

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 208/95

R.A/C.P No.

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 208 OF 1995
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISC.PETITION NO. OF 1995 (IN NO.)

..... Ram. Sharma APPLICANT(S)

-vs-

..... U.O.I. RESPONDENT(S)

For the Applicant(s)

... Mr. M.K. Choudhury
 Mr. B.K. Baishya
 Mr.
 Mr.

For the Respondent(s)

Mr. A.K. Choudhury
Add. C.G.C.

OFFICE NOTE

DATE

ORDER

21.9.95

Mr B.K. Sharma, learned counsel for the applicant is not available. Adjourned to 16.10.95 for admission.

Vice-Chairman

Member

nkm

16.10.95

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

The respondents not to terminate the services of the applicant till 24.10.95.

Adjourned to 24.10.95 without prejudice and with liberty.

Vice-Chairman

Member

nkm

This application is in form and within time.

C. F. of Rs. 50/-

deposited vide

IPC/ED No. 327395

Dated 18.9.95

De. Registrar (A)

C-17-208/95

✓ 3

OFFICE NOTE

DATE

ORDER

25.10.95

Mr B.K. Baishya for the applicant.

Mr S. Ali, Sr.C.G.S.C for the respondents-

Heard. Facts are similar to O.A.206/95.

For the same reasons given in the order on that O.A. similar order is fit to be passed. Hence following order :-

Under the circumstances the Executive Engineer is directed to consider the question as to whether the applicant can be given the benefit of the above mentioned scheme and grant him the same if eligible and not to terminate the temporary engagement of the applicant till such decision is taken and communicated to the applicant.

With the above directions the application is disposed of at admission stage. No order as to costs.

② 'Carnal Labourers (Grant of -
Temporary Status and -
Regularisation) Scheme of -
Govt of India 1993. h

Member

Vice-Chairman

20 SEP 1995

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : O.A. No. 208 of 1995

Shri Ramu Sharma ... Applicant

- Versus -

Union of India & Others ... Respondents

I N D E X

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For use in Tribunal's Office :

Date of filing : 20-9-95
Registration No.: O.A. 201/95

REGISTRAR

5
Filed through
B.K. Baishya.
Advocate
Shri Ramu Sharma
petitioner

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. 208 of 1995

BETWEEN

Shri Ramu Sharma,
Ulubari Chariali,
Near STATED,
P.O. Ulubari, Guwahati-781007.

... Applicant

AND

1. Union of India,
represented by the Secretary,
Ministry of Water Resources,
New Delhi.
2. The Chairman,
Central Water Commission,
Seva Bhawan, R.K. Puram,
New Delhi-66.
3. The Executive Engineer,
Central Water Commission
Barak Division,
Six Mile, Narengi Road,
Khanapara, Guwahati-22.

... Respondents

DETAILS OF APPLICATION

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

The application is not directed against any specific order, but it is made for a direction to the respondents to confer temporary status on the applicant in accordance with the guideline under O.M. dated 10.9.93 and to regularise the services of the applicant in terms of Judgment passed in O.A. No. 233, 884, 1601, 2246 and 2418 of 1992 and in the orders in terms of R.A. 165/94 and 194 in O.A. 2246/92, R.A. 171/94 in O.A. 1601/92 and

R.A. 172/94 in O.A. 2418/92 passed by the Central Administrative Tribunal, Principal Bench, New Delhi.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and therefore, he is entitled to all the rights and protections guaranteed under the Constitution of India.

4.2 That the applicant hails from a very poor family and after passing his 8th standard, he could not pursue studies because of poverty in the family and had to look for a livelihood.

4.3 That the applicant was serving under the respondents as casual and/or work charged Seasonal Khalasi/Part time Electrician since the year 1989. By an order dated 6.2.89, the applicant was selected as casual khalasi @ Rs.25/- per day w.e.f. 2.2.89 to 31.3.89.

A copy of the aforesaid order dated 6.2.89 is annexed herewith as ANNEXURE-1.

Contd...P/3.

