

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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PJ
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SECTION OFFICER (Judl.)

halh
6.9.2017

FROM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 47/2009 (TA)
2. Miscellaneous Petition No: _____
3. Contempt Petition No: _____
4. Review Application No: _____

Applicant(s) Azizur Rahman

Respondant(s) M.O.I. GORS

Advocate for the Applicant(s): M. Chanda, S. Chandhury

S.K. Ghosh, S. Dutta

Mr. Y. Doloic

Advocate for the Respondant(s): 6 advocate for the BSNL.

Notes of the Registrar	Date	Order of the Tribunal
<p>The application is in form is filed in d.p. No. <u>Transfer matter</u> Dated: _____ Dy. Registrar <u>[Signature]</u> As per order dated 23.1.09 of the Hon'ble Gauhati High Court passed in WP(C) 3252/06 the matter has been transferred to the CAT, Guwahati Bench for the reason of jurisdiction laid before the Hon'ble Court for further orders. Dy. Registrar <u>[Signature]</u> Im Section Officer W/S filed on behalf of Respondent Nos. 2, 3, 4, 5 and 6. Copy served. <u>[Signature]</u></p>	<p>09.04.2009</p>	<p>Records of Writ Petition No. 3252 of 06 has been received on transfer from the Hon'ble Gauhati High Court and has been registered as O.A/T.A No.47 of 2009. Issue notice to the Applicant (Petitioner) and the Respondents (in the address given in the Writ Petition) requiring them to appear and take steps in this case by 25th May 2009. Call this matter on 25.05.2009. <u>[Signature]</u> (M.R. Mohanty) Vice-Chairman</p>

4
Copies of order dt. 9/4/09 send to D/Sec. for issuing to applicant and the respondents by post.

D/No-1998/0

21/4/09 Dt. 2009 24-4-09

24.4.09

Memo of Appearance filed by Mr. B.C. Pathak Advocate, for Respon No. 2 to 6.

24/4/09

27.5.09

Mr. Das please send copy of order dt. 25.5.09 to the Applicant in the address given in the O.A.

Copies of order dated 25/5/09 send to D/Sec. for issuing to respondents by post.

1/6/09 Dt. 02-6-09

w/s filed.

26.6.09

w/s filed.

28.6.09

2

O.A.47 of 2009

25.05.2009 Mr. M. Chanda, learned counsel for the Applicant is present. Mr. B.C. Pathak, learned counsel for BSNL is also present. On the request of learned counsel for both the parties, call this matter on 18.06.2009 for hearing.

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

(N.D. Dayal)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

18.06.2009 Mr. M. Chnada, learned counsel appearing for the Applicant is present. Mr. Y. Doloi, Advocate, is present on behalf of the BSNL. He undertakes to file appearance memo in this case.

On the prayer of learned counsel for both the parties, call this matter on 29th June 2009 for hearing of this case.

(M.R. Mohanty)
Vice-Chairman

lm

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

1. ORIGINAL APPLICATION No : -----/ 2009
 2. Transfer Application No. 47 /2009 in WP (C) 2763/2006 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) : Ananda Ch. Das.
 Respondent (S) : Union of India & Ors.
 Advocate for the : Mr. S. Sarma,
 {Applicant (S)} : Ms. B. Devi

Advocate for the : -----
 {Respondent (S)} : BSNL

Notes of the Registry	Date	Order of the Tribunal
<p><u>5.10.2009</u> This W.P.(C) No. 2763/06 is received on transfer from the Hon'ble Gauhati High Court and same has been Registered as Transfer Application No. 46/2009. An affidavit in opposition filed by the Respondent Nos. 2, 3 & 4 before the Hon'ble High court Copy served. Laid before the Hon'ble Court for favour of orders.</p> <p><u>6.10.09</u> Deputy Registrar. /lm/</p> <p><u>5/10/09</u></p> <p><u>19.10.09</u> send copy of this order to the Applicant and the Respondents.</p> <p><u>19/10/09</u></p>	<p>14.10.2009</p>	<p>Records of WP(C) No.2763/2006 has been received from the Hon'ble Gauhati High Court on transfer and the same has been registered as T. A. No. 47 of 2009 in Guwahati Bench of Central Administrative Tribunal.</p> <p>Call this matter on 30.11.2009.</p> <p>Send copies of this order to the Applicant and the Respondents who should come ready to prosecute/defends this case on 30.11.2009.</p> <p><u>(M.K. Chaturvedi)</u> Member (A)</p> <p><u>(M.R. Mohanty)</u> Vice-Chairman</p>

22/10/09

Copy of order dtd
14/10/09 has been
prepared and send to
the D/section for
issuing to the applicant
and Respts by post.

D/No - 12/0522/10/09

Dtd. - 27/10/09

30.11.2009

Reply has not been filed in T.A. No. 46,
48, 51, 59, 63, 58 and 65 of 2009, though Writ
Petitions were filed in between 2004 to 2006.
Learned counsel for both sides pray for an
adjournment. We reluctantly allow their
request and list these cases on 14.12.2009.
We make it clear that no adjournment will be
granted to any side. If reply is not filed in
afore noted TAs matter will proceed based
on material placed on record.

List on 14.12.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/m/

14.12.2009

Adjourned to 15.12.09 for further
hearing.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

15.12.2009

Heard Mrs B.Devi, learned counsel
for the applicant and Mr B.C.Pathak,
learned standing counsel for BSNL. Reserved
for orders.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

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 – newsoliagaon
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 Bhuban Bora
Village – No.2 Charaiborigaon
P.O.- Dhalayan, District- Jorhat.

Abdullah Ahmed
Wage-Malamaragaon
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 Khargeswar 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 Puha 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 Deepak 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. Lakshya Basfor
Casual Worker, Office of the DGM,
Eastern Telecom Region, (ETR), Guwahati.
3. Smt. Sukhi Begam
Casual Worker
Office of the Sub-Divisional Engineer
Godpara 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- Kanaklath, 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. Shri Jisu 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 Dibrujan, P.O.
Jalannagar, Dibrugarh
& Permanent resident of Dibrujan
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 Tallagdon
Dist - Nagaon, Assam.
2. Shri Nilish 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.

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- Khamlang 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 Malifam 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 Golen Dewraja
Son of Late Paduram Das
Resident of Vill.- Geruamukh
P.O.- Bagiagaon, Dist- Nagaon, Assam.
2. Sri Dillip 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- Nagdón, 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. Bahgaon
Dist- Nalbãri, 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.

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 Gouranga 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
C/O 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 K. 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.- Nabhanga, 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.

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 Bahadur 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. Shri Subir Sarkar
S/o Late Prabhat Ch. Sarkar
Resident of Dhenukhana Pahar
Near IFA, 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 Gayah
Soh of Late Hem Kanta Gayan
Resident of Vill- Murhani, P.O.- Chaldiali
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. Gayah Gharphalia
P.O.- Dhekargorah, Dist - Jorhat.
2. Sri Bharat Borah
Son of Sri Gutti Borah
Vill- Haling Mora katimachu
P.O.- Sonari Gaon, Dist - Jorhat.
3. Sri Danda Dhar Deka
Son of Sri Sitaram Deka
Vill- Ghar Gaon
P.O.- Boroiakhat, Dist- Jorhat.

4. Sri Narayan Hazarika
Son of Sri Kamal Hazarika
Vill- Kuhum Jagonia
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 Gojalgaht
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
Soh 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

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 Sansar Nigam Ltd. (BSNL)
Assam Telecom Circle,
Ulubari, Guwahati-7
3. The Divisional Engineer, (Stores) CTSD
Bharat Sanchar Nigam Ltd. (BSNL)
Assam Telecom 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. Changeligaon,
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 Office 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

✓ I.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. Bagalgaon,
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 Bebajit 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 Palengi
P.O.Palengi, Sibsagar.
6. Shri Biren Changmai
Son of Akon Changmai,
Palengi Ariltoligaon
P.O.Palengi, Dist. Sibsagar.
7. Shri Biren Tipomia,
Son of Ghankanta Tipomia
Ariltoli, Dist.Sibsagar
8. Shri Lakhi Chetia
Son of Biren Chetia, Resident of Palengi
P.O.Palengi, Dist.Sibsagar.
9. Shri Deben Changmai
Tamulibazar, 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, Halflong

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-Djivjisional Officer, (BSNL)
Halflong.
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 Chabori, 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, BSNKL 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. - Panichakud, Dist. Jorhat.
- 10. Sri Bishnu Boprah
Son of Sri Lakhiram Borah
Jorhat.

... Petitioners.

-Versus-

- 1. Bhdra Sanchal Nigam Limited (BSNL).
Represented by the Chairman
-cum-Mandging Director,
New Delhi-1.
- 2. The Chief General Manager,
(BSNL), Assam Telecom Circle,
Ulubari Guwahati-7, Assam.
- 3. The Telecom District Manager, BSNL
Nagdon 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, Sanchal 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. Rangirkhari, 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. Longbol 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
Sanchdr 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

...Petitioner

... Respondents.

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

1. Sri Biplab Sen & Bipolp 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,
Sahchar 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 Dhoniram 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 Pachimnandalapur
Lumding, Dist Nagaon
 4. Shri Mati Malakar,
Pub Nandalapur, P.O. Dimrupur
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
 7. Shri Lakshikanta Malakar,
Resident of Pochim Nandalapur
P.O.Dimapur, hojai
Lumding, Dist.Nagaon
- 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 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 I 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
Sanchār Bhawāh, New Delhi-1.
2. The Chairman-cum-Managing Director,
Bharat Sārichar 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,
Hōjai Telephone Exchange, Nagaon

.... Respondents

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

1. Shri Dhanapati Lahkar
S/O Late Haren Lahkar, Resident of Vill, Lachima
Post Office Sraṭhebdri, Dist. Barpata
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. Gopia
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 Chairman-cum-Managing Director,
Bharat Sanchar 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

I.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-

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.

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 Secretary
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.

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 Secretary
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.

ORDERMUKESH 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

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 driving 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.

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. Sailesh Kumar Harshad Bhai Shah
- iii) (2007) 7 SCC 689 Commissioner, Karnataka Housing Board v C. Muddalah
- 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 had 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.

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 **Kanhp Nagar Palika v. Babuji Gabhaji**. (2009) 7 SCC 205 **GM, Uttaranchal 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 Harayana v. Sureinder 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.Capoor-** illegality cannot be perpetuated.
- vi) 1988 (1) SLR 360 (P&H)(DB) **Sarabjit Singh v. Pubjab 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.Shramik 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.Shamra v. Udham Singh Kamal & Ors-** repeated representations do no 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 "littigious 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 **Mahatma Phule Agricultural University v. Nasik Zilla Shiksha Samiti**, (2005) 6 SCC 751 **State of Maharashtra v. R.S. Bhasle**, (2001) 7 SCC 356 **Gram Sevak Prashikshan Kendra v. Workmen**, (2007) 1 SCC 408 **Indian Drugs & Pharmaceuticals Ltd. v. Workmen**, (2008) 1 SCC 683 **Aravalli Golf Club v. Chander Hass**, (2003) 2 SCC 332 **P.U. Joshi v. Accountant General**, to reiterate that creation and abolition of posts regularization 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.

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

"34. It is true that Dharward Disst. 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.

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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)

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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. It is specifically 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

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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 other 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 labourers **"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 **Terl Oaf 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**

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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)

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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)

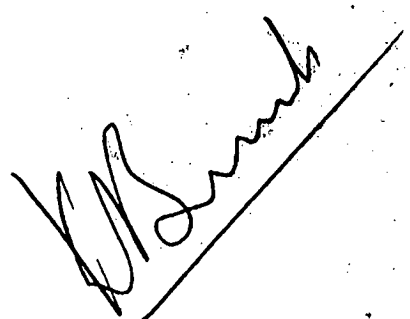
HON'BLE SHRI MOHD.HALEEM KHAN, MEMBER (A)

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

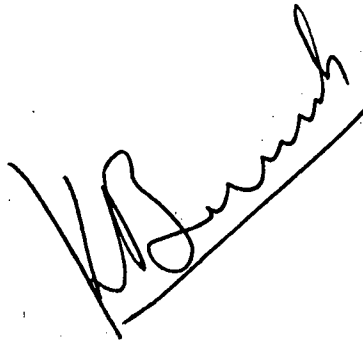


Ministry of Communication,
Sanchar Bhawan New Delhi - 1.

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 Upen 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



Bharat Sansar Nigam Limited (BSNL)
New Delhi-1

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

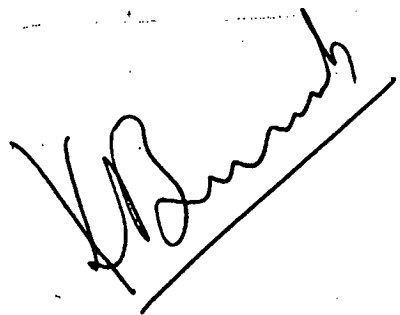
4. The Sub-Divisional Engineer, (Store).
BSNL, Circle Telecom Store Depot.
Assam Telecom Circle, Adabari
Guwahati-12.

..... Respondents

ORDER (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.

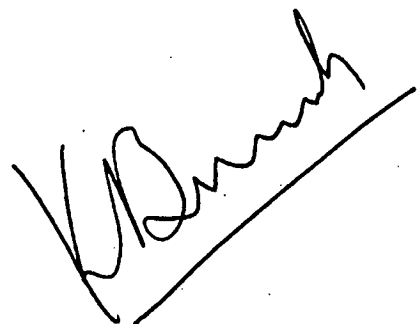
2. We have heard the learned counsel for both the parties.

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 our purpose.

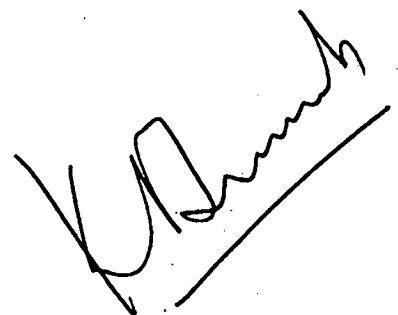
4. In the light of the annexures annexed with the Original applications and the written statements and also being agreed to by the learned counsel for the parties, we feel that the matter can be disposed of by us now. From the facts of the cases we find that several persons have been working under the 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.



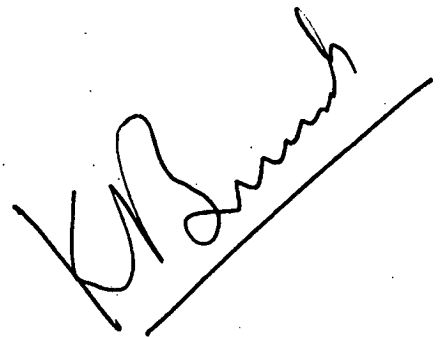
T.A.No.10 of 2009 in W.P.(C) No.2800/2006

1. Shri Niranjana 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 Ch.Nath
Village-Kanaklash
P.O.Bhangabazar
District-Karimganj (Assam)

... Applicants

-Versus-

1. The Union of 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



K. B. Das

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

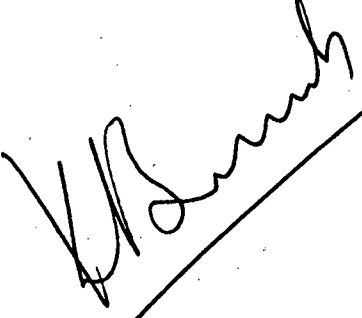
3. Shri Mohan Das
S/O Late Khargeswar Das
Resident of Vill:Akadi
P.O.Dihina, Hajo
Dist. Kamrup, Assam
4. Shri Tarani Boro
S/O Late Rahi Ram Boro
R/O Vill.P.O.-Gapia
Dist. Kamrup, Assam
5. Shri Bhainur Ali
S/O Late Khasfur Ali
Resident of Vill/P.O.Maranjana
Dist. Kamrup, Assam
6. Shri Umesh Ch.Das,
S/O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

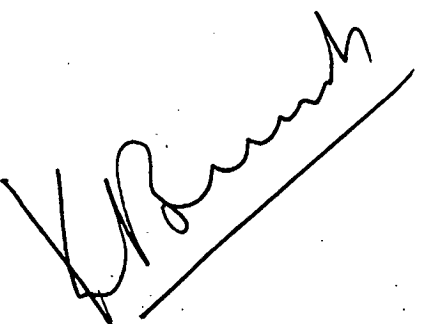


3. The Chief General Manager, (BSNL), Task Force, Assam Telecom Circle, Guwahati-1, Assam
 4. The Director Task Force, Silchar
Dist: Silchar
 5. The Deputy General Manager, Task Force, Office of the Chief General Manager
Telecom Task Force, Guwahati-1, Assam
 6. The Deputy General Manager, Task Force,
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.

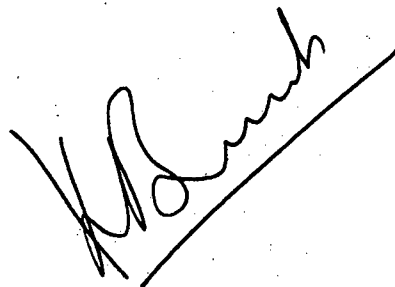
By Advocate Mr.U.Dutta

-Vs-

- 1 The Union of India,
Represented by the Secretary to the Government of India
Ministry of 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 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**" ..

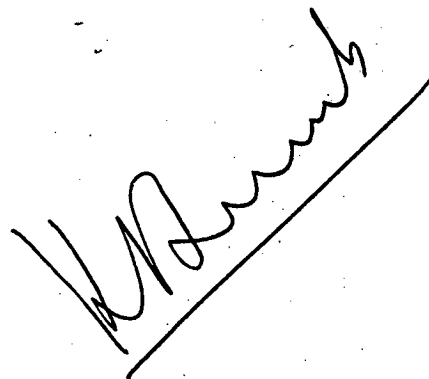
With the above observations and directions, the O.A is allowed. No order as to costs.

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 KamkuYangfo
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

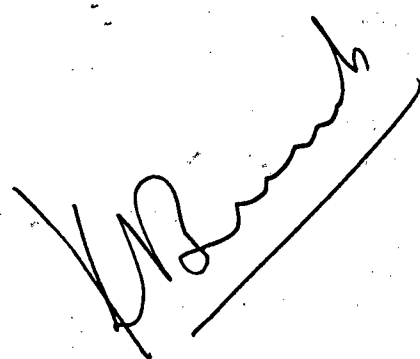


- P.O. Bidupur
Dist.Vaishali, Bihar
12. Sri Siba Prasad Mahanta
Son of Shri P.D.Mahanta
P.O.Gonakpukhuri
Dist. Golaghat, Assam
 13. Sri Mathur Mahajan
Son of Lt.Gouranga Mahajan
P.O. Hanglar Bazar
Dist Karimganj, Assam
 14. Sri Ratan Rabha
Son of Shri Sukar Rabha
P.O.Mazbat, Dist.Darrang, Assam
 15. 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

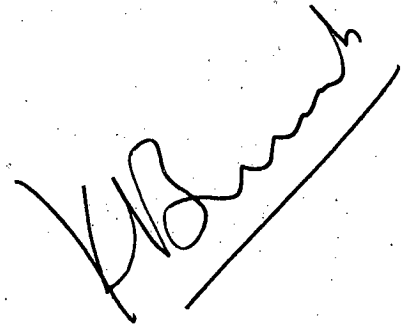
K. B. Das

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 Kiissan 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, 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,

K. B. Samal

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 Chapori,
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- 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 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.

K Borah

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.

