

17. It shall be sole responsibility of the contractor to ensure security and safety of all the property(moveable and immoveable assets) of BSNL. If the labourer provided by the contractor are suspected to be directly and indirectly involved in any theft or pilferage the contractor would have to make the good the loss. The decision of the BSNL, in this regard shall be final and binding.

18. The labourer supplied by the contractor shall not be deemed to be the employee of BSNL and they shall not claim any salary and allowances, compensation, damages or anything arising out of their employment/duty under this AGREEMENT.

19. Performance Security Deposit

The contractor should deposit a sum of Rs.50,000/- [Rupees Fifty Thousand only] to the BSNL as Performance Security Deposit in the form of CASH or Performance Bank Guarantee(PBG) from a nationalized / Scheduled Bank covering a period of 24 months in favour of Accounts Officer (Cash), O/o GMI BSNL, Itanagar. The BSNL shall be at liberty to en-cash the Bank Guarantee against damages, cost, charges or expenses arising out of the 'party' failure to observe any of the terms and conditions of this contract. This amount will be refunded on expiry of contract. No interest will be paid to the PBG.

20. Termination of Contract:

The AGREEMENT can be terminated by either side on giving one month's notice in advance in writing, except in the event of failure of providing satisfactory services on the part of the contractor in which the case the agreement will be terminated without giving

notif or
notif or
(A & P)

11/12/2010
A. S. Sonu Enterprises
11/12/2010
11/12/2010

22 JAN 2010

Guwahati Branch

The decision of BSNL as to what constitutes failure of providing satisfactory services shall be final and binding on the contractor and shall not be questioned by him in any court of law.

All disputes and differences whatsoever arising between BSNL and the contractor out of or relating to the construction, meaning and operation or effect of this contract or breach thereof, shall be settled by General Manager Telecom, BSNL, Itanagar, Arunachal Pradesh (Hereinafter referred as the said officer) who will be sole arbitrator in all cases. If the said office is unable or unwilling to act as such to be sole arbitrator, then some other person appointed by the CGMT, NE-II Telecom Circle, BSNL, Dimapur shall function as sole arbitrator.

There will no objection that the arbitrator is Government servant or that he had to deal with the matter to which contract relates or that in the course of his duties as Government servant he has expressed views on all or any of the matter under dispute. The award of arbitrator will be final and binding on the parties. In the event of such arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act or any reason what so ever, CGMT, NE-II Telecom Circle, BSNL, Dimapur shall appoint another person as arbitrator in accordance with the terms and conditions of the contract and the person who appointed shall be entitled to proceed from this stage at which it was left over by his predecessor.

- (c) The arbitrator may from time with the consent of parties enlarge the time for making and publishing the award, subject to aforesaid arbitration and conciliation ordinance, 1996 and the rules there under, any modification or reenactment thereof for the time being in force shall be deemed to apply to the arbitration proceeding under this clause.
- (d) The venue of arbitration proceeding shall be in the office of General Manager Telecom, BSNL, Itanagar, Arunachal Pradesh or such other place as the arbitrator may decide. It shall be court of Guwahati (Itanagar Branch) alone, which will have jurisdiction with regard to this AGREEMENT.

22. Force Majeure

If at any time, giving the continuance of this contract, the performance in whole or in part by either party of any obligation under the contract shall be prevented or delayed by reason of any war, or hostility, acts of the public enemy, civil commotion, sabotage, fires, floods and other natural calamities, explosions, epidemics, quarantine restrictions, strikes, lockout or act of GOD (Hereinafter referred to as events), provided notice of happenings of such eventualities is given by either party to the other within 7 days from the date of occurrence thereof and such event was beyond the reasonable control and not due to fault of negligence of the party and defaults, neither party shall by reason of such event be entitled to terminate this contract nor shall either party have any such against claim for damage against the other in respect of such non-performance or delaying performance, and works under the contract shall be resumed as soon as practicable after such event may come to an end or cease to exist and the decision of the BSNL as to whether the works have been so resumed or not shall be final and conclusive. Provided further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 60 days, either party may at his option terminate the contract.

