

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A.No.56 of 1994

Date of decision 19.9.1995

Shri Bhudhiram Boro and four others

PETITIONER(S)

Shri J.L. Sarkar with Shri M. Chanda

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Shri A.K. Choudhury, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE-CHAIRMAN

THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

yes

No

Judgement delivered by Hon'ble Vice-Chairman

M.G. Chaudhary

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.56 of 1994

Date of decision: This the 19th day of September, 1995

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Member (Administrative)

1. Shri Bhudhiram Boro,
2. Md Ayub Ali,
3. Shri Lankeshwar Das,
4. Shri Harihar Nath,
- 5.. Shri Bipat Chandra Nath.

All the applicants were employed as
Conservancy Safaiwalas under the
Station Headquarter, Rangiya(Assa).

.....Applicants

By Advocate Shri J.L. Sarkar with Shri M. Chanda

- versus -

1. Union of India,
Through the Secretary,
Government of India,
Ministry of Defence, New Delhi.
2. Additional Director General of Staff,
Duties (SDGE) General Staff Branch,
Army Headquarters, DHG,
New Delhi.
3. Administrative Commandant,
Headquarters, Eastern Command,
Calcutta.
4. Administrative Commandant,
Station Headquarters, Rangiya,
C/o 99 APO.

.....Respondents

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

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O R D E R

CHAUDHARI.J. V.C.


Mr J.L. Sarkar with Mr M. Chanda for the applicants.

Mr A.K. Choudhury, Addl. C.G.S.C., for the respondents.

All the five applicants have been working as Safaiwalas in the Station Headquarter, Rangiya, under the Eastern Command of Army. They were appointed on different dates since 1981. Their engagement was on daily wage basis for carrying out conservatory and sanitation duties. Their services have been terminated verbally from the following dates:

Applicant No.1	: February 1993
Applicant No.2	: January 1990 (disputed)
Applicant No.3	: February 1993
Applicant No.4	: October 1993
Applicant No.5	: 1.12.1993

The applicants contend that they have put in more than 240 days continuous service and they are entitled to be regularised in Group D post. As they have not been regularised they have filed the O.A. and pray that the respondents be directed to reappoint and then regularise their services with all consequential service benefits from the dates of their initial engagement. They further pray that the respondents be directed to pay to them regular pay and allowances in the appropriate scale since the date of their initial engagement.



2. The respondents contend that Rangiya is a field station under the Army Establishment. There are no regular posts of Conservancy Safaiwalas authorised at that station. Casual workers are employed as Conservancy staff as and when there is need for their services. The actual requirement on the ground depends upon the movement of the field units out of the field stations for operational commitments. They, therefore, contend that there is no scope for regularising the applicants against any regular post^s.

3. As far as the applicant No.2 is concerned, although he avers that he was verbally disengaged in January 1990 the respondents contend that he had left the job himself in the year 1990 and, therefore, he is not entitled to make any claim. This is disputed by the applicant who maintains that he was disengaged.

4. Similar question arose for our consideration in O.A.No.264 of 1993 decided on 5.9.1995. That was an application by similarly placed six Conservancy Safaiwalas at the same Station Headquarter, namely, Rangiya. They had also been engaged on different dates from 1982 and they were not being regularised. The respondents who are also the respondents in the instant case raised the same contentions as raised in the present application, namely, that as regular posts are not authorised at the field station, Rangiya, the applicants could not be regularised and their appointments being purely on temporary basis and their services are no longer required in view of the decrease of work at the field stations they were disengaged. They also pointed out that the posts are required to be sanctioned and in the

absence.....



absence of sanction the applicants could not be considered for regularisation. After examining these aspects we held that having regard to the preponderance of judicial opinion and the welfare policy of the State and the length of the period for which the applicants were engaged the applicants deserved to be considered for regularisation. However, as we found that we cannot make a direction to that effect straightaway unless there are posts available against which their regularisation can be considered and the posts against which the applicants were working were not sanctioned regular posts that the Central Government may consider according sanction to facilitate the regularisation of those applicants. We also took the view that the benefit of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1993 of the Government of India which came into force on 1.9.1993 may also be extended to the applicants subject to their eligibility. We think that similar course is required to be adopted in the instant case also.

5. It appears that the above mentioned 1993 Scheme applies to those casual workers who were in employment on 1.9.1993 and had rendered continuous service of atleast 240 days to make them eligible for consideration under the Scheme. In the instant case the applicant No.4, Harihar Nath, and applicant No.5, Bipat Chandra Nath, may be eligible to be considered under the Scheme as they were disengaged after 1.9.1993. In so far as applicant Nos.1, 2 and 3 are concerned the respondents will consider whether they can be given benefit under the guidelines contained in the O.M. dated

7.6.1988.....



7.6.1988 which were applicable prior to enforcement of the 1993 Scheme.

6. In the result following order is passed:

i) The respondents are directed to consider extending the benefit of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Government of India to applicant Nos. 4 and 5 and benefit of guidelines under O.M. dated 7.6.1988 to applicant Nos. 1, 2 and 3 and consider the ^{question} ~~condition~~ of conferring temporary status to them and thereafter regularisation against the posts as may be available.

ii) The respondents may, if necessary, seek sanction for posts for consideration of regularisation of the applicants if they are otherwise found eligible under the Scheme to be regularised.

iii) The circumstance of disengagement of the applicants may be considered in the light of the Scheme and guidelines respectively if applicable as stated above.

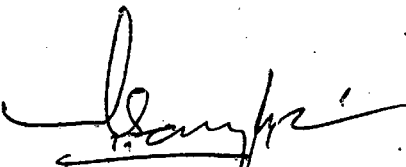
iv) The respondents to examine the cases of the applicants in the light of above directions as expeditiously as ^{possible} ~~applicable~~, but in any ^{case} ~~way~~ within a period of three months from the date of receipt of this order and intimate their decision to the applicants accordingly.


v) The question of consequential benefits, if any, available to the applicants under the Scheme/guidelines in the event of their being considered for regularisation may be extended to them.

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vi) The respondents may not confine their consideration in respect of the applicants for the aforesaid purposes only at Rangiya Field Stations, but may consider if they can be accommodated at any other place.

7. The original application is disposed of in terms of the aforesaid directions. No order as to costs.


(G. L. SANGLYINE)
MEMBER (A)


(M. G. CHAUDHARI)
VICE-CHAIRMAN