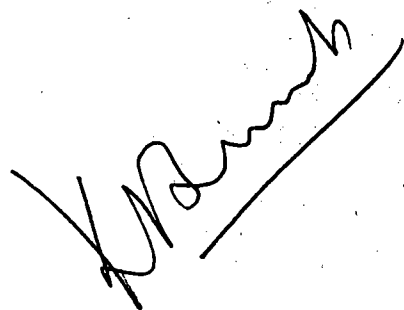
5. Assistant General Manager,
Bharat Sanchar Nigam Limited,
North East Telecom Circle - II,
Dimapur, Nagaland.

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.



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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) Anupchhal 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 notes 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

BY SPECIAL MESSENGER

URGENT

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

Memo No. HC.XXI. 4037 - 39 Dated Guwahati 16th March/2009

From **The Asstt.Registrar(B)**
Gauhati High Court,
GUWAHATI

To **The Registrar**
Central Administrative Tribunal
Guwahati Bench, Guwahati

Sub:- Transmission of Case records of 3252/06.

Ref:- Hon'ble Court's Order dtd.23.1.2009 Passed in W.P. (C) No.3252/06

Sir,

In Compliance with the Hon'ble Court order under reference, I am directed to transmit herewith the entire case records of W.P. (C) No.3252/06.

Receipt of the aforesaid case records may kindly be acknowledged.

Enclo:-

1. W.P. (C) No.3252/06 – H.C. File Pt.I with O/s 3 Sheets.

Yours faithfully

[Signature]
13.3.09
Asstt.Registrar(B)
Gauhati High Court, Guwahati

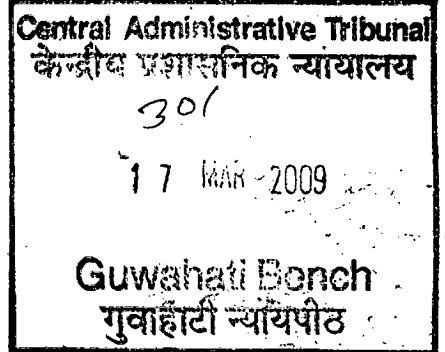
Copy:-

1. Mr.M. Chanda, Advocate, Gauhati High Court, Guwahati.
2. The Standing Council, B.S.N.L, Gauhati High Court, Guwahati.
3. Mr. Yadab Doloi, Advocate, Gauhati High Court, Guwahati.

[Signature]
Asstt.Registrar(B)
Gauhati High Court, Guwahati

[Signature]
13/3/09

So (Small)
N.S.
17.3.09



URGENT

Page 1

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BY SPECIAL MESSENGER

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



Mr. Dasgupta, L.M. 1/1/11
18/1/11
18/1/11

SALJ

WP(C) Nos. 2945 of 2011, 6918/2010, 1363/2010,
18/2012 2163/2011 4817/2010 849/2012 & 4059/2010

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, -1
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.



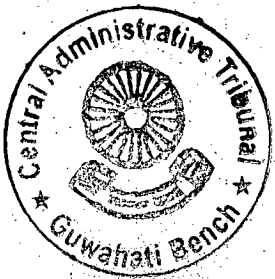
4. The Director Task Force,
Silchar, Dist-Silchar.
5. The Deputy General Manager,
Task Force, Office of the Chief General Manager,
Telecom Task Force, Guwahati-1, Assam.
6. The Deputy General Manager,
Task Force, At Shillong,
Laitumukhrah, Shillong.
7. The Divisional Engineer, (TP-II),
Bhangagarh, Guwahati-5.

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. Deoria, 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.C. Chamarajan,
 Dist. Dhemaji, Assam,
 17. Sri Nibu Tungi,
 S/o Sri Caiya Tungi,
 P.O. Sewa,
 Dist. East Kameng,
 Arunachal Pradesh,



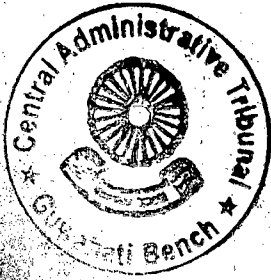
18. Sri Imdad Ali,
S/o Md. Nizamuddin Ali,
P.O. Silghat,
Dist. Nagaon, Assam,
19. Sri Dhan Bahadur Tamang,
S/o Sri Prem Raj Tamang,
P.O. Seepakhua,
Dist. Tinsukia, Assam,
20. Sri Mohan Chandra Das,
S/o Sri J. R. Das,
P.O. Balipara,
Dist. Sonitpur, Assam,
21. Sri Sri Gopi Chand,
S/o Sri G. Rajpur,
P.O. 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,



- 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.C. 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/c Sri Ramdhain Singh,
P.O. Boruah,
Dist. Chapra, Bihar,
41. Sri Promod Kumar,



- S/o Late Narshing Rajpat,
P.O. Mario,
Dist. Bhagalpur, Bihar,
42. Sri Ram Babu Paswan,
S/o Sri Bideswar 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 Ial,
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.

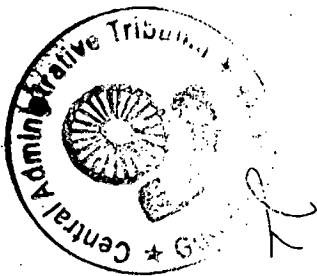
5. Sub-Divisional Officer,
Telecom,
Department of Telecommunication,
Karimganj.

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

- Respondents

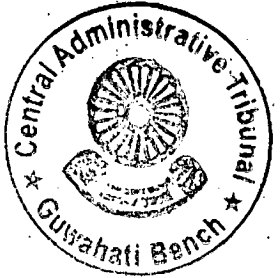
Writ Petition (C) No. 2163/2011

Sri Prahlad Chandra Bora,
S.O- Sri Pipil Chandra Bora,
Vili- 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.



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.

Petitioners

Respondents

Writ Petition (C) No. 4817/2010

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

WP(C) Nos. 2945 of 2011, 6918/2010, 1363/2010,
18/2012, 2163/2011, 4817/2010, 849/2012 & 4059/2010

(10)
P.O-Bongaigaon,
Dist- Nagaon,
Assam.

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.

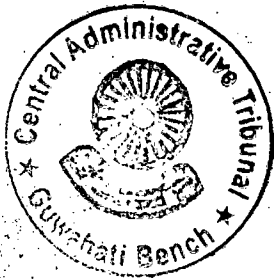
1. The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited (BSNL)
(A Govt. of India Enterprise)
New Delhi.

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. Ghanda,
Mr. S. Dutta,
Mr. Mr. S. Choudhury

For the respondents

Mr. Y. Doloi

WP(C) Nos. 2945 of 2011, 6918/2010, 1363/2010,
18/2012, 2163/2011, 4817/2010, 849/2012 & 4059/2010

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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 Bharat 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

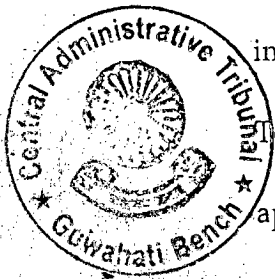


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short, '1989 Scheme'), but the respondents refused to grant to the petitioners the status of *Temporary Mazdoors* (*Temporary Status Mazdoors*) and the consequential benefits accruing therefrom.

(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,

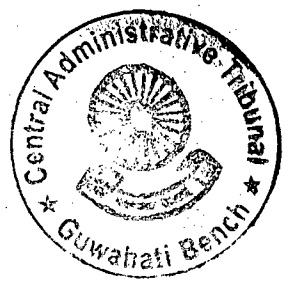


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(14)

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, 9/2009, 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.

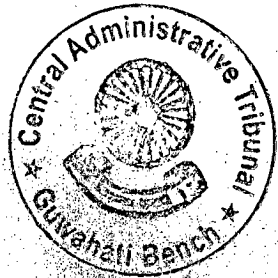


(15)

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. Dodoi, 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. The scheme will come into force with effect from 01.10.1989 onwards.
3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications
4. ***
5. Temporary status
 - (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.
 - (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

(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 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, 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 corders, 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.

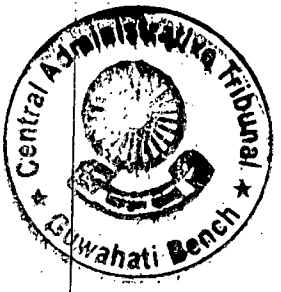
As the numbers indicated in the Annexure 'A' and 'B' are furnished by the Circles/Units concerned, there should not be any variation in the figures in case there is change. Heads of Circles should refer the cases to TCHQ explaining the reasons therefore.

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'

TSMs eligible for regularization as on 31.03.1997 (engaged between 01.04.1985).

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	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



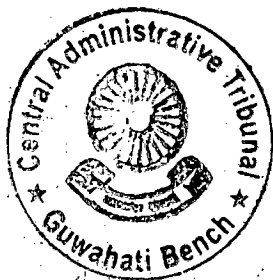
Annexure 'B'

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. G.I. 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



(27)

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



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



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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.



(33)

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



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

WP(C) Nos. 2945 of 2011, 6918/2010, 1363/2010,

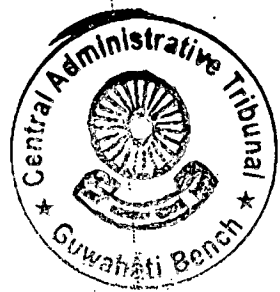


Act, 1985, which contains the procedure and power of the Central Administrative Tribunal. Sub-Section (3) of Section 22 reads as under:

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

(36)

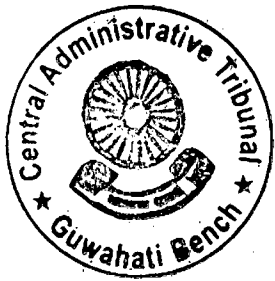
scheme and also under the 1999 Scheme, the matter be remanded back to the learned Tribunal, which has the requisite jurisdiction to adjudicate such disputed questions of fact, by recording evidence, which may be produced by the parties concerned and/or by obtaining such evidence as may be necessary for 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. 2945/2011], 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. 13/2009 [WP(C) No. 2153/2011] and TA No. 29/2009 [WP(C) No. 18/2012] 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



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. 3252 of 200 6

Appellant
Petitioner

Shri Arizer Rahman.

Versus

Union of India & Ors.

Respondent
Opposite Party

Appellant *MR. M. Chanda.*
For _____
Petitioner *MR. S. Choudhury.*
MR. S. K. Ghosh.
MR. S. Dutta.

Respondent _____
For _____
Opposite Party *S. C. B. S. N. L.*

Mr. J. Laloi - for R. 2 to 6

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	W.P(C) No. ⁴ 3252 of 2006

**BEFORE
THE HON'BLE MR. JUSTICE B.P.KATAKEY**

30/06/2006

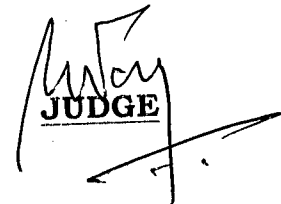
Heard Mr. M. Chanda, learned counsel for the petitioner.

Let Rule be issued calling upon the respondents to show cause as to why a writ should not be issued as prayed for, or why such further or other orders should not be passed as to this court may deem fit and proper.

Rule is made returnable by six weeks.

Call for the records.

Petitioner is allowed to take out notices on the respondents within seven days by registered post with A/D and file proof of service.


JUDGE

d.de.

137

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


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PROCEEDINGS OF LAWAZIMA COURT

W.P.(C) No. 3252/2006

Present: Rumi Kumari Phukan

Registrar (Judicial)

Sl. No.	Date	Order with Signature	Remarks
	23.04.2008	<p data-bbox="558 614 1133 659">None appears for the petitioner.</p> <p data-bbox="558 680 1256 726">Seen the office note dated 14.09.2007.</p> <p data-bbox="464 747 1284 859">Respondent Nos. 2 to 6 is represented by learned Advocate Mr. D. Baruah.</p> <p data-bbox="464 880 1289 1457">Notice was issued to the Respondent No. 1 by Registered post with A/D. But the A/D card has not yet been received back. From the postal journal placed at Flag-"A" it appears that notice upon Respondent No. 1 was duly sent on 17.10.2006. Thirty days time limit expired. So, it can be declared under Order V Rule 9(5) C.P.C. that notice upon Respondent No. 1 is duly served.</p> <p data-bbox="558 1478 1224 1524">The case is ready as regards service.</p> <p data-bbox="943 1617 1289 1723" style="text-align: right;"> Registrar (Judicial)</p> <p data-bbox="464 1811 516 1856">GS</p>	

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

WP(C) No. 3252/2006

**BEFORE
THE HON'BLE MR. JUSTICE B.K. SHARMA**

23.01.2009

Learned counsel for the parties submit that the matter is within the exclusive jurisdiction of the Central Administrative Tribunal, Guwahati Bench in view of the notification dated 31.10.2008, by which, in such matters pertaining to BSNL jurisdiction has been conferred in the Tribunal.

In view of the above, Registry shall transmit the case records to the Central Administrative Tribunal, Guwahati Bench for further proceeding. So far this Court is concerned, the matter shall be treated as disposed of.

Writ petition is disposed of.


JUDGE

Mkk

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

OFFICE NOTE

1970

Case No. 3252/06

No.	Date	Office Note with action taken	Court order reference
	21.1.09	<p>The case is ready as regards service vide Honble Lawazyma Court's order dtd: 23.4.08. Laid - this matter before the Honble Court for orders since mentioned for.</p> <p style="text-align: right;">by 21.1</p>	
	30.1.09	<p>Disposed of. No. L.C.R has been received along with the High Court file.</p> <p style="text-align: left;">by 30/1</p>	23.1.09

142

ORDER NO. 1000

Case No.

No.	Date	Order Note with action taken	Court order reference

OFFICE NOTE SHEET

wpc

Case No.

3252/06

143

No.	Date	Office Note with action taken	Court order reference
	<u>14/9/07</u>	<p>Notices were issued upon all the six respondent deaths by Regd. post with A/D vide memo no - 15,773-78/WP dtd. 13.10.06.</p> <p>In the meantime, respondent nos. 2 to 6 have entered appearance by filing affidavit in opposition and the same is placed on record at flag - A.</p> <p>But, the A/D card for the respondent no. 1 has not been received back as yet, even after the expiry of thirty days' time limit. (Postal Receipt at flag - X).</p> <p>Hence, service of notice upon the said respondent may, perhaps, be treated as sufficient under order V Rule 9(5) of the CPC.</p> <p>Laid for orders.</p> <p style="text-align: right;">JMS 14/9</p>	

OFFICE NOTE SHEET

Case No. AMP (e) 3252/06

Sl.No.	Date	Office Note with action taken	Court order reference
①	18.7.06.	<p>R/Ret. by six weeks. - 30.6.06</p> <p>Records be called for.</p> <p><u>Smh.</u></p> <p><u>18/7</u></p>	
	<u>14/8/06</u>	<p>Amble Court order dt. 30.6.06</p> <p>sent to the dispatch section</p> <p>to all for the records for</p> <p>the respondents.</p> <p><u>Smh.</u></p> <p><u>14/8</u></p>	
	<u>20/9/06</u>	<p>copies sent to the dispatch</p> <p>section for issuance upon the</p> <p>respondent nos. 1 to 6 by regd.</p> <p>post with A/O.</p> <p><u>Smh.</u></p> <p><u>20/9</u></p>	

W.P(C) 3252/06.

o/c
us
Regd. post with A/D

Civil Rule Revision No.

THE GAUHATI HIGH COURT

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

(Civil Jurisdiction)

No. 15,773-78/wp77-13.10.06.

In the matter of:-- An application under Article 226 of the
constitution of India.

-- And --

In the matter of:-- Sri Azizur Rahman.

Petitioner.

-vs-

1. The Union of India, through the Secretary to
the Govt. of India, Ministry of
Communication, Department of
Telecommunication, New Delhi-1.

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 Chief General Manager, Assam
Circle, Department of Telecommunication,
Govt. of India, Ulubari, Guwahati-7.

✓ 4.

The General Manager, Telecom, Silchar
SSA, Department of Telecommunications,
Silchar, Assam- 788001

✓ 5.

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

✓ 6.

The Divisional Engineer (P & A)
Office of the General Manager
Bharat Sanchar Nigam Limited,
Silchar.


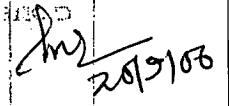
Opposite Party / Respondent

O.P. 1 to 6

Take notice that an application a copy whereof and a copy of the court order of this Court hereon are hereto annexed has been made to this Court by the above named Appellant/Petitioner and you are hereby called upon to show cause as directed in the said order within 14 days from the date of service.

By Order

The Rule is made returnable by--


Asstt Registrar (B) (SRE)


Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	W.P(C) No. ⁴ 3252 of 2006

BEFORE
THE HON'BLE MR. JUSTICE B.P.KATAKEY

30/06/2006

Heard Mr. M. Chanda, learned counsel for the petitioner.

Let Rule be issued calling upon the respondents to show cause as to why a writ should not be issued as prayed for, or why such further or other orders should not be passed as to this court may deem fit and proper.

Rule is made returnable by six weeks.

Call for the records.

Petitioner is allowed to take out notices on the respondents within seven days by registered post with A/D and file proof of service.

sd/-B.P.Katakey,
Judge.

TRUE COPY

[Signature]
Superintendent (Civil 2/c1e)

Gauhati High Court
Guwahati

[Signature]
20/9/06

DEPARTMENT OF POSTS INDIA

पंजीकृत शाखा / REGISTRATION BRANCH

(भेजने वालाको देना है / To be given to the sender)

पत्रडाक यथा पत्रों, पकेटों की अभीमाकृत पंजीकृत वस्तुओं के लिये)

For uninsured Registered articles of the Letter Mail (e.g. Letters Packets)

द्वारा प्रेषित अभीमाकृत पंजीकृत पत्रोंका जर्नल

Journal of uninsured Registered Letters posted by _____

(प्रेषक का पूरा नाम और पता / Full name and address of sender)

at the

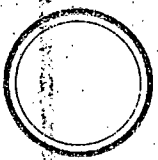
[Blank box for sender's address]

डाकघर दिनांक 17 10 2006

Post Office on the 200

संख्या Number	पानेवाले का नाम Name of addressee	गंतव्य डाकघर Post Office of destination	अदा की गई डाक शुल्क राशि Amount of Postage paid	अभ्युक्ति REMARKS
L 4231	Regional Manager, Hindustan Petr. Corpn.	L 10, Ulubari Gohy	70/-	
L 4232	Manages, Quality Control wing (E7) Hindustan Petroleum Corp. Ltd.	Kolkata	70/-	
L 4233	Abhiram Das, Silchari Corpn.		70/-	
L 4234	General manager, Deptt. Telecommunication, Silchar		110/-	R-4
L 4235	SDO, Dist. BSNL Karimganj	Deptt of telecommunication	110/-	R-5
L 4236	Secy. BSNL LP, Deptt. Communication, N. Delhi		110/-	R-1
L 4237	Divisional Engineer (P&T), BSNL HO, Silchar, Cachar		110/-	R-6
L 4238	Chairman, M.D. BSNL, Corporate office, N. Delhi - 1.		110/-	R-2
L 4239	Chief Gen. Manager, Assam Circle BSNL, Ulubari, Karimganj		110/-	R-3
L 4240	B. K. Das, R/O Ambicapatty, Silchar Town P.O. Silchar, Dist. Cachar		35/-	
L 4241	Smt. B. Choudhury, R/O Ambicapatty, Silchar Town, P.O. Silchar, Cachar		35/-	
L 4242	Smt. B. Das, R/O Ambicapatty, Silchar Town, P.O. Silchar Dist. Cachar		35/-	
L 4243	B. K. Das, R/O Ambicapatty, Silchar Town, P.O. Silchar Dist. Cachar		35/-	
L 4244	Bipin Rabha, vill. Machalam, P.S. Dhupdhara Goalpara		30/-	
L 4245	Smt. P. Rabha, vill. Machalam, P.S. Dhupdhara Goalpara		30/-	

तारिख मोहर



Date-Stamp



प्रेषक का हस्ताक्षर

Sender's Signature

प्राप्तकर्ता अधिकारी के आरम्भ

Initial of the Receiving Officer

DISTRICT- KARIMGANJ

IN THE GAUHATI HIGH COURT

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

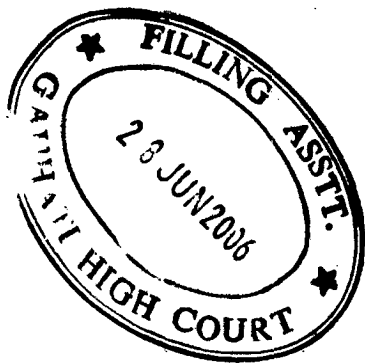
(Civil Extra Ordinary Jurisdiction)

W.P (C) No. 3252 /2006

Shri Azizur Rahman.