Do DRG
BMO, General Manager (A & P)
BMO, General Manager (A & P)
MANAGAR

It's Soon Entert.
Date 20/12/2010
Holder

Locations where Labours are to be supplied:

SI No	Sub division	Location	Category-I	Category-II	Total
1	Along	Along	2	4	6
		Basar	1	1	2
		Daring	1	0	1
		Gensi	0	1	1
		Karba	0	1	1
		Likhabali	1	0	1
		Mechuka	1	0	1
		Pangin	1	1	2
		Rungong	0	1	1
		Tirbin	1	0	1
		Sub Total	8	9	17
2	Bomdila	Bhalukpong	1	1	2
		Bomdila	3	2	5
		Dirang	0	1	1
		Rupa	0	1	1
		Tenga	0	1	1
		Tenjinggaon	0	1	1
		Sub Total	4	7	11
3	Changlang	Changlang	1	2	3
		Jairampur	1	0	1
		Kharsang	1	0	1
		Manmao	1	0	1
		Miao	1	1	2
		Nampong	1	0	1
		Sub Total	6	3	9
4	Daporijo	Daporijo	2	1	3
		Dumporijo	1	0	1
		Maro	1	0	1
		Puchigeku	1	0	1
		Sub Total	5	1	6
5	Itanagar	Itanagar	3	12	15
		Ballian	1	0	1
		Chimpu	0	1	1
		Poma	0	1	1
		Sub Total	4	14	18

20/1/00
General Manager (A & L,
S/o G.M.T. B.S.I.L
MANAGAR

1/1/00
Guwahati Enterprises
20/1/00
S/o G.M.T. B.S.I.L

22 JAN 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

Sl No	Sub division	Location	Category-I	Category-II	Total
6	Khonsa	Borduria	1	0	1
		Deomali	1	1	2
		Kanubari	0	1	1
		Khonsa	3	2	5
		Longding	1	2	2
		Ponchow	0	1	1
		Sub Total	6	5	11
7	Naharlagun	Banderdewa	1	1	2
		Doimukh	1	2	3
		Hoj	0	1	1
		Kheel	1	0	1
		Kimin	0	1	1
		Naharlagun	2	10	12
		Nirjuli	1	1	2
		Sagalee	1	0	1
8	Namsai	Sub Total	7	16	23
		Bordumsa	1	0	1
		Chowkham	1	1	2
		Diyun	1	0	1
		Innao	1	0	1
		Lathao	1	0	1
		Mahadevpur	1	1	2
		Medo	1	0	1
9	Pasighat	Namsai	1	2	3
		Sub Total	8	4	12
		Pasighat	2	3	5
		Bilat	1	0	1
		Mebo	1	0	1
		Nari	1	0	1
		Oyan	1	0	1
		Rani	1	0	1
10	Roing	Ruksin	1	0	1
		Yagrung	1	0	1
		Sub Total	9	3	12
		Anini	0	1	1
		Bolung	0	1	1
		Dambuk	1	0	1
		Etalin	1	0	1
		Sub Total	4	5	9