Sri Ram Sharma

4.4 That thereafter by an order dated 31.10.89, he was against appointed as Casual labour @ Rs.25/- per day at R&M Workshop under Barak Division, Central Water Commission, Guwahati-22 with effect from 2.10.89 to 30.11.89

A copy of the order dated 31.10.89 is annexed herewith as ANNEXURE-2.

4.5 That in the manner stated above, the respondents utilised the services of the applicant periodically and his services were terminated from time to time. The applicant was also engaged as skilled casual labour/ work charged labour, Seasonal Khalasi, Part Time Electrician in between at times on daily wage basis @ Rs.25/- per day and Rs.30/- per day and at times @ Rs.900/- per month. By an order dated 14.5.92, the applicant was appointed as Seasonal Khalasi in the scale of Rs.750-940/- on 'ad-hoc' basis. The respondents termed the appointment of the applicant as work charged khalasi and on some occasion, it was termed as work-charged labourer and was never treated better than a casual labour. Lastly by an order dated 27.4.95, the applicant was again appointed as work-charged seasonal khalasi in the scale of pay of Rs.750-940/- and this appointment letter stipulated that the appointment will not continue beyond 14.10.95. The applicant states that the respondents utilised his services as Electrician ~~the~~ since the time of his initial appointment and all along been posted at R&M Mechanical Workshop of Barak Division, C.W.C. Khanapara, Guwahati.

A copy of the aforesaid order dated 27.4.95 is annexed herewith as ANNEXURE-3.

The applicant craves leave of the Hon'ble Tribunal to produce the copies of the other appointment letters to the applicant from time to time at the time of hearing of this application. However, a statement of the period of service the applicant has rendered is annexed as ANNEXURE-4.

4.6 That the applicant states that although the respondents required the services of the applicant and other such similarly situated persons, for reasons best known to the respondents, the services of the applicant and other such persons were not regularised inspite of repeated demands for regularisation. Be it stated here that the name of the applicant was sponsored by Guwahati Employment Exchange and through such sponsorship, he entered into the services under the respondents.

4.7 That the applicant in this manner has served for more than 240 days in different years. The days the applicant ~~next~~ worked in different years are shown below :

<u>Years</u>	<u>Days</u>
1989	333
1990	28
1991	319
1992	342
1993	281
1994	291
1995	278

4.9 That the applicant states that the Government from time to time have issued various circulars stressing the need for regularisation of casual employees

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Smt. Ramar Sharma

like that of the applicant. For instance, a circular dated 8.4.91 was issued by the Ministry of Personnel, Government of India, wherein guidelines have been laid down and renewed as regards regularisation of services of casual workers in Group 'D' posts. Another office memorandum dated 10.9.93 was issued by the Ministry of Personnel etc. Govt. of India wherein a scheme was formulated for grant of temporary status and regularisation of the casual workers. The applicant states that on the basis of the aforesaid circulars and other guidelines issued by the Government from time to time, the applicant was entitled to be regularised by the respondents; but till date the respondents have not regularised the services of the applicant in spite of repeated pursuasion.

A copy of the memorandum dated 8.4.91 and Memorandum dated 10.9.93 are annexed herewith as ANNEXURES-5 and 6 respectively.

4.10 That the applicant states that the respondents ought to have regularised the services of the applicant and other persons working as work-charged seasonal khasasi who have rendered long years of service to the respondents on casual, work-charged, adhoc of seasonable basis. The service of the applicant having been utilised in exploitative terms for years, the Government being a model employer ~~with~~ ought to have bestowed the security of ~~regularisation~~ regularity of service to the applicant. However, the respondents have instead preferred to engage the applicant and other such similarly situated persons on exploitative terms rather than regularising their services.

Contd...P/6.

10
Shri Ram Sharma
4.11 That the applicant states that although his service was not regularised by the respondents, he was shocked to find that one Shri Sukumar Bala who was not working in the department as work-charged khalasi and who hails from Jalpaiguri was appointed as temporary khalasi by the respondents ignoring the claim of the applicant. The applicant states that such appointment was against the policy laid down by the Government and Shri Sukumar Bala ought not to have been appointed to the detriment of the interest of the applicant and other similarly situated work-charged seasonal khalasi. However, for reasons best known to them, the ~~xxx~~ respondents deprived the application from his legitimate claim and appointed the said person as temporary khalasi on regular basis.

