

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI - 5.

ORIGINAL APPLICATION NO. 189/94

MISC PETITION NO. (IN O.A.)

REVIEW APPL. NO. (IN O.A.)

CONT. PETITION NO. (IN O.A.)

See A. Patkar

APPLICANT(S)

VRS.

Not seen

RESPONDENT(S)

Mr. M.K. Choudhury  
Mr. B.K. Baruah

ADVOCATE FOR APPLICANT.

Mr. A.K. Choudhury  
Addl.C.G.S.C

ADVOCATE(S) FOR  
RESPONDENTS.

OFFICE NOTE

DATE

COURT'S ORDER

This application is to be  
form and within time.

C. P. of Rs. 50/-  
deposited. Vice

HO/BU No. 520542

Dated 21.9.94

28.9.94

Applicant and Advocate absent.

Adjourned to 1.11.1994.

bill  
Vice-Chairman

6  
Member

pg

For-22/9

1.11.94

Mr M.K.Choudhury for the applicant.

Heard for admission. Application admitted.

Mr A.K.Choudhury, Addl.C.G.S.C receives  
notice for the respondents. By consent,  
taken up for final hearing.

The applicant has been working as  
Work charged & Seasonal Khalasi since the  
year 1987. His appointment has been as a  
casual worker in a Work charged post and  
purely temporary liable to be terminated  
without assigning any reason. The

bill  
contd...

OFFICE NOTE

DATE

COURT ORDER

4.11.94 | appointment did not confer any right on him to be regularised. The applicant continued to work with breaks given from time to time. He worked for 270 days in 1987-88, 266 days in 1988-89, 312 days in 1989-90, 318 days in 1990-91 and 338 days in 1991-92. He claims that by reason of his having worked totally for more than 240 days he is entitled to be conferred with temporary status and regularised. It is pointed out by the applicant that after the last order dated 4.5.94 his appointment has come to an end on 10.10.94 and has not been continued. He therefore prays that respondents may be directed to regularise his service giving him the benefit of regularisation from the date of his initial appointment ~~on basis~~ Work charged <sup>basis</sup> with all consequential benefits.

Reliance is also placed upon the O.M.No.49014/4/90-Estt.(C) issued by the Ministry of Personnel, Government of India dated 8th April, 1991 and O.M.No. 51016/2/90-Estt(C) also issued by the Ministry of Personnel, Government of India dated 10.9.1993. The applicant's name appears to have been included in the seniority list of Seasonal Khalasis in the year 1992.

The applicant states that he filed a representation to the Executive Engineer, Central Water Commission on 7.7.94 praying for regularisation but there has been no response from the respondents.

We share the anxiety of the learned counsel for the applicant that a poor person like the applicant who was working merely as Khalasi and has put in considerable length of service should


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1.11.94 be deprived of his employment rendering him jobless merely because he was continued on adhoc basis although he should have been regularised much earlier on completion of 240 days as per the existing norms. That however, does not enable us to grant the relief in terms as it is prayed for in view of the fact that the practice of adhoc appointment has been disapproved by the Supreme Court and the law is laid down in clear terms in the ruling in J & K Public Service Commission etc. v. Dr Narinder Mohan & Ors. etc.etc. 1994(1) S.L.J page 209. The decision in the case of Dr A.K. Jain v. Union of India as well as in State of Haryana v. Piara Singh were considered alongwith several other decisions. It has been observed that adhoc employee should be replaced as expeditiously as possible by direct recruits. Assuming therefore, that the post still exists although the department where the applicant was appointed <sup>was</sup> as Work charged <sup>dept. of K</sup> Khalasi no legal right can be spelt out in his favour to be regularised as a matter of course. We are however, persuaded to take the view that the case of the applicant is fit to be considered, sympathetically having regard to the spirit and object behind the O.M. dated 10.9.93 (read with O.M. dated 8.4.91 referred above) which lays down the procedure for filling up of Group 'D' posts. The scheme has been formulated in connection with grant of temporary status and regularisation of the casual employees in pursuance of a judgment of the Principal Bench of the Central Administrative Tribunal. Since the applicant appears to have become entitled to be granted temporary status it would be just and proper to treat him similarly if that could be

*full*  
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1.11.94

done even though the scheme may not cover him because he is not a casual daily rated worker but a temporary employee but at the same time intermittently engaged as casual labourer (work charged).

In the result, the respondents are directed to consider the case of the applicant sympathetically in the light of what is stated above. We hope that since the earlier engagement of the applicant has come to an end recently, the respondents will consider the matter most expeditiously on receiving the copy of this order.

With the above direction, the application is disposed of. There will be no order as to costs.

22.11.94  
Copy of order dtd.  
1.11.94 issued to  
all concerned by  
Regd. Post vide dt/No.  
4839-42 dt/ 28.11.94



  
Vice-Chairman

  
Member

pg

  
To be delayed