20/1/07
General Manager (A & P,
G.M.T. B.S.I.I.
MANAGAR

20/1/07
20/1/07

22 JAN 2010

Guwahati Bench গুৱাহাটী ন্যায়পৌর

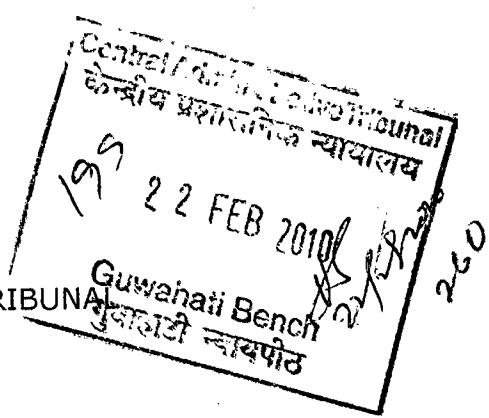
	Location	Category-I	Category-II	Total
	Seppa	1	4	5
	Thrizino	0	1	1
	Kimi	1	0	1
	Sub Total	2	5	7
	Tawang	3	2	5
	Sub Total	3	2	5
	Hayuliang	1	1	2
	Sunpura	1	0	1
	Tezu	2	1	3
	Wakro	1	0	1
	Sub Total	5	2	7
	Yingkiong	1	1	2
	Geku	1	0	1
	Mariyang	1	0	1
	Tuting	1	0	1
	Yingkiong	2	1	3
	Sub Total	6	2	8
15	Ziro	Boasimla	1	0
		Deed	1	0
		Koloriang	1	0
		NEEPCO Yazali	1	1
		Old Ziro	1	0
		Palin	1	0
		Raga	1	0
		Yachuli	1	0
		Yazali Town	1	0
		Ziro	0	2
		Sub Total	9	3
16	GM Office	AO(Cash)	1	1
		AO(Comp)	2	0
		AO(TR)	2	0
		SDE(Com)	2	0
		SDE(Mobile)	1	1
		SDE(OP)	1	0
		SDE(Pig)	1	0
		SDE(TX)	1	0
		Sub Total	11	2
		Grand Total	97	83
				180

20 of 20
1. General manager (A & P.)
200 C.M. & P. S. & B.
20 ANACAP

Y/S Sonu Enterprises
Chennai
26/07/04
A. Holder

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



O.A. NO. 205/2009

Sri Bidyadhar Tanti **Applicants**

-Versus-

Union of India & Ors. **Respondents**

**REJOINDER FILED BY THE APPLICANTS TO THE WRITTEN STATEMENT
OF RESPONDENT Nos. 2 to 6**

The Rejoinder of the aforesaid Applicants are as follows :-

1. That a copy of the abovementioned Written Statement filed by the Respondent Nos. 2 to 6 in O.A. No. 205/2006 has been served upon the counsel for the Applicants. The Applicants have gone through the same and understood the contents thereof.

2. That save and except the statements specifically admitted herein below, all other statements made in the Written Statements may be deemed to have been denied herewith. The answering Applicants also does not admit anything which is either contrary or not borne out of the relevant records.

3. That regarding the statements made in paragraphs 3(i) to (x) of the Written Statements, your humble answering Applicants admit the same only to the extent those are based on relevant records. However, for just and proper adjudication of this case, your humble Applicants beg to bring the following relevant facts before this Hon'ble Tribunal :-

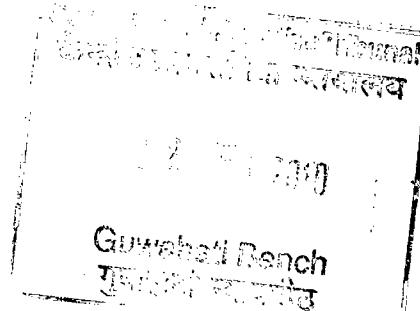
(i) That vide letter dated 30.3.2004 contained under D.O. No.

CGM/NE II/ADMN/TSM/59(i)/22, the Chief General Manager, Bharat Sanchar Nigam Limited, North East Telecom Circle - II sent a list of 228 Casual Labourers to the Deputy Director General (Estt.), Corporate Office, BSNL, New Delhi (Respondent No. 3 herein) regarding the status on pending cases of Casual Labourers of North East - II Telecom Circle for granting approval for regularization. The said NE - II Telecom Circle covers Nagaland SSA, Arunachal SSA and Manipur SSA. In the said list the names of Casual employees serving under Nagaland SSA appear from Serial No. 1 to 150 (Page - 36 to 41 of the O.A.). Similarly, the names of Casual employees of Arunachal SSA appear from Serial No. 151 to 228 (Page - 41 to 43 of the O.A.). So far as your 52 Applicants are concerned their names appear from Serial No. 175 to 228 excluding Serial No. 196 & 204. The year of engagements of the 52 Applicants are as follows:-

No. of Applicants	Year of engagement
1	1993
1	1995
5	1996
17	1997
16	1998
10	1999
2	2000