-Versus -

Union of India & Others:



SYNOPSIS OF THE APPLICATION

Petitioner was initially engaged as casual worker in the Department of Telecommunication (now BSNL) w.e.f. 01.03.1988 and granted temporary status vide order dated 16.12.1997 but cancelled vide order dated 27.06.98. Cancellation being challenged, CAT Guwahati Bench in O.A. No. 141/98, directed the respondents to scrutinize the case of the petitioner. The arbitrarily rejection without proper verification of the records of the claim of the petitioner led to O.A. No. 133/03, which was dismissed on 23.06.03 on the ground of limitation. Petitioner challenged the said judgment before this Hon'ble Court in WP (C) No. 10369/2003, which was disposed with a direction to the petitioner to submit representation whereupon the respondents would pass reasoned order. The representation so submitted, was, however, arbitrarily rejected vide impugned order dated 14.10.2005.

List of dates

01.03.1988- Petitioner engaged as casual worker under the Respondents.

- 08.12.1995- SDE, Patherkandi forwarded the case of the petitioner to the Telecom Divisional Engineer, Silchar for granting of temporary status. (Annexure-1)
- 16.12.1997- Temporary status was granted to the petitioner - (Annexure-2)
- 22.12.1997- Respondents confirmed temporary status granted to the petitioner. (Annexure-3)
- 29.06.1998- TDM, Silchar cancelled temporary status granted to the petitioner. (Annexure-4)
- 02.07.1998- The CAT Guwahati passed interim order in O.A. No. 141/98 directing not to disengage the service of the petitioner. (Annexure-5)
- 29.06.1998- Petitioner conferred temporary status and worked till 29.06.1998. (Annexure-6 series)
- 31.08.1999- O.A. No. 141/98 was disposed of - Respondents were to examine the case of the petitioner on merits. (Annexure-7)
- 25.10.1999- Petitioner submitted representation along with the copy of the judgments.
- 12.03.2003- Petitioners of O.A. No. 332/2000 were granted benefit of temporary status. (Annexure-9 Series)
- 23.06.2003- Petitioner again approached the learned Tribunal through O.A. No. 133/03, but the same was dismissed on the ground of limitation. (Annexure-10)

29.08.2005- Petitioner challenged the judgment dated 23.06.03 before this Hon'ble Court through WP (C) No. 10369/2003, which was disposed of with a direction to the respondents to communicate the rejection order for granting temporary status and the reason of rejection within a period of 30 days. (Annexure-11)

14.10.2005- Petitioner's claim for grant of temporary status, rejected. (Annexure-12)

P R A Y E R S

1. To set aside and quash the impugned setting aside the impugned order dated 27.06.1998 communicated through letter bearing No. E-63/I&P/9 dated 29.06.98 (Annexure- 4), impugned letter bearing No. E-20/TSM Regularization/ SC/04 dated 26.09.2000 (Annexure- 13) as well as letter bearing No. WP (C) 10369/03/SC/06 dated 14.10.2005 (Annexure- 12);
2. To direct the respondents to grant temporary status to the petitioner in the light of the judgment and order dated 24.08.2001 and also in terms of the order dated 05.09.2001 passed in O.A. No. 332/2000 with immediate effect.
3. To direct the respondents to allow the petitioner to continue in service in terms of in terms of the order dated 15.12.97, 16.12.97 and 22.12.97 with immediate effect.
4. To direct the respondents to pay the petitioners full back wages with effect from 30.06.1998 till the date of actual reinstatement.

5

District: Karimganj

IN THE GAUHATI HIGH COURT

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

(Civil Extra Ordinary Jurisdiction)

Writ Petition (Civil) No. 3252 /2006

Category Code No:

Bench: Single

Shri Azizur Rahman

.... Petitioner

-Versus -

Union of India & Others.

...Respondents

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Date: 28/06/2006

Filed by
Savjit Choudhury
Advocate

District: Karimganj

IN THE GAUHATI HIGH COURT

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

(Civil Extra Ordinary Jurisdiction)

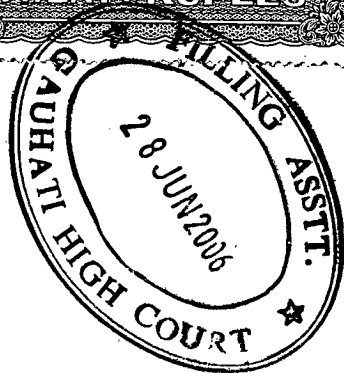
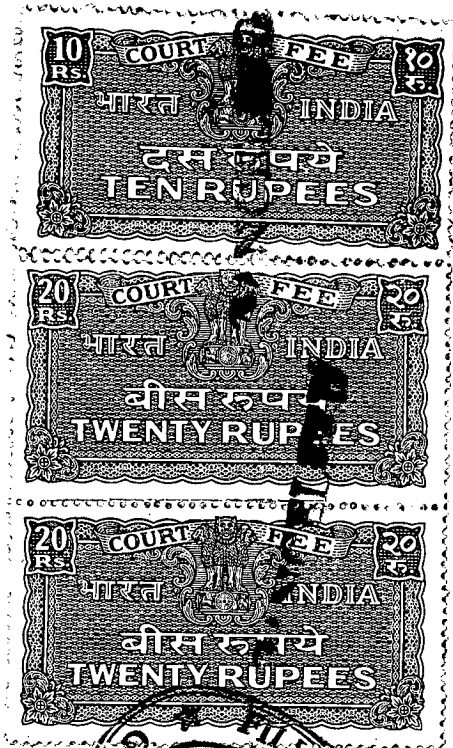
Writ Petition (Civil) No. 3252 /2006

Category Code No:

Bench: Single

To,

The Hon'ble Sri B. Sudershan Reddy, B.A., LL.B., the Chief Justice and His
Lordship's companion Justices of the Gauhati High Court.



In the matter of:

An application under Article 226 of the Constitution of India for issuance of a writ in the nature of Certiorari and/or Mandamus and/or any other appropriate writ, order or direction;

-AND-

In the matter of:

Impugned order bearing No. WP (C) No. 10369/03/SC/06 dated 14.10.2005, (Annexure- 12) rejecting conferment of temporary status and regularisation in terms

19-5
Filed by The Petitioner
Through M. Sevajit Choudhary,
Advocate.
on 28/06/2006.

Affidavit
Gauhati High Court
Gauhati

of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunication, 1989, to the petitioner;

-AND-

In the matter of:

Impugned order dated 29.06.1998 canceling the grant of temporary status, in violation of Rule./principle of natural justice.

-AND-

In the matter of:

Enforcement of the Petitioner's Fundamental and other legal rights guaranteed under the Constitution of India;

-AND-

In the matter of:

Illegal and arbitrary action of the respondents in not conferring/restoring temporary status and regularisation in terms of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunication, 1989, to the Petitioner;

-AND-

In the matter of:

Sri Azizur Rahman

Village – Hatkhola, P.O. Kanaibazar,
District - Karimganj (Assam).

... Petitioner.

-Versus-

1. The Union of India, through the Secretary to the Govt. of India, Ministry of Communication, Department of Telecommunication, New Delhi- 1.
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 Chief General Manager, Assam Circle, Department of Telecommunication, Govt. of India, Ulubari, Guwahati -7.
4. The General Manager, Telecom, Silchar SSA, Department of Telecommunications, Silchar, Assam- 788001.
5. Sub Divisional Officer, Telecom Department of Telecommunication, Karimganj, Assam.
6. The Divisional Engineer (P & A) Office of the General Manager Bharat Sanchar Nigam Limited, Silchar.

..... Respondents.

The petitioner above named -

MOST RESPECTFULLY STATES:

1. That the petitioner is a citizen of India as such he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India.
2. That the petitioner was initially engaged as casual worker in the Telecommunication Department (Now BSNL) under the then SDE (G), Telecom, Patharkandi along with Luthfur Rahman, Pritibhusan Roy, Nihar Dey, and some other similarly situated casual workers since 1st March, 1988. Be it stated that he had served under the respondents even prior to March 1988. His case for conferment of Temporary status was, in fact, forwarded to the Telecom Divisional Engineer, Silchar by the then Sub Divisional Engineer, Patharkandi vide its letter bearing No. E-27/95-96/PT-II dated 08.12.1995. In the said letter, the detail particulars of the working days in respect of the petitioner had been shown as follows:

Name	Date of engagement	Year	Total no. Of working days
Azizur Rahman	01.03.88	1988	245
		1989	250
		1990	215
		1991	242
		1992	243
		1993	242
		1994	242
		1995	207

3. That the petitioner was continuously working under the respondents since March 1988 and as such, he along with others had been repeatedly approaching the respondents for conferment of temporary status in terms of the Scheme of 1989. It has been provided in the Scheme of 1989 that where a casual employee has rendered continuous service of at least one year in which he has been engaged for a period of 240 days (206 days in the case of offices observing 5 days week), such casual labourer would be designated as Temporary Mazdoor and he would also be entitled to conferment of Temporary Status without reference to the creation/availability of regular Group D post. The petitioner, in fact, had long back attained eligibility for conferment of temporary status in terms of the aforesaid scheme as because he had rendered service for 240 days in each calendar year since his engagement as casual worker.

A copy of the letter-dated 08.12.1995 indicating the detail service particulars is enclosed herewith and marked as Annexure-1.

4. That the respondents had constituted a responsible committee under the name and style of "LJCM" under the supervision of the high ranking officers of the Telecommunication department under TDM, Silchar, for verification of the service particulars of the writ petitioner and other similarly situated casual workers for conferment of temporary status to them. Be it stated that after detail scrutiny of service records of the petitioner, the SDE Group, Patherkandi vide letter-bearing No. E-37/97-98, dated 16.12.1997 had provisionally granted temporary status to him along with other similarly situated casual workers, namely; Luthfur Rahman and Priti Bhusan Roy. The

same SDE again issued a letter bearing No. E-27/97-98, dated 22.12.97 regarding conferment of temporary status, wherein it is stated that such conferment of temporary status can be terminated at any time without assigning any reason.

5. That surprisingly, the TDM Silchar vides his letter bearing No. X-11/TDM SC/CM-Rectt/98-99/213 dated 27.6.1998 had cancelled the order of temporary status granted to the petitioner in pursuance of the TDM, Silchar letter bearing No. E-20/GRP-D/Rectt/97 dated 9.12.1997 and it was also stated that service of the petitioner was no longer required with effect from forenoon of 29.6.1998 without complying with the requirement of Section 25 F of the Industrial Dispute Act, 1947 whereas, in the letter dated 27.06.1987 no reason was assigned for cancellation of order of conferment of temporary status and on the face of it, the same appeared to be extremely illegal and as such, void ab initio. Be it stated that letter dated 27.06.98 has never been served upon the petitioner as such the petitioner is not aware of the reason of cancellation of temporary status earlier conferred to him.

Copy of the letter dated 16.12.1997 and 22.12.1997 and impugned letter dated 29.06.1998 are enclosed herewith and marked as Annexure-2, 3 and 4 respectively.

6. That being highly aggrieved for cancellation of temporary status as well as disengagement from service, the writ petitioner had approached the Central Administrative Tribunal in O.A. 141 of 1998 whereupon the Tribunal vide interim order dated 02.07.98 directed the

respondents, inter alia, not to disengage the service of the petitioner and further directed them to allow him to continue in service.

Copy of the order-dated 02.07.1998 is annexed as Annexure-5.

7. That the petitioner, immediately after passing of the above mentioned interim order, had approached the respondents and by submitting the copy of the said interim order, had sought reinstatement in service. But surprisingly, the respondents did not take any action despite the fact that the order was clear and the said order had been passed in presence of Sr. C.G.S.C. who had also communicated the same to the respondents for compliance.
8. That it is stated that the benefit of Temporary Status had been granted to the writ petitioner after detail scrutiny of his service records and after finding him eligible/suitable for grant of temporary status. Therefore, his case is covered by the terms and conditions laid down in the scheme to grant temporary status and regularisation. It is pertinent to mention here that the conferment of temporary status had also been approved in the minutes of I.JCM held on 04.03.1996 in the Chamber of Telecom District Manager, Silchar. The said meeting was held on 04.03.1996, 13.06.1996, 29.08.1996, 14.02.1997, 27.06.1997, 22.07.1997, 22.09.1997 and 24.12.1997 and only thereafter the Respondents passed the order of conferment of Temporary Status in respect of the petitioner.
9. That it is stated that after being conferred upon the temporary status, the petitioner had continuously worked till 29.6.1998, which would be evident from the pay slips, issued by the office of the Respondents.

Copies of the pay slips are enclosed and are marked as Annexures- 6 (series).

10. That it is categorically stated that after the interim order dated 02.07.1998 was passed in OA No. 141 of 1998, the petitioner had regularly attended to the office but no work was allotted to him. But in terms of the said interim order, he is deemed to have continued in service although no specific order of work was allotted and in the process he has continuously worked since 02.07.1998 till his representation was finally disposed in terms of judgment passed in O.A. No. 141 of 1998. Therefore, this period is also liable to be taken into consideration for the purpose of granting of temporary status. It is specifically stated that if the aforesaid period were taken into account, the writ petitioner would further be entitled to the temporary status.
11. That the petitioner begs to state that the Respondents duly contested the O.A. No.141/1998 before the Tribunal and the Tribunal decided the same on 31.8.1999 and by the said Judgment & Order the applicants were to file representations individually within a period of one month from the date of receipt of the order and if such representations were made, the respondents were directed to scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. It was also provided that the interim order passed in any of the cases should remain in force till the disposal of the representations.

Copy of the order-dated 31.08.1999 passed in O.A. 141/1998 is annexed as Annexure-7.

- 12. That in terms of the above judgment and order of the Tribunal, the petitioner had submitted representations on 25.10.1999 along with the copy of the judgment and order passed in O.A. No.141/98, i.e. within the time limit fixed by the Tribunal. In the said representation the petitioner, inter alia, prayed for consideration of his case in the light of the judgment and order passed by the Tribunal referred to above.
- 13. That in this connection, it may be stated that the interim order dated 02.07.1998 in O.A. 141/1998 which was granted in favour of the petitioner had continued for another 6 months with effect from 31.08.1999. Moreover, the respondents on number of occasions had sought before the learned Tribunal for extension of time limit even after the expiry of the stipulated time of 6 months so as to scrutinize and consider the case of the petitioner. In that process, the respondents had consumed more than one year in addition to the 6 months' time limit granted by the learned Tribunal and therefore, in term of the interim order dated 02.07.1998 petitioner had accordingly continued till such time. In the said situation, the petitioner further attained eligibility for grant of temporary status by rendering service for 240 days in a particular calendar year and since January, 1998 he has also rendered 240 days' service in the calendar year 1998, 1999, 2000 and 2001 either by virtue of the interim order or by the review of the temporary status granted by the respondent Union of India.
- 14. That the petitioner states that after passing of the interim order dated 02.07.1998, the entire matter had been referred before the Directorate of Telecommunication, New Delhi by the office of the CGMT, Assam

Circle and opinion was also sought regarding implementation of the Interim Order passed by the learned Tribunal in different cases of similar nature including the case of the petitioner in O.A. No. 141/1998. However, it would be evident from the order of the respondent no. 2 issued under letter No. STES-21/160/26 dated 16.10.1998 that it was proposed to be appropriate and beneficial to DOT that the labourers might be re-engaged and in case DOT wishes to dispense with their services then procedure under Section 25F of the Industrial Disputes Act might be adopted after re-engaging the casual labourers.

15. That the petitioner came to know from a reliable source that the local authorities sent compliance report to the Directorate of the Telecommunication in terms of the order dated 16.10.1998 but, in fact, the order of the Tribunal passed on 02.07.1998 directing the respondents to allow the petitioner to continue in service had not been complied with in spite of the instruction passed by the Directorate of Telecommunication.
16. That pursuant to the judgment and order passed in O.A. 332/2000 and 408/2000, the respondents vide BSNL Office Order bearing letter No. E-34/TSM/PTKN/02-03/4 dated 12.03.2003 had granted temporary status to other similarly situated casual workers namely, Md. Luthfur Rahman, Nihar Dey, Sri Prithubhusan Roy, who were employed along with the petitioner but did not consider his case for grant of temporary status and such action of the respondents is in violation of Article 14 of the Constitution.

Copy of the judgment and order dated 05.09.2001 passed in O.A. No. 332/2000 and a copy of the letter-dated 12.03.2003 are annexed as Annexure- 8 and 9 (Series) respectively).

17. That in the above circumstances, the writ petitioner had again approached the learned Tribunal with the OA No. 133/2003 and sought for redress of his grievance. But the learned Tribunal has failed to appreciate the case of the writ petitioner in proper perspective and by an order dated 23.06.2003 has dismissed the OA No. 133/2003 on the ground of limitation.

A copy of the order-dated 23.06.2003 passed in OA No. 133/2003 is annexed herewith as Annexure-10.

18. That the petitioner thereafter being aggrieved with the order dated 23.06.2003 passed in O.A. 133/2003 by the learned CAT, Guwahati Bench has approached before this Hon'ble Court by filing W.P (C) No. 10369/2003. The said writ petition was disposed of by the Division Bench of this Hon'ble Court by the judgment and order dated 29.08.2005, with a direction to the respondents to communicate the petitioner the order of rejection of his prayer for grant of temporary status and the reason of rejection within a period of 30 days from the date when the copy of the order is furnished to the authority. The petitioner immediately after receipt of a certified copy of the judgment and order dated 29.08.2005 communicated the same to the respondents.

Copy of the order dated 29.08.05 is enclosed herewith and marked as Annexure- 11.

19. That the General Manager, BSNL Silchar SSA, vide his impugned letter bearing No. WP (C) 10369/03/SC/06 dated 14.10.2005 rejected the claim of the petitioner for grant of temporary status. In the said order dated 14.10.2005 the respondents again rejected the claim of the petitioner for grant of temporary status in a most mechanical manner, without considering the earlier judgments of the learned Tribunal passed in O.A. No. 332/2000. Be it stated that the petitioner has served for more than 240 days in each calendar year since 1988 as stated in the preceding paragraphs but most surprisingly the respondents without properly scrutinizing the number of days worked by the petitioner has most mechanically issued the impugned order dated 14.10.2005. Moreover, the benefit of temporary status was granted to the petitioner vide letter dated 15.12.1997, 16.12.1997 and 22.12.1997 which could not be taken away by the respondents without following the procedure established by law and on that score the impugned order dated 14.10.2005 is liable to be set aside and quashed.