A copy of the order of appointment dated 1.7.92 issued to Shri Sukumar Bala is annexed herewith as ANNEXURE-7.

4.12 That the applicant states that he having served under the respondents for a long period as work charged seasonal Khalasi and the respondents having utilised his service in exploitative terms, it was the legitimate expectation of the applicant to get his service regularised. The applicant being similarly situated to that of the respondents in R.A. 165/94 in O.A. 2246/92, R.A. 171/94 in O.A. 1601/92 and R.A. 172/94 in O.A. 2418/92 before the Principal Bench of the Hon'ble Tribunal, the same Judgment will be squarely applicable to the applicant, he being ~~similarly~~ similarly circumstanced. The

respondents ought to have given him the benefit without compelling the applicant to approach this Hon'ble ~~Court~~ Tribunal. The Central Government being the model employer ought to extend the benefit to the applicant instead of making him to come over to the Court. However, since the respondents have turned a deaf ear to the prayer of the applicant, the applicant has been constrained to approach this Hon'ble Tribunal for regularising his services in terms of the Judgment passed in case of similarly circumstanced incumbents.

4.13 That the applicant states that the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 223 of 1992, O.A.No. 884/92, O.A. No. 1601/92, O.A. No. 2246/92 and O.A. No. 2410/92 filed by Khalasis, carpenters, Mistries, Motor Mechanics, Drivers and Electricians under the Executive Engineer, Central Water Commission, R.K. Puram, New Delhi by a common Judgment dated 10.2.94 disposed all the applications with the following directions :

- (i) The respondents shall prepare a scheme for retention and regularisation of the casual labourers employed by them. For regularisation, all those who have completed 240 days of service in two consecutive years should be given priority in accordance with their length of service ;
- (ii) Those who have completed 120 days of service should be given temporary status in accordance with the instructions issued by the department of personnel from time to time. After completion of the required period of service, they should be considered for regularisation.

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Sri Ram Sharma

- 8(A) -

A copy of one such representation dated 16.8.95 and its forwarding letter dated 16.8.95 are annexed herewith as ANNEXURES 9 and 10 respectively.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the applicant being similarly placed to the applicant in O.A. No. 2246/92, 1601/92 and 2418/92 and the Review Application therein, the same benefit ought to have been extended to the applicant.

5.2 For that the respondents having utilised the services of the applicant in exploitative terms his services ought to have been regularised.

5.3 For that the applicant's services are terminated from time to time by giving artificial breaks all these years depriving the applicant from continuous employment and emoluments, therefore, his services are required to be regularised with effect from his initial date of work-charged employment with all consequential benefits.

5.4 For that there being vacancy under the respondents to accommodate applicant on regular basis, the

Contd...P/9.

12
Savitri Ramu Sharm-a

respondents are required to be directed to regularise the services of the applicant giving him all benefits retrospectively.

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Sd/- Kanna Sharma

5.5 For that the applicant has been discriminated against any persons who are not serving on and/or casual ~~on the~~ basis are appointed from outside the state depriving the claim of the applicant which cannot stand the test of judicial scrutiny.

5.6 For that the respondents have deprived the applicant from his legitimate claim of regularisation in derogation of the circulars and guidelines issued by the Government for such regularisation.

5.7 For that the Union of India being a model employer the respondents ought to have given the benefit of regularisation to the applicant without the applicant asking for it.

5.8 For that the applicant having served under the respondents in exploitative terms for such a long period due to his utter poverty, he has lost his most valuable years in life and has crossed the age for appointment in other Central Govt. job. Hence if the respondents are not directed to appoint the applicant on regular basis, grave prejudice will be perpetrated on the applicant and he will not be able to get any employment elsewhere.