(ii) That so far other 24 persons from Arunachal Pradesh SSA are concerned, their date of engagement are as follows (Page - 41 of the O.A.):-

No. of Casual Labourers	Year of engagement
2	1997
22	1998



(iii) That so far 150 numbers of Casual Employees of the Nagaland SSA are concerned, their date of engagement are as follows

(Page - 36 to 41 of the O.A.):-

No. of Casual Labourers	Year of engagement
6	1997
60	1998
84	1999

4. That from the aforesaid charts it is very much clear that the Respondent authorities have picked up and chosen only your Applicants to place their services under the Contractors who are much senior to other Casual employees as reflected in the aforesaid charts as well as the list enclosed along with the letter dated 30.3.2004 forwarded by the Chief General Manager, BSNL, NE Telecom Circle - II (Respondent No. 4) thereby meting out hostile discrimination to your Applicants. The aforesaid facts as mentioned in paragraphs 5.1 to 5.8 of the O.A. have not been controverted by the Respondent authorities in their Written Statements. It may be stated that if at all the Respondent authorities wanted to place the services of Casual employees under the Contractor, they should have done so by placing the services of Casual employees starting from junior most Casual employees thereby following the principle of 'last come first go'.

5. That placing the Applicants under Contractors illegally, the Respondent authorities have now taken a plea that the Applicants were no longer in engagement inspite of the fact that right from the

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first day of their engagement they have been continuously serving under the Respondent authorities as well as under the Contractors. Hence, the plea of the Respondents that the Applicants were no longer in engagement is not legally tenable.

6. That your Applicants further beg to state that there are 15 numbers of Casual employees serving in the Arunachal SSA under the Respondents who are much junior/ similarly situated with that of your Applicants have been regularized by the Respondents and communicated letter No. 269-94/98-STN II/Pers IV dated 6.12.2001, the names of such Casual employees and their date of engagements are mentioned hereinbelow :-

Name	Date of Engagement
1. Shri P. Borua	01/01/1998
2. Shri Satish Das	01/01/1998
3. Shri Dilip Kumar	09/01/1998
4. Mathesh P. Singh	01/01/1992
5. H. Nath	01/08/1996
6. H. Kolita	30/10/1996
7. Jaykant Kumar	01/10/1997
8. Dilip Kr Barman	01/01/1997
9. Bidya Lal Gupta	01/01/1997
10. Bijendra Ram	01/01/1997
11. Om Prakash	01/03/1997
12. Baishisith Kr Ray	01/04/1997
13. Kasiram Toya	01/12/1997
14. P. Narzari	25/12/1997
15. Parme Basumatary	25/12/1997

The aforesaid action of the Respondents is also another glaring example as to how the Respondent authorities are acting in a great discriminatory manner against your Applicants. It may be stated that, since the Applicants do not have any grievance regarding the

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regularization of aforesaid employees, they have not been impleaded as party Respondents in the instant case.

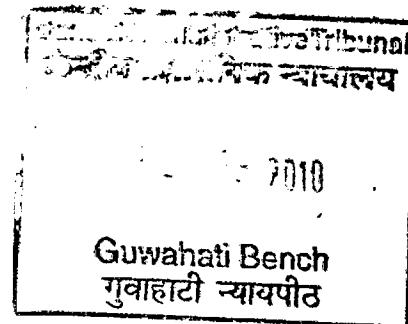
7. That so far the statements regarding completion of 240 days of work in a year are concerned, all your Applicants have completed minimum 240 days of work in a year from their initial engagement. In the file No. A-642 maintained by the Sub-Divisional Engineer(A) in the office of the General Manager Telecom Department, Itanagar, it has been clearly mentioned that the left out 52 Casual employees, i.e. your Applicants have worked for more than 240 years per year continuously. Hence, this Hon'ble Tribunal may be pleased to direct the Respondent authorities to produce the abovementioned file before this Hon'ble Tribunal.