Copy of the impugned order dated 14.10.05 is enclosed herewith and marked as Annexure-12.


20. That your writ petitioner further begs to say that in the impugned order bearing letter No. WP (C) 10369/03/SC/06 dated 14.10.2005, wherein it has been alleged that the representation of the petitioner has been disposed vide office letter No.E-20/TSM/ Regularisation/SC/04 dated 26.9.2000 following the Tribunal's order dated 31.8.1999 and it is also alleged that the same was sent to the petitioner vide registered letter dated 11.10.2000 from Head Post Office, Silchar but unfortunately, the said letter dated 26.09.2000 was not received by the writ petitioner. It is further stated that as per the committee report

based on authentic official records, the number of days, the petitioner was engaged in each calendar year since 1992 to 1998 did not complete 240 days in any calendar year, as such the petitioner is not eligible for grant of temporary status. Therefore, his claim of temporary status has been rejected, whereas in the impugned order dated 26.9.2000 now enclosed with the impugned order dated 14.10.2005. It is alleged that the writ petitioner did not complete 240 days in any of the calendar year in between 1992 to 1998, as per the committee report based on authentic official records, as such, his claim for grant of temporary status has been rejected, but the petitioner categorically deny the correctness of the statement made in the impugned letter dated 26.9.2000. In this connection, it is stated that after passing of the interim order dated 02.07.1998 the entire matter had been referred before the Directorate of Telecommunication, New Delhi, by the Office of the CGMT, Assam Circle and opinion was also sought regarding implementation of the Interim Order passed by the Learned Tribunal in different cases of similar nature including the case of the present petitioner in O.A. No. 141/98. However, it would be evident from the order of the respondent No. 2 issued under letter No. STES-21/160/26 dated 16.10.1998. It is stated in the said order that it would be appropriate and beneficial to DOT that the labourers might be reengaged and in case DOT wishes to dispense with their services then proceeding under Section 25 F of the Industrial Disputes Act might be adopted after reengaging the casual labourers. It is relevant to mention here that the petitioners came to know from a reliable source that the local authorities sent compliance report to the Directorate of the Telecommunication in terms of the order dated 16.10.1998 but in fact

the order of the learned Tribunal passed on 02.07.1998, directing the respondents to allow the petitioners to continue in service had not been complied with in spite of the instruction passed by the Directorate of Telecommunication. Therefore, action of the respondents is highly arbitrary, unfair and amounts to contempt of Court. The Hon'ble Court may, therefore, be pleased to declare that the petitioners are still in service in terms of the interim order passed on 02.07.1998 in O.A. No. 141/98 and also in terms of the judgment and order passed by the learned Tribunal on 31.08.1999, wherein it was categorically ordered that interim order passed in any of the case should remain in force till the disposal of the representation of the petitioners. It is categorically stated that although the petitioner submitted his representation on 25.10.1999 in terms of the order dated 31.08.1999 but for a long time no communication was received, from the respondents regarding consideration of his cases for grant of temporary status. The respondents are, therefore, liable to pay wages for the period with effect from 30.06.1998 till the formal order of reinstatement is passed by the respondents.

In view of the direction passed by this Learned Tribunal in O.A. No. 141 of 1998, the present petitioner was asked to appear before the Scrutinizing Committee on 03.05.2000 with the relevant documents vide letter dated 26.04.2000. The petitioner accordingly appeared before the Scrutinizing Committee with all relevant documents in terms of letter dated 26.04.2000 but most surprisingly the Scrutinizing Committee did not even feel like to go through the documents but after perusal of the said documents at a glance, informed them that their interview is over. Surprisingly vide letter bearing No. E-20/TSM

regularization/SC/04 dated 26.09.2000, informed the petitioner that the Committee after thorough scrutiny and examination of records submitted its report and according to the said report the present petitioner is not found eligible for conferment of temporary status, even under one time relaxation scheme granted by the department of Telecommunication vide order dated 12.02.1999. It is further stated in the impugned order dated 26.09.2000 that the petitioner did not complete 240 days work in the department of Telecom in any calendar year, prior to 01.08.1998. Moreover, it is also alleged that the petitioner was not in engagement, as on 01.08.1998, as such Committee did not recommend his name for conferment of temporary status. The above finding of the Scrutinizing Committee is contrary to the service record of the petitioner. It is categorically submitted that the petitioner completed 240 days work in each calendar year since his engagement upto the year 1998. It is further submitted that petitioner was very much in engagement on 01.08.1998 by virtue of learned Tribunal's interim order passed in O.A. No. 141/1998, which is also made absolute while disposing the Original Application No. 141/1998 shall be continued till the representation of the petitioner is disposed of. In the instant case the representation of the petitioner in fact was disposed of only on 26.09.2000 if the contention of the respondents is accepted, therefore, at any rate the petitioner was also to be in service continuously without any break at least with effect from 02.07.1998 till 26.09.2000 as per the learned Tribunal's order passed in O.A. No. 141/1998. The detail particulars of working days rendered by the petitioner as per interim order dated 02.07.98 passed in O.A. No. 141/1998 are as follows:


Commissioner of Affidavit
Coimbatore High Court.
Coimbatore

<u>Period</u>	<u>No. of working days</u>
02.07.98 - 31.12.1998	183 days
01.01.99 - 31.12.1999	365 days
01.01.2000 - 26.09.2000	260 days

It is quite clear from above that the petitioner has earned eligibility for conferment of Temporary status as per the records available, as such denial of restoration/grant of temporary status is highly arbitrary, unfair and illegal and the same is in violation of Article 14 of the Constitution of India in as much as 4 (four) similarly situated casual workers namely; Dharendra Sarkar, Nihar Dey, Lutfur Rahman and Sri Birendra Das whose cases were initially rejected by the Scrutinizing Committee on 26.09.2000 following the direction passed in O.A. No. 141/1998 but subsequently they were granted benefit of temporary status vide TDM order bearing No. E-34/TSM/PTKN/02-03/4 dated 12.03.2003. In this connection it may be stated that the case of Md. Lutfur Rahman, Nihar Dey, Dharendra Sarkar and Birendra Das were earlier rejected by the respondents in the similar manner on 26.09.2000, exactly on the same alleged ground but thereafter said Md. Lutfur Rahman, Nihar Dey, Dharendra Sarkar and Birendra Das again moved an Original Application before the learned Central Administrative Tribunal, Guwahati Bench through O.A. No. 332/2000 and the said Original Application was duly contested by the respondents and the matter was finally decided on 05.09.2001. The learned Tribunal was pleased to set aside the impugned order dated 26.09.2000 and also held that those petitioners namely; Md. Lutfur Rahman, Nihar Dey, Dharendra Sarkar and Birendra Das were also deemed to be in service from 02.07.1998 to 26.09.2000 and further directed the respondents to consider the case

of those petitioners in O.A. No. 332/2000 for conferment of temporary status in the light of the observation made in the O.A. No. 28/2001. Be it stated that the other similarly situated casual workers whose names have been cited above approached the Learned Tribunal through O.A. No. 28/2001 and also through O.A. No. 332/2000 being aggrieved by the order of rejection of claim for conferment of temporary status and the learned Tribunal were pleased to allow the aforesaid original applications. It is categorically submitted that the present petitioner also rendered same period of service under the present respondents like those petitioners of O.A. No. 28/2001 and 332/2000, and the present petitioner is similarly situated like those petitioners of O.A. No. 332 of 2000 and O.A. No. 28/2001. It would further be evident that exactly similar order of rejection of the claim for conferment of temporary status was passed in respect of Md. Lutfur Rahman, Nihar Dey, Dharendra Sarkar and Birendra Das on the same date i.e. on 26.09.2000 which were finally set aside and quashed by the learned Tribunal. Therefore, the present petitioner being similarly circumstanced like those petitioners of O.A. No. 28/2001 and 332/2000 also entitled to similar benefit of conferment of temporary status following the same manner, as extended to those petitioners in O.A. No. 332/2000 vide order dated 12.03.2003 with all consequential service benefits including arrear monetary benefit.

Copy of the impugned order dated 26.09.2000 and judgment and order dated 24.08.2001 are annexed hereto as Annexure-13 and 14 respectively.

21. That it is stated that the respondents being aggrieved with the judgment and order passed in O.A. No. 332/2000 and also in O.A. No.

28/2001 had approached this Hon'ble Court challenging the validity of the judgment passed by the learned Tribunal. However, this Hon'ble Court was pleased to dismiss the writ petition and thereby confirmed the judgment of the learned Tribunal. Thereafter, the respondent BSNL authority implemented the judgment of the learned Tribunal by granting temporary status to those applicants in O.A. No. 332/2000 and 28/2001 namely; Md. Lutfur Rahman, Nihar Dey, Dharendra Sarkar and Birendra Das.

It is humbly submitted that the Hon'ble Court be pleased to direct the respondents to produce relevant file/record pertaining to the order bearing letter No. E-34/TSM/PTKN/02-03/4 dated 12.03.2003, whereby temporary status have been granted to similarly situated employees, when the learned Tribunal set aside the impugned orders passed on 26.09.2000. The aforesaid records are necessary for perusal of the Hon'ble Court as because almost similarly grounds have been taken by the respondents while initially rejected the claim of temporary status of Md. Lutfur Rahman, Nihar Dey, Dharendra Sarkar and Birendra Das. But subsequently the respondents authority found the aforesaid persons eligible and granted/restored temporary status to them vide order dated 12.03.03. Hence records are necessary for proper adjudication of the case as because the petitioner is similarly situated in all respect like the temporary status employees whose names are referred hereinabove.

22. That the case of the petitioner is squarely covered by the judgment and order in OA No. 332/2000 and in O.A No. 28/2001, but he was discriminated amongst the similarly situated person and such act of the respondents resulted into a fresh cause of action in his favour. The

further cause of action in the instant case had arisen when other similarly situated casual workers were granted temporary status vide the order-dated 12.03.2003 ignoring his case. Be it stated that although there was a direction passed earlier in O.A. 141/1998, the respondents did not take any step for favourable consideration of the case of the petitioner.

23. That although the petitioner had submitted representation on 25.10.1999 in terms of the order-dated 31.08.1999, but for a long time no communication were received from the respondents regarding consideration of his case. However, when he came to know that his case for grant of temporary status had been rejected, he had immediately approached the learned Tribunal. In that view of the matter and also in view of subsequent action of the respondents in granting temporary status to other similarly situated persons ignoring the case of the petitioner, a fresh cause of action arose in favour of the petitioner but the Tribunal wholly ignored this aspect of the matter and consequently dismissed the application.

24. That the petitioner states that the benefit of temporary status granted to him vide letter dated 15.12.1997, 16.12.1997 and 22.12.1997 could not be taken away by the respondents without following the procedure established by law. Moreover, in view of the interim order dated 31.08.1999 passed by the Tribunal earlier, the respondents were/are liable to pay wages for the period with effect from 30.06.1998 till the formal order of reinstatement is passed by them.

25. That the petitioner submits that the impugned decision of the respondents not to grant temporary status is contrary to the rule and

law as well as the facts and circumstance of the present case. It is stated that he has completed the requisite number of working days as laid down in paragraph 5 (i) of the Casual Labourers (Grant of Temporary status and Regularisation) Scheme of the Department of Telecommunication, 1989 and thus, has fulfilled the criterion as provided therein and as such, has acquired a valuable legal right for grant of temporary status in terms thereof.


26. That the petitioner submits that he has continuously worked since 1988 without any break and performed works of permanent nature. He was entrusted with the works of regular nature that are being performed by the regular Mazdoor of the department of Telecommunications. In such a situation, non-consideration of his case for grant of temporary status is contrary to the findings of this Hon'ble Tribunal given earlier in O.A. No. 332/2000.
27. That the action of the respondents is also contrary to the records of the case of similarly situated employees and also contrary to the findings given earlier by the scrutinising committee constituted by the department of telecommunication itself as well as to the certificates issued/countersigned by the competent authority of the department of Telecommunication relating to the working period in respect of the petitioner.
28. That the petitioner states that he was in engagement as on 01.08.1998 in terms of the interim order dated 02.07.1998 passed by the Hon'ble Tribunal passed in O.A. No. 141 of 1998.

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29. That the petitioner submits that non-consideration of his claim for grant of temporary status and regularisation is contrary to the spirit of the direction of the Tribunal in O.A. No. 332/2000 and as such is in violation of Article 14 and 16 of the Constitution of India. The Tribunal therefore fell into obvious error in dismissing the application filed by the petitioner to salvage the situation.
30. That the petitioner states that he has acquired temporary status by operation of law as he has fulfilled all the required conditions as laid down in the relevant scheme for grant of temporary status and under the amended scheme.
31. That the petitioner states that the respondents have willfully restrained him from discharging his duties and as such he is entitled to full back wages with effect from 30.06.1998 till the date of actual reinstatement.
32. That this application is made bona fide and for the cause of justice.

In the premises aforesaid, it is thus humbly prayed that Your Lordships may be pleased to consider this petition, admit the same, call for the records of the case and issue Rule upon the Respondents to show cause as to why: -

- (A) A writ of Mandamus and/or Certiorari as prayed for should not be issued setting aside the impugned order bearing letter No. X-11/TDM SC/CM-Rectt/98-99/213 dated 27.06.1998 communicated through letter bearing


Commissioner of Affidavit
Gauhati High Court.
Gauhati

No. E-63/T&P/9 dated 29.06.98 (Annexure- 4), impugned letter bearing No. E-20/TSM Regularization/SC/04 dated 26.09.2000 (Annexure- 13) as well as bearing letter No. WP (C) 10369/03/SC/06 dated 14.10.2005 (Annexure- 12);

-And-

- (B) An appropriate order should not issue declaring the writ petitioner entitled to grant/restoration of Temporary Status and Regularization in terms of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunication, 1989,

-And-

- (C) A writ of Mandamus should not issue directing and/or commanding the respondents to restore temporary status, initially granted to the writ petitioner in terms of vide letter dated 16.12.1997 and 22.12.1997 (Annexure- 2 and 3).

- And -

- (D) A writ of like nature should not issue further directing and/or commanding the respondents to allow the writ petitioner to continue in service in terms of the interim order passed by the Tribunal on 02.07.1998 and in terms of the judgment and order 31.08.1999 and 30.03.2001 passed in O.A. No. 141/1998 and in O.A. No. 332/2000 and also in the light of the decision of the O.A. No. 28/2001 respectively till the benefit of temporary status and regularization are granted to him in terms of the

order dated 15.12.1997, 16.12.1997 and 22.12.1997 with retrospective effect.

- And -

- (E) A further writ of like nature should not issue to declare that the writ petitioner is entitled to full back wages with effect from 30.06.1998 till the date of actual reinstatement.

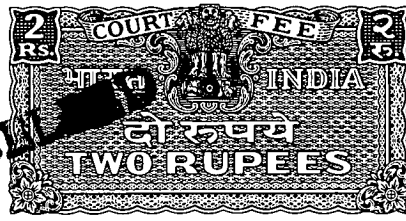
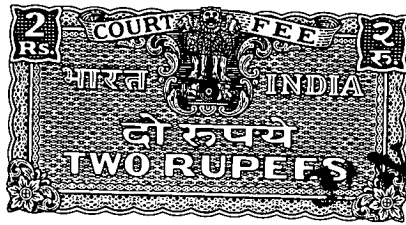
- And -

On cause (s) that may be shown and upon hearing the parties be pleased to make the Rule absolute and/or pass such other order(s) or direction(s) as Your Lordships may deem fit and proper;

-And-

During pendency of the case, the Hon'ble Court be pleased to direct the respondents that the pendency of the Rule shall not be a bar for consideration of the case of the petitioner to grant/restoration of temporary status to the petitioner as prayed for.

And for this act of kindness the petitioner shall ever pray.



AFFIDAVIT

I, Shri Azizur Rahman, S/o Surman Ali, aged about 38 years, resident of village Hatkhola, P.O. Kanaibazar, District Karimganj, Assam, do hereby solemnly affirm and say as follows: -

- 1. That I am the petitioner in the instant case and as such competent to swear this affidavit.
- 2. That the statements made in this affidavit and in paragraphs 1, 2, 4, 7, 8, 10, 12, 13, 14, 15, 16, 21 and 31 are true to my knowledge while those made in paragraphs 3, 5, 6, 9, 11, and 17, 18, 19 & 20 are the matter of records which I believe to be true and the rests are my humble submission before the Hon'ble Court.

And I sign this, on this 28th day of June 2006.

Identified by:

Sanjib Kumar Saha
Advocate's Clerk

Azizur Rahman

Solemnly affirmed before me this 28th day of June, 2006
 The declarant is identified by Shri V. Saha
 known to me personally
 over and above the documents to
 the court and I have read them

[Signature]
 Commissioner of Affidavit
 GAUHATI HIGH COURT
 GUWAHATI

culars of working days in respect of Casual Labourers engaged from 1-85 and upto 22-06-88 under S.D.O.T/KRM & S.D.E/PTKN.