5.9 For that the action of the respondents are illegal, arbitrary and not sustainable in law.

Contd...P/10.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has taken recourse to all the remedies available to him under the relevant service rules and he has not been granted the benefit of regularisation by the respondents inspite of submission of representation.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of the Tribunal, nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

On the facts and circumstances, the applicant prays for the following reliefs :

- (i) A direction to the respondents to regularise the services of the applicant giving him the benefit of regularisation from date of his initial appointment on work charged basis with all consequential benefits.
- (ii) A declaration that the applicant earned temporary status from 10.9.93.
- (iii) Any other relief or reliefs to which the applicant is entitled under law and equity.
- (iv) Cost of the application.

Contd...P/11.

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Dr. Ramu Sharma

9. INTERIM ORDER PRAYED FOR :

The applicant states that his service has been sought to be terminated on 15.10.95 although there is requirement as well as vacancy to accommodate the applicant. As such, in the interim, the respondents may be directed to utilise the services of the applicant on work-charged/casual basis till regularisation of the service, and not to terminate his service.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

(i) I.P.O. No. 8 09327395(11) Date 18.9.95

(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

V E R I F I C A T I O N

I, Shri Ramu Sharma, aged about 28 years, resident of Amdah village, the abovenamed applicant, do hereby verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 19th day of September 1995 at Guwahati.

Shri Ramu Sharma

15
Shri Ramu Sharma

GRAM, "XENGAUCE"
GUWAHATI

PHONE NO. 83445

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
BARAK DIVISION, SIX MILES, NARENGI ROAD
KHANAPARA, GUWAHATI-22.

NO. A-16021/5/89-Estt-II/ 437-53

Dated the 6/2/89.

OFFICE ORDER

Shri Ramu Sharma is hereby appointed as Casual Khalsi at the rate of Rs. 25/- per day w.e.f. 2.2.89 to 31.3.89.

His pay is Chargeable to R & M of Workshop.

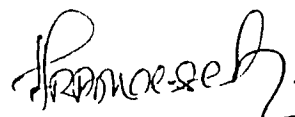
The appointment is purely on temporary basis. His appointment will be terminatable at any time without assigning any reason.

No T.A. will be admissible for joining duty. The period of his Service will not count for Seniority.

(H.R. BHAGAT)
EXECUTIVE ENGINEER

Copy for information and necessary action to :-

1. The Accounts Branch, Barak Division, CWC. Guwahati.
2. The In-Charge, Mechanical Sub-Division, CWC, Guwahati.
- ✓ 3. Shri Ramu Sharma, through Asstt. Engineer, Mechanical Sub-Division, CWC, Guwahati.


EXECUTIVE ENGINEER.

Attested.

B. K. Barshya.

Advocate.

GRAM: XENGAUJE
GUMAHATI

PHONE NO. 83445

Government of India
Central Water Commission
Barak Division, Six Miles, Narengi Road
Khanapara, Guwahati-22.

No. A-16021/5/89-Extt. II/ 3956-52 Dated the 31/10/89.

OFFICE ORDER

Shri. Ramu Sharma is hereby appointed as Casual Labour at the rate of Rs. 25/- per day w.e.f. 2.10.89 to 30.11.89.

His pay is chargeable to R & M of Workshop.

The appointment is purely on temporary basis. His appointment will be terminable at any time without assigning any reason.

No T.A will be admissible for joining duty. The period of his services will not count for Seniority.

(H. R. BHAGAT)
EXECUTIVE ENGINEER

Copy for information and necessary action to:-

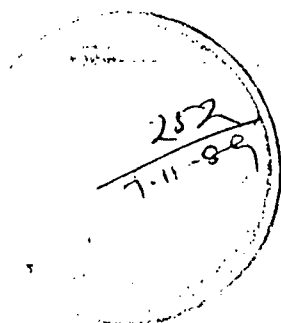
1. The Account Branch, Barak Division, C.C. Guwahati.
2. The Asstt. Engineer, Mechanical Sub-Divn, C.W.C. Guwahati.
3. Shri Ramu Sharma, through Asstt. Engineer, Mechanical Sub-Division, C.C. Guwahati.

EXECUTIVE ENGINEER

ACD

Attested.