Your Applicants further state that after the services of two of the Applicants, i.e. Sri Gopi Chand and Ms. Moyo Riba (Gameh) placed under the services of the Sub-Divisional Officer, Telecom, BSNL Naharlagun Exchange on 26.9.2004 and 29.7.2004 respectively, the said Sub-Divisional Officer issued certificates to the effect that both the Applicants has been working as Casual Mazdoors (Daily Regular Mazdoor) under SDOT/BSNL, Naharlagun since 26.9.2004 & 29.7.2004 till 26.10.2007 & 24.10.2007 respectively, i.e. after their services were placed under the Contractor. Hence, it is clear from the aforesaid fact that for all intent and purposes the Applicants are serving as Daily Regular Mazdoor under the Respondent authorities and are not part time workers.

Copies of the aforesaid certificates dated 26.10.2007 & 4.10.2007 are annexed herewith and marked as **Annexures – A & B** respectively.

8. That the statements made by the Respondents that the present application is barred by law of limitation is hereby denied and your applicants further state that after waiting for a considerable period when their grievances were not looked into by the Respondents authorities they have approached this Hon'ble Tribunal for justice.

9. That regarding the other statements made in the Written Statements your humble Applicants beg to refer and rely on the averments made in the Original Application.



Shri
S. S.
Gupta

Shri
S. S.
Gupta

VERIFICATION

Guwahati Bench

I Sri Siba Prasad Mahanta, Son of Shri P. D. Mahanta, aged about 33 years, resident of P.O- Gonakpukhuri, District - Golaghat, Assam, the Applicant No. 12 of the accompanying Application being instructed and authorized by the other Applicants, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8 & 9 hereinabove are true to my knowledge which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And in proof I sign this verification on this the 22nd day of February, 2010 at Guwahati.

Shri Siba Prasad Mahanta.

S I G N A T U R E

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86
B
BHARAT SANCHAR NIGAM LTD
Connecting India

ANNEXURE-A

भारत संचार निगम लिमिटेड

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

OFFICE OF THE SUB-DIVISIONAL OFFICER TELECOM
NAHARLAGUN: ARUNACHAL PRADESH.

Guwahati Bench
गुवाहाटी न्यायालय

Dated, Naharlagun the 26th October, 2007

TO WHOM SOEVER IS CONCERNED

This is to certify that Shri GOPI CHAND S/O Shri GUTHAI RAJPUT Village Ur anwapur, PO/PS Khanpur, Dist Kanpur (Dehat), U.P is working as causal mazdoor (DRM) under SDOT/BSNL Naharlagun, since 26.09.2004 to till date.

He bears a good moral character. He is well behaved, dedicated to work, hard working & punctual too.

Sub-Divisional Officer Telecom
Sub-Divisional Officer Telecom
BSNL, Naharlagun Phone Exchange
Naharlagun-791111
26/10/07

भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

**OFFICE OF THE SUB-DIVISIONAL OFFICER TELECOM
NAHARLAGUN: ARUNACHAL PRADESH.**

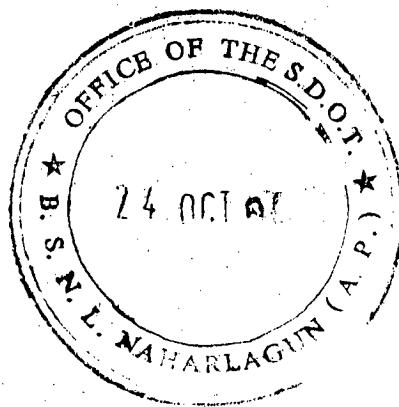
Dated, Naharlagun the 04th OCT '07

TO WHOM SOEVER IS CONCERNED

Guwahati Bench
जुबाही न्यायालय

This is to certify that Ms MOYG RIBA (Gameh) W/O Sri Perde Gameh is engaged as casual mazdoor (DRM) in the office of the SDOT/BSNL/Naharlagun Since 29-07-2004 to till date.

She bears a good moral character. She is well behaved, dedicated to work, hard working & punctual too.



*Sub-Divisional Officer Telecom
BSNL, Naharlagun.*
Sub-Divisional Officer (Telecom)
BSNL, Telephone Exchange
Naharlagun, Arunachal Pradesh

04/10/07