	Name & Address of Casual Labourers	Date of Engagement	Total work Days	Under which unit					
1.	Shri Debendra Kr. Sinha. S/O Shri Paya Sinha Vill : Guramanjee P.O : Dullabcherra Dist : Karimganj.	01-01-86	Year	Days	SDE/PTKN <i>Retn. by SDE/PTKN</i>				
			86	41					
			87	258					
			88	275					
			89	243					
			90	248					
			91	290					
			92	297					
			93	278					
			94	193					
			95	79					
2.	Shri Sukumar Sinha S/O Lt. Kularga Sinha Vill : Krishna nagar P.O : Dullabcherra Dist : Karimganj.	01-04-86	86	68	SDE/PTKN <i>Retn. by SDE/PTKN</i>				
			87	249					
			88	288					
			89	245					
			90	258					
			91	319					
			92	311					
			93	315					
			94	148					
			95	...					
			3.	Shri Birendra Das S/O Shri Kiran Ch. Das P.O. : Srighuri Vill : Dakshingram P.S : Badarpur Dist. : Karimganj		01-01-87	87	260	SDOT/KRM <i>Retn. by SDOT/KRM</i>
88	305								
89	264								
90	245								
91	250								
92	241								
93	241								
94	...								
95	...								
4.	Shri Nripendra Das S/O Shri Ganesh CH. Das Vill : Bakrihawar (Kathakal) Dist. : Hailekendi	Feb '87			87		267	SDOT/KRM <i>Retn. by SDOT/KRM</i>	
					88		312		
			89	257					
			90	240					
			91	245					
			92	240					
			93	266					
			94	243					
			95	202					
			5.	Md. Samsul Haque S/O Md. Motiur Rahman. Vill : Latimara P.O : Latimara Dist. Cachar.	July '87	87	71		SDOT/KRM <i>Retn. by SDOT/KRM</i>
						88	254		
89	261								
90	257								
91	270								
92	250								
93	265								
94	293								
95	45								

*Certified to be true copy
Suvarjit Choudhary
Advocate
dtv 28/6/2006.*

No.	Name & Address of Casual Labourers	Date of Engagement	Total work days	Under which unit.	
1.	Md. Sahab Uddin Mazar Bhuyan. S/O Md. Mosaraf Ali Mazar Bhuyan Vill : Latimara. P.O : Latimara Dist. : Cachar	Sept. '87	87 88 89 90 91 92 93 94 95	31 255 262 242 264 271 260 264 135	SDOT/KRM <i>Retnch by SDOT/KRM</i>
2.	Dhirendra Sarkar S/O Lt. Roychand Sarkar. Vill & P.O : Shyamnagar. Dist : Karimganj	01-01-88	88 89 90 91 92 93 94 95	129 241 262 250 246 241 81	SDOT/KRM <i>Retnch by SDOT/KRM</i>
8.	Shri Dilip Nath S/O Lt. Rajendra ch. Nath. Vill - Katirail. P.O - Katirail Dist. Cachar.	01-01-88	88 89 90 91 92 93 94 95	252 261 281 271 250 247 60	SDOT/KRM <i>Retn. by SDOT/KRM.</i>
9.	Shri Nabendu Malakar S/O Shri Nripendra Malakar Vill & P.O : Patherkandi Dist. - Karimganj	01-01-88	88 89 90 91 92 93 94	246 252 265 247 251 257 255	SDE/PTKN <i>Retn by SDOT/KRM.</i>
10.	Shri Nihar Dey S/O Shri Nripendra Dey. Vill & P.O : Patherkandi. Dist : Karimganj.	01-01-88	88 89 90 91 92 93 94	241 242 240 242 241 242 242	SDE/PTKN <i>Retn by SDE/PTKN.</i>
11.	Shri Mohit Roy S/O Lt. Ramcharan Roy Vill : Umapati P.O : Ambarkhana Dist. Karimganj	02-01-88	88 89 90 91 92 93 94	248 246 249 240 247 245	SDOT/KRM <i>Retn. by SDOT/KRM.</i>

12. Md. Lutfur Rahman S/O Md. Akaddees Ali Vill : Mepania P.O. : Kanaibazar Dist : Karimganj.	23-01-88	88	225	SDE/PTKN <i>Rem. by SDOP/KRM</i>
		89	272	
		90	243	
		91	247	
		92	256	
		93	248	
		94	263	
95	15			
13. Md. Azizur Rahman S/O Md. Surmen Ali Vill : Matikela P.O. : Kanaibazar Dist : Karimganj	01-03-88	88	245	SDE/PTKN <i>Rem. by SDOP/KRM</i>
		89	250	
		90	215	
		91	242	
		92	243	
		93	242	
		94	242	
95	107			
14. Shri Sujit Kr. Sarma S/O Lt. Kanti Bn. Sarma Vill : Gofalghat P.O : Dhalabazar Dist : Cachar.	06-03-88	88	247	SDE/PTKN <i>Rem. by SDOP/KRM</i>
		89	292	
		90	254	
		91	253	
		92	253	
		93	249	
		94	249	
15. Shri Manindra Nath S/O Shri Mahendra ch. Nath Vill : Kantalesh P.O. : Bhangabazar Dist : Karimganj.	March'88	88	284	SDOT/KRM <i>Rem. by SDOP/KRM</i>
		89	246	
		90	287	
		91	279	
		92	287	
		93	284	
		94	250	
95	104			
16. Shri Niranjan Das S/O Shri Sujit Ram Das Vill : Paterakandi P.O. : Mahakal Dist : Karimganj .	March'88	88	257	SDOT/KRM <i>Rem. by SDOP/KRM</i>
		89	267	
		90	247	
		91	251	
		92	256	
		93	247	
		94	241	
95	228			

The above particulars of the mazdoor are forwarded to the TDE/SC by the (1) SDOT/KRM vide his letter NO. E-119/PT-II/94-95 dt. 10-7-95 and letter No. E-119/PT-II/95-96 dt. 8-12-95
(2) SDE/PTKN letter No. E-27/95-96 dt. 26-10-95

Deptt. of Telecom

O/O the SDE (G) Telecom, PTKN

No. E-37/97-98

Dated - 16.12.97

To,

1. Sri Debendra Kr. Sinha, S/O. Sri Paye Sinha,
Vill - Guramanzee.
2. Sri Subsumar Sinha, S/O. Late Kala Raja Sinha,
Vill - Krishna Nagar.
3. Sri Sujit Kr. Sarmah, S/O. L. Kanti Bushan
Sarmah, Vill - Gajalghat.
4. Sri Nabendra Kr. Malakar, S/O. Sri Nipendra
Malakar, Vill - Iswarshree.
5. Md. Azizur Rahman, S/O. Md. Surman Ali,
Vill - Hatkhola.
6. Sri Nihar Dey, S/O. Sri Nripendra Dey, Vill-
Patherkandi.
7. Lotfur Rahman, S/O. Md. Akaddash Ali, Vill-
Hafania.
8. Sri Ratneswar Nath, S/O. Kuneswar Nath,
Vill - Narayanpur.
9. Sri Pritu Bushan Roy, S/O. Purna Ch. Roy,
C/O. Brassana Choudhury, P.O. - Girishganj.

Sub : - Casual Labours (Grant of temporary status
& regularisation scheme) 1989 engaged after
30.9.85 to upto 22.6.88.

In pursuance of TDM/SC Letter No. E-20/G.N/Rectt/
97/dtd.9.12.97, you have been provisionally approved for
TSM. You are requested to submit the following certificates
to this office immediately to take further necessary action.

1. Age at the time of engagement.
2. Educational Qualification upto VIII standard.

Sd/- Illegible,
SDE Group
Patherkandi.

Copy to : -

The TDM/SC for kind information please -

*Certified to be
true copy
Suvajit Choudhury
Advocate
on 28/6/06.*

DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE SUB-DIVISIONAL OFFICER: TELEGRAPH
KARIMGANJ- 788710

No. E-119/TSM/34

Dated at Karimganj, the 22nd Dec' 97

Sub:- Casual Labours (Grant of Temporary status and regularisation scheme) 1989 engaged after 30-3-85 upto 22-6-88)

In pursuance of TDM/Silchar letter No.B-20/Gr.D/Recrutt/98 dtd. 9-12-97 the following listed casual Labours are hereby conferred temporary Status Mazdoor provisionally approved by the TDM/Silchar.

They are directed to report for duty to the JTO (T) Karimganj temporarily. Their final place of posting will be decided by the TDM/Silchar and on receipt of the same further posting order will be issued for the interest of service.

- 1) Sri Nripendra Ch. Das.
- 2) Sri Samsul Haque.
- 3) Sri Manindra Ch. Nath.
- 4) Sri Sahabuddin Mazarbhyan.
- 5) Sri Niranjan Ch. Das.
- 6) Sri Birendra Das.
- 7) Sri Dhirendra Sarkar.
- 8) Sri Dilip Kr. Nath.
- 9) Sri Mohit Roy.

Terms and condition for granting of temporary status.

- 1) The granting of temporary status is purely on temporary and may be terminated at any time by giving one month Notice in writing by appointing authority without assigning reason.

Certified to be true copy
Surajit Choudhury
Advocate
on 28/6/2006.

- 2) The granting of temporary status carries with its liability for transfer within the S.S.A.
- 3) The granting of temporary status shall also liable for field service within India during war/emergences.
- 4) The service condition will be Govern by the relevant Rules in force from time to time.

Sub-divisional Officer
Telegraph Karimganj-786710.

Copy to:-

- 1) The TDM/Silchar w.r. to his letter No. mentioned above. He is requested kindly to issue necessary instruction for their place of posting as desired by him.
 - 2) The A.O. Cash/O/O the TDM/Silchar.
 - 3) The DH(P&A) O/O the TDM/Silchar.
 - 4) The SDE(HRD) O/O the TDM/Silchar.
 - 5) to 13 official concerned.
- 14) F-119(THP) file.

Sub-divisional Officer
Telegraph Karimganj-786710.

- 31 -

Annexure - 3

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DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SUB-DIVISIONAL ENGINEER (GROUP)
PATHARKANDI - 788724.

No. 27/97-98/dtd.22-12-97.

Sub : Casual labours (Grant of temporary status and regularization scheme) 1989 engaged after 30-03-88 upto 22-06-88).

In pursuance of TDM/Silchar letter No. 2-20/Pr. 1/Recruit/92 dtd. 09-12-97 the following listed casual labours are hereby conferred temporary status Mandoor provisionally approved by the TDM/Silchar.

They are directed to report to duty to the undersigned temporarily. Their final place of posting will be decided by the TDM/Silchar and on receipt of the same further posting order will be issued for the interest of service.

1. Sri Debendra Kr. Sinha, S/O. Sri Paje Sinha, Vill. Gurmansee, Dist. Karimganj.
2. Sri Sukumar Sinha, S/O. Lt. Krishna Raja Sinha, Vill. Krishakrupur Dist. Karimganj.
3. Sri Sujit Kr. Samra, S/O. Lt. Subodh Kumar Samra, Vill. Ghat, Dist. Cachar.
4. Sri Nabendra Kr. Malakar, S/O. Sri Nipendra Malakar, Vill. Iswarahree, Dt. Karimganj.
5. Md. Azizur Rahman, S/O. Md. Surman Ali, Vill. Hatkhola, P.O. Kanai-bazar, Dt. Karimganj.
6. Sri Nihar Dey, S/O. Sri Nipendra Dey, Vill. Patharkandi, Dt. Kxj.
7. Lotfur Rahman, S/O. Md. Akaddas Ali, Vill. Hafania, Dt. Kxj.
8. Sri Ratheswar Nath, S/O. Kameswar Nath, Vill. Sarainpur, Dt. Kxj.
9. Sri Pritu Bushan Roy, S/O. Purna Ch. Roy, P.O. Dillal, Dt. Kxj.

Term, and condition for granting of temporary status.

1. The granting of temporary status is purely on temporary basis and may be terminated at any time by giving one month notice in writing by appointing authority without assigning reasons thereof.
2. The granting of temporary status carries with its liability for transfer within the S. S. A.
3. The granting of temporary status shall also hold for field service within India during war time.
4. The service conditions will be as per rules in force at the time to time.

Sub-Divisional Engineer,
(Group) Patharkandi.
788724.

Copy to :-

- 1) The TDM/Silchar w.r. to his letter No. mentioned above. He is requested kindly to issue necessary instruction for their place of posting as desired by him.
- 2) The A. O. Cash, O/O the TDM/Silchar.
- 3) The DE (P&A) O/O the TDM/Silchar.
- 4) The SDE (HRD) O/O the TDM/Silchar.
- 5) to 13) official concerned.
- 14) S-119 (TEP) File.

certified to be true copy.
Sarajit Choudhary
Advocate
dt 28/6/2006

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATION

o/o the G. D. O. (Phone)

Karimgani

dtd. at KRM, Tu 29.06.98

No : E-63/T2 P/9

To

*Sri Azizur Rahman
Telephone Exchange, Karimgani*

Sub : Casual labourers (Grant of temporary status and regularisation scheme), 1998 engaged after 30-3-85 upto 22-6-88.

Ref : TDM Silchar Memo No. X-11/TDM-SC/CM-Rectt/98-99/213.
Dtd:27-6-98.

The provisional temporary status conferred on you vide TDM Silchar letter No. E-20/Grp-D/Rectt/97 dtd. at Silchar, 9-12-97 has been cancelled by TDM Silchar vide his letter No. X-11/TDM-SC/CM-Rectt/98-99/213 dtd. 27.6.98, as you have not qualified for TBM as per your previous engagement record.

The undersigned has been directed not to engage you in work and as such your services are no longer required with effect from the Fore-noon of 29-6-98.

Senokabati 29.6.98

G. D. O. (Phone)
Karimgani

Copy to :

1. TDM Silchar for favour of kind information pl.
2. CAO O/O TDM Silchar for onformation pl..
3. DE (P&A) O/O TDM Silchar for information pl.

Sd/

G. D. O. (Phone)
Karimgani

*certified to be true copy
Surajit Choudhury
Advocate
on 28/6/2006*

FORM NO. 4
(See Rule 42)

In The Central Administrative Tribunal

GUAHATI BENCH : GUAHATI

ORDER SHEET
APPLICATION NO. 141 OF 1998

Applicant(s) All India Telecom empd union
- vs - A.M.S.

Respondent(s) Union of India & Ors

Advocate for Applicant(s) Mr. D.K. Sharma
Mr. S. Ali

Advocate for Respondent(s) Mr. S.C. Ghosh

C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
	2-7-98	<p>Heard Mr. D.K. Sharma learned counsel appearing on behalf of the applicant and Mr. S. Ali, learned Sr. C.G.S.C for the respondents.</p> <p>Application is admitted. Mr. D.K. Sharma prays for an interim order, not to discontinue the services of the applicants. Mr. S. Ali has no instructions in this matter.</p> <p>Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.</p> <p>Meanwhile, the casual workers shall not be disengaged and the applicants shall be allowed to continue in their services.</p> <p>List it on 31-7-98 for orders.</p> <p>Member Vice-Chairman</p>

*Certified to be true copy
of 28/6/06
Advocate
Im*

(Space for communication)

PAY & ALLOWANCES FOR THE MONTH OF March

Basic Pay.....	2550	D.A.....	332	A.Comp.Allow..	28
H.R.A.....	128	Transport Allow	75	GROSS SALARY ..	3103
GPF Cont.	0	DEDUCTIONS(Dep)	0	Assam Prof.Tax	29
NET SALARY Rs.	3076				

Annexure-6
(Serial)

(Space for communication)

PAY & ALLOWANCES FOR THE MONTH OF April

Basic Pay.....	2550	D.A.....	400	A.Comp.Allow..	28
H.R.A.....	128	Transport Allow	75	GROSS SALARY ..	3181
GPF Cont.	0	DEDUCTIONS(Dep)	0	Assam Prof.Tax	29
NET SALARY Rs.	3152				

(Space for communication)

PAY & ALLOWANCES FOR THE MONTH OF May

Basic Pay.....	2550	D.A.....	400	A.Comp.Allow..	28
H.R.A.....	128	Transport Allow	75	GROSS SALARY ..	3181
GPF Cont.	0	DEDUCTIONS(Dep)	0	Assam Prof.Tax	29
NET SALARY Rs.	3152				

Certified to be true copy
Suvajit Choudhury
Hd rogel
on 28/6/06.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SILCHAR
PAY SLIP FOR THE MONTH OF June 1998

NAME & DESIG:- SRI AZIZUR RAHMAN, TSM
GPF.A/C NO. PLI.NO.

PAY & ALLOWANCES:-

Basic Pay./... 2550 D.A..... 400 A.Comp.Allow.. 20
H.R.A..... 191 Transport Allow 75

GROSS SALARY Rs. 3244

DEDUCTIONS (Departmental):-

GPF Cont. 0

TOTAL DEDUCTIONS (Departmental) RS. 0

OTHER DEDUCTIONS (Out Of Account):-

Assam Prof. Tax 29

TOTAL OTHER DEDUCTIONS (Out Of Account):- Rs. 29

NET SALARY ie Take Home Pay:- Rs. ~~3215~~

2999

Accounts Officer

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE T.D.M. SILCHAR
PAY SLIP FOR THE MONTH OF MAY 1998

NAME & DESIG:- SRI AZIZUR RAHMAN, TSM
GPF.A/C NO. PLI.NO.

PAY & ALLOWANCES:-

Basic Pay./... 2550 D.A..... 400 A.Comp.Allow.. 20
H.R.A..... 191 Transport Allow 75

GROSS SALARY Rs. 3244

DEDUCTIONS (Departmental):-

GPF Cont. 0

TOTAL DEDUCTIONS (Departmental) RS. 0

OTHER DEDUCTIONS (Out Of Account):-

Assam Prof. Tax 29

TOTAL OTHER DEDUCTIONS (Out Of Account):- Rs. 29

NET SALARY ie Home Pay:- Rs. 3215

(Typed True Copy)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Original Application No. 107 of 1998 and others

Date of decision : This the 31st day of August 1999.

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

The Hon'ble Mr G. L. Sanglyine, Administrative Member.

1. O.A. No.107/1998
Shri Subal Nath and 27 others Applicants
By Advocates Mr J. L. Sarkar and Mr M. Chanda.

- versus -

The Union of India and others Respondents
By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.

....

2. O.A. No.112/1998
All India Telecom Employees Union,
Line Staff and Group 'D' and another Applicants
By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

The Union of India and others Respondents
By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

....

3. O.A.No.114/1998
All India Telecom Employees Union,
Line Staff and Group 'D' and another Applicants
By Advocates Mr B.K. Sharma and Mr S. Sarma.

*Certified to be true copy
Swajit Choudhury
Advocate
on 28/8/06*

- versus -

The Union of India and others Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

....

4. O.A. No.118/1998

Shri Bhuban Kalita and 4 others. Applicants

By Advocates Mr J. L. Sarkar, Mr M. Chanda and Ms N.D.Goswami.

- versus -

The Union of India and others Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

....

5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 others Applicants

By Advocates Mr J. L. Sarkar, Mr M. Chanda and Ms N.D.Goswami.

- versus

The Union of India and others Respondents

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.

....

6. O.A.No.131/1998

All India Telecom Employees Union
and another Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma and Mr U.K.Nair.

- versus -

The Union of India and others Respondents

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.

....

7. O.A.No.135/98

All India Telecom Employees Union,
Line Staff and Group 'D' and 6 others Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma and Mr U.K.Nair.

- versus -

The Union of India and others Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

8. O.A.No.136/98

All India Telecom Employees Union,
Line Staff and Group 'D' and 6 others Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma and Mr U.K.Nair.

- versus -

The Union of India and others Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

9. O.A.No.141/98

All India Telecom Employees Union,
Line Staff and Group 'D' and another Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma and Mr U.K.Nair.

- versus -

The Union of India and others Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

10. O.A.No.142/98

All India Telecom Employees Union,
Civil Wing Branch. Applicants

By Advocate Mr B. Malakar.

- versus

The Union of India and others Respondents

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.

11. O.A.No. 145/98

Shri Dhani Ram Deka and 10 others Applicants

By Advocate Mr I. Hussain.

- versus -

The Union of India and others. Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

....

12. O.A.No.192/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma and Mr U.K.Nair.

- versus -

The Union of India and others Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

....

13. O.A. No.223/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

The Union of India and others Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

....

14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma, Mr U.K.Nair and
Mr.D.K.Sharma.

- versus -

The Union of India and others Respondents

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.

....

15. O.A. No.293/1998

All India Telecom Employees Union,

Line Staff and Group 'D' and another Applicants
By Advocates Mr B.K. Sharma, Mr S. Sarma and Mr D.K.Sharma.

- versus -

The Union of India and others Respondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....
ORDER

BARUAH.J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

2. The All India Telecom Employees Union is a recognized union of the Telecommunication Department. This Union takes up the cause of the members of the said union. Some of the applications were submitted by the said union, namely, the Line Staff and Group 'D' employees and some other applications were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A. No.269/1998 there is

no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different officers of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This Scheme was communicated by letter No. 269-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the Scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority

they approached this Tribunal by filing O.A. Nos. 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A. Nos. 302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus, the applicants have approached this Tribunal by filing the present O.A.s.

4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.A.s is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special

requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos. 302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos. 302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr B.K.Sharma, Mr.J.L.Sarkar, Mr I. Hussain and Mr B. Malakar, learned counsel appearing on behalf of the applicants and also Mr. A. Deb Roy, learned Sr. C.G.S.C. and Mr. B. C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that

they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. 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 submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/-VICE CHAIRMAN
Sd/- MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

The Hon'ble Mr Justice D.H. Barman, Vice-Chairman

The Hon'ble Mr G.L. Sanglyiner, Administrative Member

1. O.A.No.107/1998
Shri Subal Nath and 27 othersApplicants
By Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.
.....

2. O.A.No.112/1998
All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma and Mr S. Sarma

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The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.
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3. O.A.No.114/1998
All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma and Mr S. Sarma

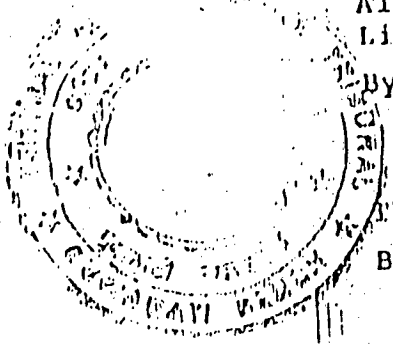
-versus-

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.
.....