B. K. Baishya.
Advocate.



GRAM : "XENGAUGE"
GUWAHATI

TELE : 560445

No. MBD-II/CB/4/Estt.II/95//5-134
Government Of India
Middle Brahmaputra Division,
Central Water Commission,
Rajgarh Road, Guwahati - 7,

Dated the 27/4/95

M E M O R A N D U

The undersigned hereby offers appointment to the following persons as "SEASONAL" W/C Khalasi in the Work-Charged establishment in the pay Scale of Rs. 750-12-870-EB - 14-940/- with usual allowances as admissible as per rules from time to time.

S/N	Name and address of candidates	Employment Exchange Regd. No.	Place of posting	Remarks
1	2	3	4	5
1.	Sri Arun Rajbongshi, C/O, Sri B.C. Das, M. Sub-Division, CWC, Guwahati.	2726/86	G&D site, Sonapur, under MSD, Guwahati.	
2.	Sri Harish Ch. Barman, C/O, Mech. Sub-Divn., CWC, Guwahati-22.	1509/80	-do-	
3.	Sri Chandi Ram Das, C/O, Mech. Sub-Divn., CWC, Khanapara, Guwahati-22.	6607/89	-do-	
4.	Sri Ananta Kr. Rabha, C/O, Sri Innus Rabha, Vill-Kamarpara, P.O- Daraduri, Goalpara.	726/82	G&D site, Dudhnai, under MSD, Guwahati.	
5.	Sri Putul Khound, Vill-Borkuna, P.O-Gear- uabari (Biswanath Charali) Dist-Sonitpur, Pin-784176.	1071/84	G&D site, Kulsi,, under MSD, Guwahati.	
6.	Sri Dinesh Ch. Das, C/O, Smt. Karani bala Das, Dhankar Nagar, A.T.Road, Panbazar, Guwahati-1.	3220/79	G&D site, Dudhnai, under MSD, Guwahati.	
7.	Sri Dilip Ch. Khataniar, Vill-Barjoha Bhatikur, Dist-Nowgoan.	987/85	MSD, CWC, Guwahati-22.	
8.	Sri Bipin Rabha, C/O, Mech. Sub-Divn., CWC, Khanapara, Guwahati-22.	518/93	G&D site, Kulsi, under MSD, Guwahati.	
9.	Sri Rohini Kr. Roy, C/O, Sri Banamali Roy, Vill-Charaimari, P.O- Amjonga, Goalpara, Assam.	1718/79	G&D site, Dudhnai, under MSD, Guwahati.	

Attested.

B. K. Banishya
Advocate.

Contd.... 2/-

1	2	3	4	5
10.	Sri Jaynal Ch. Rabha, Vill-Borpathan, P.O- Chatmatia, Dist-Goal- para.	854/82	G&D site, Dudhnai, under MSD, Guwahati	
11.	Sri Pratap Ch. Sharma, C/O, Sri Tarun Ch. Sharma, Arunadoy Press, Silpukhuri, Guwahati-3.	9178/82	-do-	
12.	Sri Ramu Sharma, C/O, Mech. Sub-Divn., CWC, Khanapara, Guwahati-22.	8040/92	Mech. Work-Shop, Guwahati-22.	
13.	Sri Gadadhar Bharali, C/O, Mech. Sub-Divn., CWC, Guwahati-22.	3768/90	Guest House at MBD-II, Guwahati.	
14.	Sri Promod Ch. Deka, C/O, Mech. Sub-Divn., CWC, Guwahati-22.	3064/76	Mech. Sub-Divn., CWC, Guwahati-22. (G&D site Sonapur)	
15.	Smt. Mira Das, 6 Mile, Guwahati-22.	4928/91	MSD, Guwahati (com- pilation & checking GDS data)	

The appointment is on ad-hoc basis to be effective from 15-5-95 (FN) and is purely temporary and will not continue beyond 14-10-95 (AN), or completion of work whichever is earlier without further notice.

The appointee should produce before joining the post a certificate of physical fitness from a competent authority.

No travelling allowance will be allowed for joining the above appointment.

All the person concern may please report to their respective site on 15-5-95 (FN) positively.

A.S.P. Sinha
27/4/95
(A.S.P. SINHA)
EXECUTIVE ENGINEER

Copy forwarded for information & necessary action to :-

- 1) The A.E., Mech. Sub-Division, CWC, Guwahati. The date of joining of the person concerned may please be intimated to this office in due course.
- 2) Person concerned (16 copies). He should note that there is no chance of regularisation of service in near future.
- 3) The A/B, MBD, CWC, Guwahati-7.
- 4) The D/B, MBD, CWC, Guwahati-7.
- 5) The J.E. (HQ), MBD-II, CWC, Guwahati-22.

Working period -----	No. of days -----	Appointed as -----	Place of posting -----	Pay -----
<u>1989</u>				
2.2.89 to 31.3.89	58	Casual Khala- si	R&M, work- shop	Rs. 25/- per day.
2.4.89 to 31.5.89	59	Skilled/Casual Labour	-do-	-do-
2.6.89 to 31.7.89	59	-do-	-do-	-do-
2.8.89 to 30.9.89	59	Casual Labour	-do-	-do-
2.10.89 to 30.11.89	59	-do-	-do-	-do-
2.12.89 to 31.12.89	30	-do-	-do-	-do-
	333			
<u>1990</u>				
1.1.90 to 29.1.90	29	-do-	-do-	-do-
31.1.90 to 28.3.90	59	-do-	-do-	-do-
1.4.90 to 25.9.90	59	W/C Labour	-do-	Rs. 900/- p.m.
31.5.90 to 28.7.90	59	-do-	-do-	-do-
28.9.90 to 25.11.90	59	-do-	-do-	-do-
27.11.90 to 21.12.90	35	-do-	-do-	-do-
	319			
<u>1991</u>				
1.1.91 to 24.1.91	24	-do-		-do-
26.1.91 to 25.3.91	59	-do-		-do-
27.3.91 to 24.5.91	59	-do-		-do-
27.5.91 to 24.7.91	59	-do-		-do-
26.7.91 to 22.9.91	59	-do-		-do-
24.9.91 to 21.11.91	59	-do-		-do-
<u>1992</u>				
1.1.92 to 28.2.92	59	W/C Labour		Rs. 36/- p.d.
23.3.92 to 20.5.92	59	-do-		Rs. 30/- p.d.
14.5.92 to 15.10.92	150	Seasonal Khalasi		Rs. 750-940/- p.m. (scale)
17.10.92 to 15.12.92	59	W/C Labour		Rs. 30/- per da
17.12.92 to 31.12.92	15	-do-		Rs. 30/- perday

Attested.
B. K. Bhatnagar
Advocate.

Contd....

Annex. 4 contd.

<u>Working period</u>	<u>No. of days</u>	<u>Appointed as</u>	<u>Pay</u>
<u>1993</u>			
1.1.93 to 31.1.93	31	W/C Labour	Rs. 30 per day
2.2.93 to 28.2.93	27	-do-	-do-
2.3.93 to 13.5.93	73	-do-	-do-
15.5.93 to 15.10.93	150	Seasonal Khalasi	Rs. 750-940/- p.m. (scale)
	<u>281</u>		
<u>1994</u>			
23.2.94 to 13.5.94	80	Part-time W/C Electrician	Consolidated pay of Rs. 750/- p.m.
16.5.94 to 15.10.94	150	Seasonal W/C Khalasi	Rs. 750-940/- p.m. (scale)
1.11.94 to 31.12.94	61	Part-time Electrician	Rs. 750/- p.m.
	<u>291</u>		
<u>1995</u>			
1.1.95 to 28.1.95	28	-do-	-do-
30.1.95 to 29.4.95	89	-do-	-do-
2.5.95 to 12.5.95	11	-do-	-do-
15.5.95 to 14.10.95	150	Seasonal W/C Khalasi	Rs. 750-940/- p.m. (Scale).
	<u>278</u>		

...

attested
B.K. Baishya

No.49014/4/90-Estt.(C)
 Government of India
 Ministry of Personnel,
 Public Grievances & Pension
 [Department of Personnel & Training]

New Delhi the 8th April, 1991

OFFICE MEMORANDUM

Sub:-Regularisation of services of casual workers in Group 'D' posts - Relaxation of employment exchange procedure and upper age limit.