4. O.A.No.118/1998
Shri Bhuvan Kalita and othersApplicants
By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms D. Goswami.

-versus-

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.
.....



certified copy to be given
Surajit Choudhury
Advocate
on 28/8/06.

1999

5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 othersApplicant
By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Mr N.D. Goswami.

-versus-

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Adul. C.G.S.C.
.....

6. O.A.No.131/1998

All India Telecom Employees Union and
anotherApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
By Advocate Mr B.C. Patha, Adul. C.G.S.C.
O.A.No.135/98

7. All India Telecom Employees Union,
Line Staff and Group 'D' and
6 othersApplicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.
.....

8. O.A.No.136/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and
6 othersApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.
.....

9. O.A.No.141/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.
.....

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10. O.A.No.142/1998

All India Telecom Employees Union,
Civil Wing Branch.

.....Applicants

By Advocate Mr B. Malakar

-versus-

The Union of India and others

.....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 others

.....Applicants

By Advocate Mr I. Hussain.

-versus-

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

12. O.A.No.192/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and others

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By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

13. O.A.No.223/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Mr D.K. Sharma.

-versus-

The Union of India and others

.....Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

JK

All India Telecom Employees Union,
Line Staff and Group 'D' and another

..... Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr D.K. Sarma.

-versus-

The Union of India and others

..... Respondents

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

.....

ORDER

BARUAH.J. (V.C.)

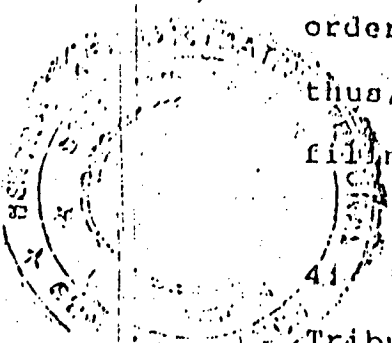
All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applications were submitted by the said union, namely, the Line Staff and Group 'D' employees and some other applications were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the

benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This Scheme was communicated by letter No.269-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the Scheme should be confined to the casual employees who were engaged during the period from 30.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended

to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A.No.750/1994. The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A.Nos.302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus, the applicants have approached this Tribunal by filing the present O.A.s.



4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.A.s is that the Association had no authority to

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represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the



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Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr B.K.Sharma, Mr J.L. Sarkar, Mr I. Hussain and Mr B. Malakar, learned counsel appearing on behalf of the applicants and also Mr A. Deb Roy, learned Sr. C.G.S.C. and Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. 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 submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

VICE-CHAIRMAN
10/- MEMBER (A)

Certified to be true Copy
প্রমাণিত ক্রিয়াক্রম

[Handwritten Signature]

Deputy Registrar (D)
Central Administration, Gauhati
Guwahati B. N. M.

[Handwritten Signature]



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. ANNEXURE - 78

Original Application No. 332 of 2000.

Date of Order : This is the 5th Day of September, 2001.

HON'BLE MR. K. K. SHARMA, ADMINISTRATIVE MEMBER.

1. Dhritendra Sarkar
S/O Late Roy Chand Sarkar
Village: Shyam Nagar
District :- Karimganj
P.O :- Karimganj
Assam.
2. Sri Birendra Das
S/O Sri Kiran Chandra Das
P.O :- Srigowri
Village :- Dakshingram
P.S :- Badarpur
District :- Karimganj
Assam.
3. Md. Lutfur Rahman
S/O Md. Akaddas Ali
Village:- Hafania
P.O:- Hafania (Maina)
District:- Karimganj
Assam.
4. Sri Nihar Dey
S/O Sri Nripendra Dey
Village:- patharkandi
District:- Karimganj
Assam.

. . . Applicants.

By Mr.M.Chanda, Mr.S.Sarma, Mrs.N.D.Goswami

- Vs -



1. Union of India
Through the Secretary to the
Govt. of India
Ministry of Communication
New Delhi.
2. The Chief General Manager
Assam Circle
Govt. of India
Department of Telecommunication
Ulubari, Guwahati.
3. The Garrison Manager
Telecom, Silchar SSA
Government of India
Department of Telecommunications
Silchar, Assam.
4. Sub-Divisional Engineer (Group)
Department of Telecommunications
Patharkandi-788724.

. . . Respondents.

By Mr.B.C.Pathak, Learned Addl.C.G.S.C.

Certified to be true copy.
Suvajit Choudhury
Advocate
on 28/6/06.

K.K.Sharma

O R D E R

K.K.SHARMA, (ADMN. MEMBER) :

Four applicants have joined together to file this application under section 19 of the Administrative Tribunals Act, 1985. The main issue in this application pertains to the grant of temporary status under the Casual Labourers (Grant of Temporary Status and Regularisation Scheme of the Department of Telecommunications, 1989.

2. The four applicants came before this Tribunal against the cancellation of temporary status granted to them. The applicants were engaged as Casual Labourers by the S.D.O,T, Silchar, S.D.O., S.D.E, Patharkandi from 1.6.1988, 1.3.1987, 23.1.1988 and 2.1.1988 respectively, The applicants have placed on records the letters of engagement. Two applicants were conferred temporary status with effect from 16.12.1987 and the remaining two applicants with effect from 22.12.1997. However, by the impugned orders dated 29.6.1998 (Annexure - 3 & 4) the temporary status of the applicants have been cancelled. The reason for cancellation for temporary status are as below :



"The provisional temporary status conferred on you vide TDM Silchar letter No.E-20/Grp -D/Rectt/98 datd. at Silchar 9.12.97 has been cancelled by TDM Silchar vide his letter No.X-11/TDM-SC/CM-Rectt/98-99/205 dtd.27.6.98 as you have not qualified for TSM as per your previous engagement record.

The Under signed has been directed not to engage you anymore and as such your services are no longer required with effect from the Fore-ncon of 29.6.98."

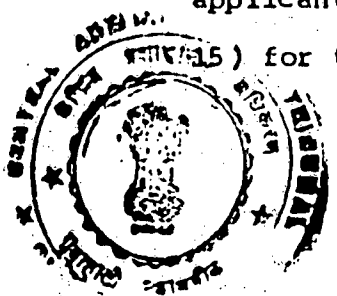
3. Mr.M.Chanda, learned counsel appearing for the applicants, submits that the temporary status have been conferred after holding high level meetings, wherein Official side was represented by the Officers and the staff side was represented by the members of the Union. Mr.Chanda referred

K. K. Sharma

to the interim order passed in O.A. No.141 of 1998 dated 2.7.1998 by this Tribunal, whereby direction was given to the respondents not to disengage the applicants. The applicant alongwith others have approached this Tribunal by filing O.A.No.141/98 which was finally disposed of on 31.8.1999 as under :

" In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations."

After the said order the applicants filed individual representations before the C.G.M. Assam Telecom Circle and requested for re-instatement. The representations of the applicants were rejected by order dated 26.9.2000 (Annexure-15) for the following reasons :



- "1. You did not complete 240 days work in Department of Telecom in any calender year preceding 01.08.1998.
2. You were not in engagement as on 01.08.1998. The committee did not recommend your name for conferment of Temporary Status Mazdoor."

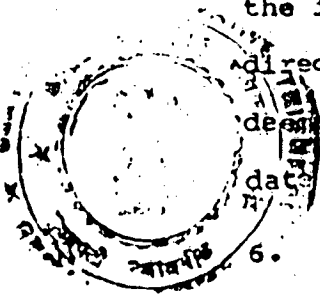
Mr.Chanda referring to the order of this Tribunal in O.A. No.28 of 2001 dated 24.8.2001, has submitted that the applicants' case is squarely covered by the said order of this Tribunal. Like the applicant in O.A.28/2001, the applicants were appointed on different dates and were conferred temporary status on 15.12.1997 and 16.12.1997. Temporary status of the applicants was also cancelled like the applicant in the said O.A. by order dated 27.6.98. The learned counsel pointed out that the grant of temporary status to the

IC (Wha)

respondents was cancelled on the basis of letter O. A. No. 141/98 dated 31.8.99.

4. The reference to the said letter shows that the temporary status of the applicants was cancelled on the ground that the applicants were absent for more than 365 days from 17.12.1993. The learned counsel has disputed this observation by referring to the Annexure-"C" filed with the written statement, which shows that all of the applicants had worked in the year 1994. He argued that the reasons for cancellation of temporary status are not correct.

5. Mr. B.C. Pathak, learned Addl. C.G.S.C appearing on behalf of the respondents, argued that as per the direction given by this Tribunal in O.A.No.141/98 dated 31.8.99 the respondents appointed high level committee, which verified the records of each of the applicants. The committee found that none of the applicants have worked for more than 365 days in a calendar year and none of these applicants was in engagement as on 01.03.1998. He disputed the claim of the applicants that the applicant's case was covered under the scheme for granting of temporary status to the Casual Workers relying on the order in O.A.No.28 of 2001. Mr.Chanda, on the other side, submitted that by virtue of the interim order dated 2.7.98, by which the respondents were directed not to disengage the applicants, the applicants were deemed to be in service at least from 2.7.98 to 26.9.2000, the date on which the individual representations were rejected.



6. After carefully considering the materials on records and submissions made on behalf of the parties, I am of the view that the facts of this application are squarely covered by the judgment of this Tribunal in O.A. No.28/2001 disposed of on 24.8.2001. Like the applicant in the said O.A. the temporary status granted to the applicants was cancelled. Like the applicant in the said O.A., the

(Signature)

applicants approached this Tribunal in O.A.141/1998 and like the applicant in the said O.A. the applicants made representations individually, which were rejected in like manner. Mr.H.Chanda, learned counsel for the applicants has also referred to Annexure-A (Series) to the additional rejoinder to show that the applicants also worked for more than 240 days in some of the years. Referring to the order in O.A.28/2001 dated 24.8.2001, the orders dated 26.9.2000 are accordingly set aside and the respondents are directed to consider the case of the applicants in the light of the observations made in O.A.28/2001.

The application is allowed to the extent indicated above. The respondents are ordered to complete the exercise with utmost expedition and in any case within three months from the receipt of this order.

There shall, however, be no order as to costs.

Sd/-MEMBER (Adm)



Certified to be true Copy
प्रमाणित प्रतिलिपि

Handwritten signature and date: N. S. Chanda 6/9/2001

Section Officer (J)
अनुभाग अधिकारी (न्यायिक प्रशासक)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गुवाहाटी बेंच, गुवाहाटी

- 59 -

212

ANNEXURE - 9
(Series)

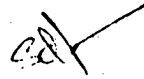
BHARAT SANCHAR NIGAM LTD. (BSNL)
(A Govt. of India Enterprise) -
Office of the Sub-Divisional Engineer (Group)
Patherkandi

No. E-34/TSM/PTKN/02-03/4

Dated at Patherkandi, the 12-03-2003.

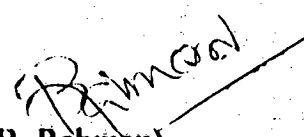
As per the directions contained in General Manager Telecom, BSNL, Silchar Memo No. CAT/GH-OA 332/2000/SC/29 dated 11-03-2003 (1) Md. Lutfur Rahman, S/o Md. Akaddas Ali, Vill-Hafania, P.O.-Hafania (Maina), Dist-Karimganj, Assam and (2) Sri Nihar Dey, S/o Sri Nripendra Dey, P.O.-Patherkandi, Dist-Karimganj, Assam, the applicants in OA No. 332/2000, are approved by the competent authority for conferment of Temporary Status Mazdoor with immediate effect.

Md. Lutfur Rahman, S/o Md. Akaddas Ali and Sri Nihar Dey, S/o Sri Nripendra Dey are hereby conferred Temporary Status Mazdoor (TSM) with immediate effect and posted at Patherkandi Exchange. They will report for duty to the undersigned.


(B. Rahman)
SDE (Group) Telecom
BSNL, Patherkandi.

Copy to: -

1. The GM Telecom, BSNL, Silchar for information w.r.to above please.
2. The DE (P & A), O/O the GMT, BSNL/Silchar.
3. The DET/Karimganj for information.
4. The Sr. AO (Cash), O/O the GMT, BSNL/Silchar.
- ✓ 5. Md. Lutfur Rahman, S/o Md. Akaddas Ali, Vill-Hafania, P.O.-Hafania (Maina), Dist-Karimganj, Assam.
6. Sri Nihar Dey, S/o Sri Nripendra Dey, P.O.-Patherkandi, Dist-Karimganj, Assam
- 7-8. The SDE(HRD)/Staff, O/O the GMT, BSNL/Silchar.


(B. Rahman)
SDE (Group) Telecom
BSNL, Patherkandi.

*Certified to be true copy
Anujit Choudhury
Advocate
on 28/6/06.*

- 60 -
BHARAT SANCHAR NIGAM LTD. (BSNL)
(A Govt. of India Enterprise)
Office of the Sub-Divisional Engineer (Group)
Patherkandi

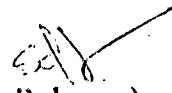
Annexure-9
(Serial 213)

No. E-34/TSM/PTKN/02-03/4

Dated at Patherkandi, the 12-03-2003.

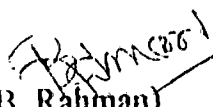
As per the directions contained in General Manager Telecom, BSNL, Silchar Memo No. CAT/GH-OA 332/2000/SC/29 dated 11-03-2003 (1) Md. Lutfur Rahman, S/o Md. Akaddas Ali, Vill-Hafania, P.O.-Hafania (Maina), Dist-Karimganj, Assam and (2) Sri Nihar Dey, S/o Sri Nripendra Dey, P.O.-Patherkandi, Dist-Karimganj, Assam, the applicants in OA No. 332/2000, are approved by the competent authority for conferment of Temporary Status Mazdoor with immediate effect.

Md. Lutfur Rahman, S/o Md. Akaddas Ali and Sri Nihar Dey, S/o Sri Nripendra Dey are hereby conferred Temporary Status Mazdoor (TSM) with immediate effect and posted at Patherkandi Exchange. They will report for duty to the undersigned.


(B. Rahman)
SDE (Group) Telecom
BSNL, Patherkandi.

Copy to: -

1. The GM Telecom, BSNL, Silchar for information w.r.to above please.
2. The DE (P & A), O/O the GMT, BSNL/Silchar.
3. The DET/Karimganj for information.
4. The Sr. AO (Cash), O/O the GMT, BSNL/Silchar.
5. Md. Lutfur Rahman, S/o Md. Akaddas Ali, Vill-Hafania, P.O.-Hafania (Maina), Dist-Karimganj, Assam.
- ✓ 6. Sri Nihar Dey, S/o Sri Nripendra Dey, P.O.-Patherkandi, Dist-Karimganj, Assam.
- 7-8. The SDE(HRD)/Staff, O/O the GMT, BSNL/Silchar.


(B. Rahman)
SDE (Group) Telecom
BSNL, Patherkandi.

No. 19/TSM/4

Dated at Karimganj, (10-12-2003)

As per the directions contained in General Manager Telecom, BSNI, Silchar Memo No. CAT/GM-OA 332/2000/SC/30 dated 11-03-2003, Sri Birendra Das, S/o Sri Kiron Chandra Das, Vill-Dakshingram, P.O.-Srigouri, Dist-Karimganj, Assam, the applicants in OA No. 332/2000, are approved by the competent authority for conferment of Temporary Status Mazdoor (TSM) with immediate effect.

Sri Birendra Das, S/o Sri Kiron Chandra Das is hereby conferred Temporary Status Mazdoor (TSM) with immediate effect and posted at Karimganj under SDO, Karimganj. He will report for duty to the undersigned.

(J. R. Nath)
SDO Telegraphs
BSNI, Karimganj

Copy to: -

1. The GM Telecom, BSNI, Silchar for information w.r.to above please.
2. The DE (P & A), O/O the GMT, BSNI/Silchar.
3. The DET/Karimganj for information.
4. The Sr. AO (Cash), O/O the GMT, BSNI/Silchar.
5. Sri Birendra Das, S/o Sri Kiron Chandra Das, Vill-Dakshingram, P.O.-Srigouri, Dist-Karimganj, Assam.
- 6-7. The SDO (HRD/Staff), O/O the GMT, BSNI/Silchar.

(J. R. Nath)
SDO Telegraphs
BSNI, Karimganj.

CENTRAL ADMINISTRATIVE TRIBUNAL , GUWAHATI BENCH.

Original Application No.133 of 2003.

Date of Order : This the 23rd Day of June, 2003.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

Sri Azizur Rahman
Village:- Hatkhola
P.O:- Kanaibagar
District:- Karimganj (Assam). Applicant.

By Advocates Mr .M.Chanda, G.N.Chakraborty & S.Nath.

- Versus -

1. The Union of India
Through the Secretary
to the Government of India
Ministry of Communication
Department of Telecommunication
New Delhi. Respondents.
2. Bharat Sanchar Nigam Limited
(Represented by the Chief General Manager
Assam Circle, Department of Telecommunication
Govt. of India
Ulubari, Guwahati.
3. The General Manager, Telecom, Silcahr SSA
Department of Telecommunications, Silchar, Assam.
4. Sub Divisional Officer, Telecom
Department of Telecommunication
Karimganj.
5. Divisional Engineer (P & M)
Office of the General Manager
Bharat Sanchar Nigam Limited
Silchar. Respondents.

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

ORDER

CHOWDHURY J.(V.C.):

This is an application under section 19 of the Administrative Tribunals Act, 1985 for conferment of temporary status.

1. According to the applicant, he was working under the department as a casual labourer since 1988 continuously to 1995. The applicant further pleaded that on 22.12.1997 the applicant alongwith others was conferred with the tempo-

*Certified 16 be
green copy
Sanjit Choudhury
Advocate
on 28/6/06*

rary status, but subsequently the same was cancelled illegally vide order dated 27.6.1998. Aggrieved by the action of the respondents applicant moved this Tribunal by way of an application which was numbered and registered as O.A.No.141 of 1998. A batch of petitions were considered at a time and by order dated 31.8.1999 the said O.A. was disposed alongwith O.A.107 of 1998 and Others. By the said judgment and order all the applicants were to file representations individually within a period of one month from the receipt of the order and if such representations were made, the respondents were directed to scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. By the said order also all the applicants who were armed with interim order were allowed to continue till the disposal of their representations. Mr.M.Chanda, learned counsel for the applicant submitted that in applicant's case O.A.141/1998 there was also an interim order not to disengage the applicant. Despite the order no action was taken by the respondents and hence this application for conferment of temporary status. The applicant also pleaded that after the judgment was rendered by this Bench the applicant submitted his representation on 25.10.1999. In para 4.10 of the application the applicant stated that although the applicant submitted his representation on 25.10.1999 in terms of the order dated 31.8.1999 but for a long time no communication were received, from the respondents regarding consideration of his case for grant of temporary status. It then pleaded "However, applicant came to learn that his case for grant of temporary status has been rejected. The respondents are, therefore, liable to pay wages for the period with effect from 30.6.1998 till the formal order of reinstatement is passed by the respondents." The applicant therefore, moved this application for appropriate remedy. Mr.M.Chanda, learned counsel for the applicant,

also referred to the order dated 12.3.2003 passed by the authority conferring temporary status to persons similarly situated.

2. I have heard Mr.M.Chanda, learned counsel for the applicant at length and also Mr.A.Deb Roy, learned Sr.C.G.S.C. Admittedly, this Tribunal passed an order as far back on 31.8.1999 for considering the case of those applicants within the time specified. On the own showing of the applicant, he submitted representation on 25.10.1999, but he did not receive any communication and after long interval moved this Tribunal for appropriate direction. The applicant did not even clarify on which date he came to know that his case for temporary status was not granted.

Considering all aspects of the matter, it would not be appropriate to entertain the O.A. at such long distance of time, more so, in the absence of any acceptable explanation for not approaching the Tribunal in time. The law of limitation is based on public policy.

The application is accordingly dismissed at the admission stage itself. There shall, however, be no order as to costs.



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[Signature]
 30/6/03

Section Officer (J)
 C.A.T. GUWAHATI BENCH
 Guwahati-781005

Sd/VICE CHAIRMAN

Date of application for the copy.	Date filed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamps and folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
2/9/05	2/9/05	2/9/05	6/9/05	8/9/05

- 65 - ANNEXURE - 11

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

CIVIL APPELLATE SIDE

Appeal from WP (C)
 Civil Rule

No. 10369 of 200 3

Azizur Rahman

Appellant
Petitioner

Versus

Union of India

Respondent
Opposite Party

For Appellant Mr. J. K. Sarkar

Petitioner Mr. M. Chanda

Mr. S. K. Ghose

For Respondent Mr. S. Choudhury

Opposite Party

C. G. S. C. (S. Choudhury)

*Certified to be true copy
 Sarjit Choudhury
 Adv. Gen.
 on 28/6/06.*

2

SECRET

In the matter of:

Gauhati / Sh. Azizur Rahman
Village Hatkhola P.O. Kanaibazar,
District - Karimganj (Assam).

... Petitioner

-VERSUS-

1. The Central Administrative Tribunal, (through the Registrar, Central Administrative Tribunal) Guwahati Bench, Bhangagarh, Guwahati-5.
2. The Union of India, through the Secretary to the Govt. of India, Ministry of Communication, Department of Telecommunication, New Delhi.
3. Bharat Sanchar Nigam Limited, represented by the Chief General Manager, Assam Circle, Department of Telecommunication, Govt. of India, Ulubari, Guwahati -7.

afk

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4. The General Manager, Telecom, Silchar SSA,
Department of Telecommunications, Silchar,
Assam.
5. Sub Divisional Officer, Telecom Department of
Telecommunication, Karimganj.
6. The Divisional Engineer (P & A)
Office of the General Manager
Bharat Sanchar Nigam Limited,
Silchar.

.....Respondents.

The petitioner above named -

Gauhati High Court at Gauhati

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

WP (c) No. 10369/03

BEFORE
THE HON'BLE MR JUSTICE D. BISWAS
THE HON'BLE MR JUSTICE A H SAIKIA

29.08.05

Heard Mr. M. Chanda, learned counsel for the petitioner and Mr. DC Chakraborty, learned Central Govt Counsel for the respondents.

This writ petition is directed against the order dated 23.6.03 passed by the learned Administrative Tribunal, Guwahati Bench in O.A. No. 133/03.

The dispute centers round the question is as to whether the writ petitioner is entitled to conferment of temporary status for having served ^{for} considerable length of time in the department. It would appear that earlier applicant alongwith others, was conferred with temporary status by order passed on 22.12.97. The said order was again cancelled by order dated 27.6.98. The applicant and others, being aggrieved, moved the learned Tribunal in O.A. No. 141/98. Those petitions were disposed of by the learned Tribunal directing that the aggrieved persons shall individually file representation before the respondent/authority and such representations shall be examined/scrutinized and appropriate order as may be required shall be passed by the respondent/authority. In pursuance of the direction given in the aforesaid O.A. No. 141/98, the petitioner

AGP.High Court-8/01-80.001138191 representation on 25.10.99. The petitioner's case is that

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

he has not been informed as to what has happened to his representation. However, he came to know that the authority concerned has rejected his prayer for giving the benefit of temporary status. Having come to know this fact, the petitioner approached the learned Tribunal in O.A. No. 133/03. The learned Tribunal rejected the petition for the reasons recorded therein.

After hearing learned counsel for the parties and on scrutiny of the materials available, it appears that the petitioner had a right to get a copy in writing whereby his prayer for giving him temporary status was rejected, but the respondent/authority has not done so. We therefore, in modification of the order of the learned Tribunal disposed of on 23.6.03 direct ^{date} to the respondent/authority to communicate to the writ petitioner the order of rejection and the reasons for rejection thereof within a period of 30 days from the date when the copy of this order is furnished to the appropriate authority. If the aforesaid representation has not yet been disposed of, the same would be disposed of and the order passed therein and reasons be communicated to the petitioner within 30 days as indicated above.

This petition accordingly stands disposed of

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 26/6/03
 11/18/2

- 70 -

Annexure → 12
ANNEXURE → 12

BHARAT SANCHAR NIGAM LTD. (BSNL)

(A Govt. of India Enterprise)

OFFICE OF THE GENERAL MANAGER

SILCHAR SSA :: SILCHAR

No. W/) 10369/03/SC/06

Dated at Silchar, the 14.10.2005

ORDER

As per the directions contained in order dtd. 29.08.2005 passed by the Hon'ble High Court Gauhati in WP (C) No. 10369/03, a photocopy of the order is received by this office on 04.10.2005. The Writ Petition was filed by the applicant, Md Azizur Rahman, against the order dtd. 23.06.2003 passed by the Hon'ble CAT/Guwahati Bench in O.A. No. 133/03.

The contents of the order has been thoroughly examined in the light of the observations made by the Hon'ble Court and Official records. It emerged from the examination of records that, the representation / application of the applicant, Md Azizur Rahaman S/o Md. Surman Ali of Vill. Hatkhola, P.O. Kanaibazar, Dist. Karimganj, was disposed of vide this office letter No. E-20/TSM Regularisation/SC/04 dtd. at Silchar, the 26.09.2000 in accordance with the directions of the Hon'ble CAT/Guwahati order dtd. 31.08.1999, passed in O.A. No. 141/98 & others.

His request for giving temporary status was rejected and the reason for rejection was communicated vide letter No. E-20/TSM Regularisation/SC/04 dtd. at Silchar, the 26.09.2000 and despatched to the applicant by registered. Post vide registered. Letter receipt No. TS-RL B 9334 dtd. 11.10.2000 of Head Post Office, Silchar - 788001.

As per the committee report based on authentic official records, the No. of days that Md. Azizur Rahman was engaged in each year is as follows.

<u>Calendar Year</u>	<u>No. of days engaged</u>
1992	88 (Eighty eight days)
1993	131 (One hundred thirty one days)
1994	26 (Twenty six days)
1995	68 (Sixty eight days)
1996	16 (Sixteen days)
1997	01 (One day)
1998	179 (One hundred seventy nine days)

The length of casual service rendered by Md. Azizur Rahman, as Summarized above, indicate that he did not complete 240 days in any year. He is, therefore, **not eligible** for the benefit of Ty. Status. Accordingly, the claim of Md. Azizur Rahaman was rejected.

In Compliance to the order and direction of Hon'ble High Court, Gauhati order dtd. 29.08.05 the representation of the applicant, Md. Azizur Rahaman, accordingly stands disposed of. A photocopy of the letter No. E-20/TSM/Regularisation /SC/04 dtd. 26.09.2000 and the photocopy of the Registered. receipt No. TS-RL B 9334 dtd. 11.10.2000 is enclosed with this order marked to the applicant.

John Chrisostom
14/10/05
(M. John Chrisostom)
General Manager, BSNL
Silchar SSA :: Silchar

Copy to: - 1. Md. Azizur Rahaman
S/o Surman Ali
Vill- Hatkhola, P.O- Kanibazar
Dist- Karimganj (Assam)

2. CGM, BSNL, Assam Telecom Circle, Guwahati- 781007

*certified to be true copy.
Surajit Choudhury
Advocate
on 28/6/06.*



GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA :: SILCHAR

ANNEXURE → 13

No. E-20/TSM Regularisation/SC/04

- 71 -

Dated at Silchar, the 26-09-2000

To

Sri Md. Azizur Rahman.
s/o Md. Surman Ali
vill- Hatikala P.O. Kamaibazar.
Dist. Karimganj

Sub: - Grant of Temporary Status Mazdoor.

Ref: - Hon'ble CAT/Guwahati order dtd. 31.8.99 in OA No. 141/98.

With reference to the above, you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. Estt-9/12/PART-1/23 dtd. the 28-03-2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dt. 12-02-1999, on the basis of your engagement records, as you did not fulfil the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom. in any calendar year preceeding 01-08-1998.
- 2) You were not in engagement as on 01-08-1998.

The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status Mazdoor cannot be acceded to and as such your representation stands, disposed of.

Jc

bn

General Manager Telecom
Silchar SSA :: Silchar.

General Manager Telecom
SILCHAR

2003

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224

Original Application Nos 28 of 2001.

Date of Order : This is the 24th Day of August, 2001.

HON'BLE MR. JUSTICE D.N. CHOWHURY, VICE CHAIRMAN

Sri Pritu Bhusan Roy
S/O Sri Purna Chandra Roy
C/O Sri Prasanna Chowdhury
Villages - Girishganj
District - Karimganj
Assam.

. . . Applicant.

By Mr. P. Roy & Mr. B. K. Talukdar

- Vs -

1. The Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
New Delhi.
2. The Chief General Manager (Telecom)
Assam Telecom Circle, Ulubari
Guwahati-7.
3. Member, Scrutinizing Committee
Divisional Engineer (P&A)
D/O The G.M. Telecom, Silchar
Assam.
4. The General Manager, Telecom
Silchar S.S.A
Silchar, Assam.
5. The District Manager
Department of Telecommunication
Silchar, Assam.
6. The Sub-Divisional Engineer (Group)
Telecom, Patharkandi, Assam.

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

ORDER

CHOWHURY J. (V.C.) :

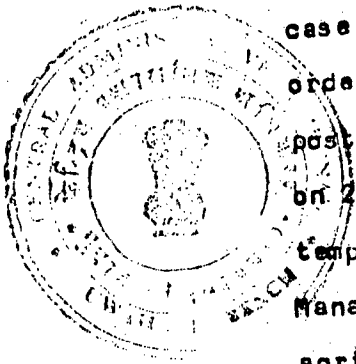
This is the second round of litigation. The applicant earlier also moved this Tribunal by way of O.A. 141 of 1998 through its Association, namely, All India Telecom Employees Union praying for conferment of granting the benefit of temporary status as per the Scheme of 1989. The Tribunal took up the said case alongwith like cases and disposed all the cases by a common judgment and order on 31.8.1999 directing the respondents to scrutinise and examine each case individually in consultation with the records and

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copy.
Suvajit H. Chowdhury
Advocate
dt 28/8/06.

Contd.. 2

pass a reasoned order thereafter in the event of filing the representations individually within the period prescribed. The applicant accordingly submitted a representation in writing and the respondents vide letter dated 26.4.2000 advised the applicant to appear before the Scrutinizing Committee on 3.5.2000. The applicant appeared before the said Committee and submitted all his documents. The respondent authority by its order dated 26.9.2000 informed the applicant that the Committee did not recommend his name for granting of the temporary status on the ground that he did not complete 240 days in any Calendar year preceding 1.8.98 and that he was not in engagement as on 1.8.98. Hence this application assailing the legitimacy of the order of the respondents.

2. The applicant, in this application, claimed that he was engaged as a Casual Labourer in the Telecommunication Department on 1.1.88 and worked as such in the department till the temporary status was granted to him on 9.12.97. The concerned DPC on consideration of the case alongwith others granted the temporary status vide order dated 9.12.97 and 22.12.97 and thereafter he was posted at Kotamone Telephone Exchange, where he joined on 22.12.97. While working as such the order of granting temporary status was cancelled by the Telecom District Manager, Silchar vide his order dated 27.6.98. Being aggrieved with the said order, the applicant, as mentioned above approached this Tribunal by way of filing an O.A. which was numbered as 141/98. The said application was admitted on 2.7.98 and the respondents were directed not to disengage the applicant and others and to allow him to continue in his service. As eluded, the case along with the like cases were disposed by the Tribunal by a common order dated 31.8.1999 directing the respondents to scrutinise and examine the case of each applicant.



3. The respondents entered appearance and submitted its written statement contesting the claim of the applicant. By the impugned order dated 26.9.2000 the respondents declined to accede to his representation in view of the recommendation of the Committee. Admittedly, the applicant alongwith eight others by order dated 22.12.97 were granted temporary status of Mazdoor provisionally on the approval of the TDM, Silchar. The said order preceded by an order dated 9.12.97 approving the action of the SDE (Group), Telecom in granting temporary status to those nine persons including the applicant. The relevant part of the communication is reproduced below.



*NO.E-20/Grp-D/Rectt/98. Dated at Silchar, 09.12.97

To The S.D.E.(Group) Telecom, Patharkandi.

Subj- Casual labours (Grant of temporary status and regularisation scheme) 1989 engaged after 30.3.85 upto 22.6.88).

In pursuance of the DOT New Delhi letter No.269-4/93-STN-II dated 17.12.93 and CGMT/Guwahati letter No.Rectt-3/10/Part-II dated 4.10.94, the following nine Casual Mazdoors in your Sub-Division are approved for granting of temporary status on the basis of particulars furnished by you vide your letter No.E-27/95-96/ dt.26.10.95 and No.E-27/95-96/Pt.II dt.8.11.95.

You are directed to take further action after verification of their eligibility once again on the points mentioned below :-

- (1) Age at the time of engagement.
- (2) Educational qualification upto VIII standard.
- (3) No of days worked yearwise.

After conferring the provisional approval for granting of temporary status u.o.f. 9.12.97 to the Casual Mazdoors mentioned below. Intimation is to be given to TDM/Silchar for their place of posting which will be decided by TDM/Silchar."

In the list of approved 9 Casual Mazdoors of the said communication the name of the applicant appeared at Sl No.9. In pursuance to the said order and more particularly, in view of the Silchar letter dated 16.1.98 the applicant alongwith others were posted at Kotamoni, wherein he joined on 22.12.97. By order dated 29.6.98 the provisional temporary status conferred on the applicant vide TDM, Silchar letter dated 9.12.97 had been cancelled by TDM, Silchar vide his letter dated 27.6.98 holding the applicant was not qualified for granting temporary status as per his previous engagement record. The said order dated 29.6.98 dis-engaging the applicant as Casual Labcurer, issued by the SDE (Group) Telecom Patharkundi was based on the direction given by the Telecom District Manager vide memo dated 27.6.98. The full context of the said memo is also reproduced below :-

*Ref: Letter No E-20/Grp-D/Rectt/97 dated at Silchar, 9-12-97.

As per above mentioned letters provisional TSM status was conferred to the following casual mazdoors. Later on posting order was given to them vide letter No.E-20/Grp-D/Rectt/109 dtd at Silchar, 16.1.98.

1. Sri Ratneswar Nath-Patharkandi Telephone Exch
2. Sri Pritu Bhusan Roy-Kotamoni Telephone Exch.
3. Sri Sukumar Sinha-Patharkandi Telephone Exch.
4. Sri Debendra Kr. Sinha-Dullavcherra Telephone Exch.
5. Sri Nihar Dey-Bazaricherra Telephone Exch.
6. Sri Sujit Kr. Sarmah-Saraigram Telephone Exch.

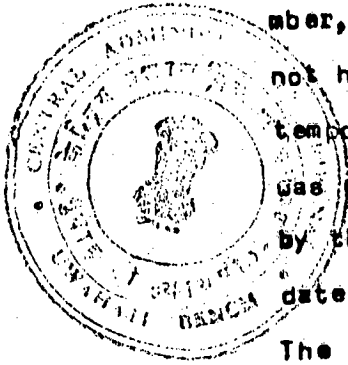
As per SDE Vigilance O/O TDM Silchar report vide letter No. AVD/CUN/98-99/1 dtd. 25.6.98, all the above casual mazdoors were absent for the last more than 365 days counting from the date 17.12.93. They do not qualify for regularisation as TSM as per their previous engagement record in the deptt.

As per this finding the provisional TSM status which was conferred to them, vide letter No. E-20/Grp-D/Rectt/97 dtd at Silchar, 9-12-97 is hereby canceled, with immediate effect. You are hereby ordered not to engaged those persons any more. "

4. The applicant, as mentioned earlier, moved this Tribunal assailing the legitimacy of the order dated 27.6.98 and the Tribunal disposed of the appeal by judgment and order dated 31.8.99 in O.A.141/98 directing the respondents to examine the matter in consultation with the records. The respondents by this impugned order dated 26.9.2000 declined to accede to the request of the applicant.

5. The granting of temporary status emanated from a direction given by the Supreme Court in Writ Petition (C) No.1280 of 1989 alongwith 1246, 1248 of 1986 and 176, 177 and 1248/88 Ram Gopal and Others -vs- Union of India and Others. Prior to the aforesaid order the Supreme Court had an occasion to deal with Casual Labourers in Telegraph Department in Daily Rated Casual Labour-vs- Union of India & Others. In the said case, the Supreme Court ordered the respondent authority Posts and Telegraph Department to prepare a Scheme for absorbing the Casual Labourers in daily duty who rendered continuous services in the department for more than one year. In the instant case on the own showing of the respondents, the applicant was granted temporary status by order dated 22.12.97, which was subsequently cancelled by order dated 29.6.98. The applicant was, however, allowed to continue as Casual Labourer on the strength of the order of the Tribunal dated 2.7.98 in O.A.141/98. By interim order the Tribunal ordered the respondents not to disengage the applicant and to allow him to continue in his services. The O.A. in question alongwith others was finally disposed on 31.8.99. In the said order also the Tribunal extended the interim order till disposal of the representation. The representation was eventually disposed on 26.9.2000. Therefore, at any rate, the applicant rendered his service as a Casual Labourer on and from December 1997





to 26.9.2000. The findings of the authority that he was not in engagement on 1.8.98 therefore, cannot be sustained. The services rendered by the applicant at least from December, 1997 till the disposal of the representation could not have been ignored. The applicant was earlier granted temporary status on the basis of his past record, which was cancelled at the instance of the communication sent by the SDE Vigilance D/O TDM Silchar report vide letter dated 25.6.98. The said report was not produced before us. The applicant was granted temporary status by order dated 9.12.97. The said order of granting temporary status was cancelled unilaterally on the basis of the report of the SDE Vigilance as reflected in the communication by the TDM, Silchar letter dated 27.6.98, which visited with civil consequences.

6. We have heard Mr.P.Roy, learned counsel for the applicant at length and also Mr.A.Deb Roy, learned Sr. C.G.S.C for the respondents.

7. The respondents have missed the direction of the Tribunal dated 31.8.99 by refusing to consider the case of the applicant in its full perspective. The action of the Scrutinizing Committee to confine its enquiry upto 1.8.98 also cannot be sustainable. Admittedly, the applicant was engaged as a Casual Labourer on and from 1.1.98 till he was sought to^b be disengaged by the order dated 29.6.98.

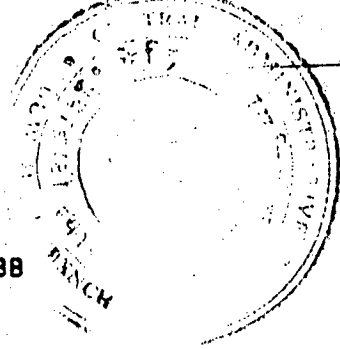
For the forgoing reasons, the order dated 26.9.2000 is set aside and the respondents are directed to consider the case of the applicant in the light of the observation made in this order. The application is accordingly, allowed to the extent indicated above. The respondents are ordered to complete the exercise with utmost expedition at any rate within three months from receipt

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of this order.

There shall, however, be no order as to

costs.



Sd/VICE CHAIRMAN

Certified to be true copy

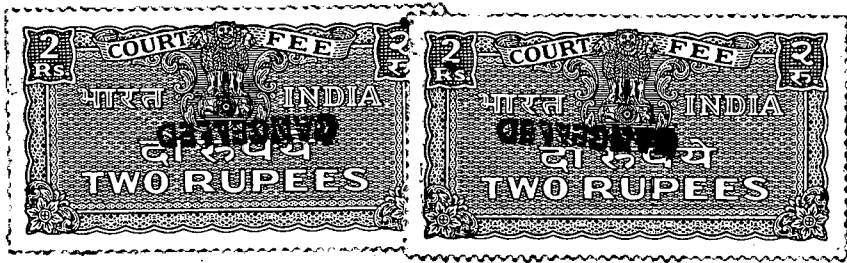
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[Handwritten Signature]
5/3/05

Section Officer (I)

C.A.T. GURUJI BANCH

Guwahati-781005



Filed by

Yadab Doloi
- Advocate

23/2/07 23

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DIST: SILCHAR

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

(CIVIL EXTRA ORDINARY JURISDICTION)

W.P.(C) No. 3252/2006

IN THE MATTER OF:

W.P.(C) No. 3252/06

Md. Azizur Rahman

.....Petitioner.

-Versus-

Union of India & Others

....Respondents.

-AND-

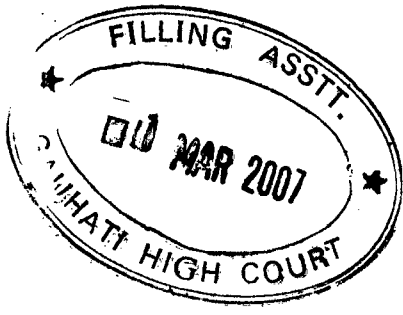
In the matter of :

An Affidavit-in-Opposition on behalf of
the Respondent Nos. 2,3,4,5 and 6 of
this writ petition.

AFFIDAVIT-IN-OPPOSITION

I, Shri Surendra Nath Chakrawarty, S/O Late Tara
Nath Chakrawarty, aged about 52 years, resident of
Ulubari and presently serving as Asstt. Director
Telecom (Legal) of Bharat.Sanchar Nigam Limited
(herein after called as BSNL), Assam Telecom
Circle, Panbazar, Guwahati-1 do hereby solemnly

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Commissioner of Affidavit
Gauhati High Court
Guwahati

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affirm and swear as follows:-

1. That I am the Assistant Director, Telecom (Legal) of BSNL, Assam Telecom Circle, Panbazar, Guwahati-1 and I have been authorised by the respondents No. 2,3,4,5 and 6 of this writ petition to swear this affidavit on their behalf and I have gone through the same and understood the contents thereof and am competent to swear this affidavit.
2. That save and except the statements and averments made in the writ petition which are not specifically admitted herein below are to be treated as denied by the respondents.
3. That with regard to the statements made in paragraphs 1 of the writ petition the answering deponent denies the same and further begs to state that the department of Telecom (DOT) imposed BAN order on recruitment of casual labourers in Telecom Circles/Districts w.e.f. 30.03.1985 vide Memo No. 270-6/84-ST-II dated Silchar Telecom District and came under the perview of the BAN order. But in certain circle like Project and Electrification Circles some engagement were made after BAN order dated 30.3.1985 to 22.06.1988 and this was challenged in various CATs(Central

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N S
 Commissioner of Affidavits
 Gauhati High Court
 Guwahati

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Administrative Tribunal)/ Courts and ultimately Hon'ble Apex Court, New Delhi issued an order directing DOT to introduce a scheme for regularisation of Casual Mazdoor/Labourer who were currently engaged during the period of 30.3.1985 to 22.06.1988 and prior to 40.03.1985 and thus total BAN was imposed on project and Electrical Circles also w.e.f. 22.6.1989. The petitioner's engagement was done after BAN order which was illegal and in violation of DOT order. Because of on going litigation and interpretation of the cut off date and its applicability in Telecom Circles/Districts were also challenged in various CATs/Courts cases and regularisation was given from time to time by Administrative authorities and regularisation were done only pursuant to judicial direction. But the fact remain that no Casual Mazdoors/Labourers engaged after 30.3.1985 would be available for consideration without specific approval from DOT, New Delhi.

It is pertinent to mention here that the date of initial engagement as shown by the petitioner is vehemently denied and he along with others managed to get some fabricated engagement certificates from line staff, who were not authorised or empowered to issue such certificates and the service union forced the Silchar S S A

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 SUBMISSION OF AFFIDAVIT
 Gauhati High Court
 Gauhati

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administration to regularise the Casual Mazdoors as Temporary Status Mazdoor (TSM) based on such certificates issued by line staff, pending verification of their actual engagement records in the department and the engagement particulars shown by the petitioner is not correct. The certificate is inconsistent with payment record and payment records (A/C vouchers) are the most authentic documents to rely upon for determining the actual engagement for which the petitioner has been paid against each casual engagement.

4. That with regard to the statements made in paragraph 3 of the writ petition the answering deponent vehemently denies the same and further begs to state that the petitioner was not working continuously under the respondents since March, 1988. It is to submit that a scheme introduced by the DOT namely "Casual Labourers (grant of temporary status and regularisation) scheme of department of Tele Communication 1989", to regularise the casual Mazdoors during the period of 30.03.1985 to 22.06.1988 and prior to 30.03.1986.

5. That with regard to the statement made in paragraph 4 of the writ petition the answering deponent is not agreed with the averments made in this paragraph and further begs to state that the

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Commissioner of Affidavits
 Court : High Court
 Gauhati

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LJCM (Local Joint Consultative Machinery) is represented by regular employees of Group "C" and "D" and they have not right to represent or negotiate with Casual Mazdoor issues and the Casual Mazdoors are neither departmental employees nor members of service unions, and in this regard the Rulling vide No.32-1/64 SR dated 11.8.1964 of the Constitution of Local Council says that "the right of the Unions to represent Casual Labourers has not been conceded". Union in LJCM illegally interfered into the affairs of Casual Labourers wilfully pressured and forced local SSA administration to confer temporary status to the Mazdoors provisionally, subject to verification of authentic engagement records, and the statement of the petitioner is exaggerated and not based on fact. No scrutiny could be done before granting provisionally temporary status under pressure and threat from unions. The provisional temporary status was granted to the petitioner, but he was not a regular employee under any category of Departmental employees and was extra departmental one and his service was liable to be terminated if the engagement particulars were found false/fabricated after subsequent verification without assigning any reasons.

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Nc
 Commissioner of Affidavit
 Madras High Court
 Chennai

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A photocopy of the Rulling vide No.32-1/64 SR dated 11.8.64 of the Constitution of Local Council is annexed herewith and marked as Anneuxre-1.

6. That with regard to the statement made in paragraph 5 of the writ petition the answering deponent vehemently denies and further begs to state that after conferment of Provisional Temporary Status, the engagement records of the petitioner was verified from paid account vouchers and mazdoors engaged casually for a temporary work on contractual basis would be paid against vouchers which were records in account vouchers of SDOs/SDEs etc. and these are the most authentic document to rely upon. Mere issuing a certificate or managing to obtain an engagement certificate in favour of some one does not make any body eligible for conferment of temporary status and subsequent regularisation in the department against specific post and after such detailed verification from paid account vouchers, the engagement particulars furnished by line staff and forwarded by SDE was not based on official records. Further the deponent begs to state that the order issued for granting Provisional Temporary status to the petitioner had to cancel based on the verification report of

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N C
Commissioner of Affidavits
Local Council

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engagement certificate and paid account vouchers. Further, granting Provisional Status based on false engagement particulars are liable to be cancelled and the said Casual Labourer was liable to be dismissed for involvement in conspiracy of getting forged engagement certificate and the petitioner was disengaged w.e.f. 29.06.1998 and any continuation of his service would indulge fraudulent activities and the petitioner has no legal or moral right to continue engagement being involved in a conspiracy of obtaining false certificate and pressuring the Administration through unions illegally continuation.

7. That with regard to the statement made in paragraph 6 of the writ petition the answering deponent vehemently denies the same and further begs to state that the petitioner was disengaged from his service w.e.f. 29.06.1998 and the interim order was passed by the Hon'ble CAT, Gauhati Bench on 2.07/1998 with a direction to the respondent authorities to maintain "Status Quo" and complying the order the "Status Quo" was maintained till final disposal of the case.

8. That with regard to the statement made in paragraph 7 of the writ petition the answering deponent respectfully begs to state that the "Status Quo" was maintained till final disposal of

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Commissioner of Affidavit
 Gauhati High Court
 Gauhati

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the case as per Hon'ble CAT's order dated 02.07.1998.

9. That with regard to the statement made in paragraph 8 of the present writ petition the answering deponent most respectfully begs to state that Temporary Status was granted provisionally under coercive pressure from service unions who had threatened to dislocate the essential services unless the provisional verification of records and the engagement records could not verify before granting temporary status. It is pertinent to mention here that unions in LJCM has no right to negotiate for the Casual Labourers and the violent action of the union in the LJCM had forced the Administration to confer temporary status before verification of records. The casual labourers are not the departmental employees and also are not the members of unions.

10. That with regard to the statement made in paragraph 9 of the writ petition the answering deponent denies the same and further begs to state that the petitioner worked for 179 days only in the year 1998 and this does not make him eligible for subsequent regularisation.

11. That with regard to the statement made in paragraph 10 of the writ petition the answering

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Commissioner of Affidavits
Calcutta High Court
Kolkata

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deponent does not agree with the averment and further begs to submit that the petitioner was not engaged afterwards since 20.6.98 and he was officially "Disengaged" since 29.06.1998 i.e. before passing interim order dated 2.7.1998. Further, the "Status Quo" was maintain till final judgment and order passed by the Hon'ble Tribunal on 31.08.1999 in O.A. No. 141/1998 and the period since 29.6.98 to 31.8.1999 can not be considered for the purpose of temporary status and it is pertinent to mention here that the petitioner was in disengagement and remained in disengagement and the question of counting the period of disengagement does not arise.

12 That with regard to statement made in paragraph 11 of writ petition the answering deponent most respectfully begs to state that the "Satus Quo" was maintained till final order and judgment and order dated 31.8.1999 and all actions were taken by the respondent authorities as per order dated 31.8.1999 of the Hon'ble Central Administrative Tribunal, Gauhati Bench.

13. That with regard to the statement made in paragraph 12 of the writ petition the deponent vehemently denies the same and further begs to submit that the representation of the petitioner

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Ms
 Commissioner of APT (Cst)
 Gauhati High Court
 Gauhati

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has been taken into consideration before disposal of the representation in the light of direction/order dated 31.8.1999 of the Hon'ble CAT, Gauhati Bench.

14. That with regard to the statement made in paragraph 13 of the writ petition the deponent vehemently denies the same and further begs to state that the compliance to the order and direction contained in order dated 31.8.1999 of the Hon'ble CAT, Guwahati a verification committee was constituted vide No.E-20/Scrutiny/CM/02 dated 12.04.2000 and the verification Committee thoroughly scrutinised and examined the records of all those petitioners Casual Labourers involved in various CAT/Court cases and those represented individually for regularisation and submitted the report. As per findings and report of the verification committee dated 09.06.2000, the petitioner was not eligible for conferment of temporary status in terms of the guidelines and conditions laid down in the scheme committee. Further, the petitioner did not complete 240 days in a year, though he was casually engaged on very purely on temporary basis from time to time and was not eligible for conferment of temporary status Mazdoor by virtue of his previous casual engagement in DOT and the engagement particulars produced

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Commissioner of AIRCWA
Gauhati High Court
Gauhati

earlier in support of the petitioner was false and fabricated. The representation was rejected by issuing reasoned order.

15. That with regard to the statement made in paragraph 14 of the writ petition the answering deponent vehemently denies the same and further begs to state that the questions of offering/excluding any benefit is applicable to the eligible Mazdoors only not to the petitioner as is not eligible for the temporary status.

16. That with regard to the statement made in paragraph 15 of the writ petition the answering deponent does not agree with averments and further begs to submit that DOT's instructions/directions contained in any DOT order has been made applicable to eligible Mazdoors and the order dated 2.07.1998 of the Hon'ble CAT, Guwahati, directed the respondent authorities to allow the petitioner to continue his service, could not applied, as he was not in service on the date interim order.

17. That with regard to the statement made in paragraph 16 of the writ petition the answering deponent vehemently denies the same and further begs to state that the petitioner can not be considered as similarly situated worker with the serving employees of BSNL.

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18. That with regard to the statement made in paragraph 17 of the present writ petition the answering deponent denies the averments made in this paragraph.

19. That with regard to the statement made in paragraph 18 of the writ petition the deponent is not agreed with the averment and further begs to state that in compliance to the judgment dated 29.8.2005 passed by the Hon'ble High Court in W.P.(C) No. 10369/03, the case of the petitioner was thoroughly re-examined and was found not eligible for the benefit of temporary status Mazdoor and accordingly, the claim of the petitioner was communicated to him by passing reasoned order vide No. W.P.(C) No. 10369/03/SC/06 dated 14.10.05.

20. That with regard to the statement made in paragraph 19 of the writ petition the deponent vehemently denies the same.

21. That with regard to the statements made in paragraphs 20, 21, 22, 23 and 28 of the writ petition the answering deponent vehemently denies and further begs to state that engagement of

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Commissioner of ASI
Cachar High Court
Cachar

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Casual Labourers were banned since 30.03.1995 in Telecom Circle and District and total Ban was imposed on 22.06.1988. As per official records, the petitioner was casually engaged during the period 1992 to 1997 and few days in 1998 by virtue of provisional temporary status based on false certificates and it does not confer any right for his regular absorption in the department, All action taken and compliance with the orders/directions of the Hon'ble Tribunal, Court and Hon'ble High Court referred in this paragraph and there is question of payment of wages for the period 30.6.1998 to 31.08.1998 as the petitioner was not at all in engagement.

The petitioner was disengaged w.e.f. 29.06.98 and the interim order dated 02.07.98 in O.A. No. 141/98 was passed by the Hon'ble Tribunal directing the respondent authority not to disengage the petitioner. But the disengagement was done prior to interim order passed by the Tribunal. The "Status Quo" was maintained till final disposal of the case vide order dated 31.08.1999.

The petitioner was not in engagement w.e.f. 29.06.1998 and the statement furnished by the petitioner in respect of his working days

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Comptroller
N
of Accounts
District
Court

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between 02.07.1998 to 26.09.2000 are all imaginary and not sustainable and the petitioner is not eligible for conferment of temporary status by any such illogical arguments. It is fact that the petitioner was not appointed in any post by any order and he was merely engaged as helper on daily wages and paid for the period of his casual engagement.

22. That with regard to the statement made in paragraph 24 of the writ petition the deponent vehemently denies and further submits that the initial engagement and granting of provisional temporary status was based on some certificate by line staff (Lineman) and provisional temporary status was granted under pressure and threat from union. But, subsequently the engagement certificates were found false on actual verification records. The petitioner had no legal or moral right to claim continuation in engagement based on false certificates and liable to be disengaged forth with. Continuation in engagement under judicial cover would amount to indulgence of fraudulent activities adopted by the petitioner in conspiracy with lineman staff and he is not liable to any wages since his disengagement was w.e.f. 29.06.1998.

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Commissioner of Accounts
District High Court

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23. That with regard to the statement made in paragraph 25 of the writ petition the answering deponent offers no comment.

24. That with regard to the statement made in paragraph 26 of the writ petition the answering deponent most respectfully begs to state that the engagement particulars shown by the petitioner is not based on facts and records. The actual engagement records in the department has been given in verification report and these are most authentic, reliable and based on payment vouchers of the labourers against their actual engagement. Mere producing an engagement certificate does not enable to get regularisaiton in the department. O.A. No. 332/00 does not relate to the petitioner in this case.

25. That with regard to the statement made in paragraph 27 of the writ petition the deponent offers no comments.

26. That with regard to the statement made in paragraph 29 of the writ petition the deponent vehemently denies the same.

27. That with regard to the statement made in paragraph 30 of the writ petition the deponent

Contd.....

Commissioner of Labour
Tamil Nadu
Chennai

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is not agreed with the averments made in the paragraph and further begs to state that the petitioner is not eligible for any benefit under the scheme 1989.

28. That with regard to the statement made in paragraph 31 of the writ petition the deponent vehemently denies and further submits that the petitioner was disengaged w.e.f. 29.06.1998 and was not re-engaged and the question of payment of any back wages w.e.f. 30.06.1998 does not arise at all.

29. That the writ petitioner has failed to make out any case for interference by this Hon'ble Court in an application under Article 226 of the Constitution of India, and have raised disputed question of fact and as such, the writ petition is liable to be set aside and quashed.

30. That, the statement made in this affidavit and paragraphs 1 to 4, 6 to 29..... are true to my knowledge and those made in paragraph(s)-5-..... being matters of records and are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

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Commissioner of Agriculture
Hon'ble Court
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And I sign this affidavit on this 23rd day of February, 2007 at Guwahati.

Surendra Nath Chakravarty
Deponent

Identified by me
Manmel Das
Advocate's Clerk
23/2/07

Solemnly affirmed before me this 23rd day of Feb 2007
The deponent is identified by
Shri M. Das
known to me. I certify that I read over and explained the contents to the deponent and the deponent seemed perfectly understanding them.

[Signature]
Commissioner of Affidavit
GAUHATI HIGH COURT
GUWAHATI

Annexure - 1

ular post is justified or not and it is not the function of the Union to determine the justification or otherwise of the post. Views of the Union may, however, be considered when the question is examined on merits. No correspondence will be entertained with the Union regarding creation of individual posts. The question of fixation of standards for creation of posts is a different matter and does not fall in the above category.

16-6/65-SR dated 31-3-1965

III. Office Bearers

1. Honourably retired Telecom. officials of any arm of service are eligible to hold office in Associations/Unions.

17-9/59-SR dated 23-2-60 and 33-7/77-SR dated 26-12-77

2. Telecom. employees are permitted to hold office in Unions/Associations of their own arm of service and their own Circle/Division and All India Union concerned only. A class III employee can become an office bearer of a Union/Association of Class IV employees subject to the conditions that (a) the official belongs to the same arm of service and the same circle in the case of Circle Union and same Division in the case of Branch Union below Circle level and (b) the constitution of the Union of Class IV employees provides for membership of Class III employees. There is no objection to an employee holding office simultaneously in two or more branch Unions at Division/Circle and All India level provided the branches belong to his own arm of service, Circle and Division. The above restrictions shall not however apply in case of employees holding office of President/Vice-President.

17-23/73-SR dated 8-1-75

3. Prescribed facilities should not be extended to branches of Unions/Associations where any of the office bearers are non-employees (outsiders.)

17-7/74-SR dated 17.1.75 and 17-28/84-SR dated 9-10-84

IV. Rulings on Membership

1. The right of the Unions to represent casual labour has not been conceded. But if any grievances of casual labour covered by the recommendations of the Pay Commission are brought to notice by the Federation or Unions affiliated to it, this will be examined. However, no reply in respect of such grievances would be sent to the Federation or Unions affiliated to it.

32-1/64-SR dated 11-8-64

2. The trainees who have been recruited directly and yet to be absorbed in the Department will not join/form/organise any Unions/