The undersigned is directed to refer to this Department's OM No.49014/4/77-Estt.(C) dated 21st March, 1979 wherein the conditions for regularisation of casual workers against Group 'D' posts were prescribed. The policy with regard to engagement and remuneration of casual workers in Central Government offices has been reviewed from time to time and detailed guidelines in the matter were issued vide OM No.49014/2/86-Estt.(C) dated 7th June, 1988.

2. Requests have now been received from various Ministries/ Departments for allowing relaxation in the conditions of upper age limit and sponsorship through employment exchange for regularisation of such casual employees against Group 'D' posts, who were recruited prior to 7.6.88, i.e., date of issue of guidelines. The matter has been considered and keeping in view the fact that the casual employees belong to the economically weaker section of the society and termination of their services will cause undue hardship to them, it has been decided, as a one time measure, in consultation with the Director General Employment & Training, Ministry of Labour, that casual workers recruited before 7.6.88 and who are in service on the date of issue of these instructions, may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through employment exchange and had crossed the upper age limit prescribed for the post, provided they are otherwise eligible for regular appointment in all other respects.

3. It is once again reiterated that recruitment of casual workers in Central Government offices may be regulated strictly in accordance with the guidelines contained in this Department's OM No.49014/2/86-Estt.(C) dated 7.6.88. Cases of neglect of these instructions should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

....2/-

Attested.

B. V. Baishya
 Advocate.

Copy of O.M. No. 51016/2/90-Estt.(C) dated 10.9.93
from Ministry of Personnel, P.G. and Pensions
(Department of Personnel & Training).

Sub : Grant of temporary status and regularisation of
casual workers formulation of scheme in pursuance
of the CAT, Principal Bench, New Delhi, judgment
dated 16th Feb. 1990 in the case of Shri Raj
Kamal & Others V. UOI.

The guidelines in the matter of recruitment of
persons on daily-wage basis in Central Government offices
were issued vide this Department's O.M. No. 49014/2/86-
Estt.(C) dated 7.6.88. The policy has further been reviewed
in the light of the judgment of the CAT, Principal Bench,
New Delhi delivered on 16.2.90 in the writ petition filed
by Shri Raj Kamal and others Vs. Union of India and it has
been decided that while the existing guidelines contained
in O.M. dated 7.6.1988 may continue to be followed, the
grant of temporary status to the casual employees, who are
presently employed and have rendered one year of continuous
service in Central Government offices other than Department
of Telecom, Posts and Railways may be regulated by the
Scheme as appended.

2. Ministry of Finance etc. are requested to
bring the scheme to the notice of appointing authorities
under the administrative control and ensure that recruit-
ment of casual employees is done in accordance with the
guidelines contained in Office Memorandum dated 7.6.1988
Cases of negligence should be viewed seriously and brought
to the notice of appropriate authorities for taking prompt
and suitable action.

Contd....

Attested,

B. K. Baishya
Advocate.

ANNEXURE -A

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

1. This Scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993."
2. This scheme will come into force w.e.f. 1.9.1993.
3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.
4. Temporary Status :
 - (i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of atleast one year, which means that they must have been engaged for a period of atleast 240 days (206 days in the case of offices observing 5 days week).
 - (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
 - (iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.
 - (iv) Such casual labourers who acquire temporary status will not however be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

Attested.
B. K. Kaushya

Contd..P/3.

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

- (i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA HRA and CCA.
- (ii) Benefits of increments at the same rate as applicable to a Group D employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for atleast 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
- (iii) Leave entitlement will be on a pro-rata basis at the ~~same~~ rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible they will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
- (iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
- (v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.
- (vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated ~~en par~~ with temporary Group D employees for the purpose of contribution to the General Provident Fund and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group D employees, provided they furnish two sureties from permanent Govt. Servants of their Department.

Contd....P/4.

*Attested
B. K. Bishya.*

(vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourer with temporary status. However, if any additional benefits are admissible to casual ~~lab~~ workers working in industrial establishments in view of provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labour with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Group D Posts.

Two out of every three vacancies in Group D cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel & Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labour.

Contd....P/5.

Attested
B. K. Bhatnagar

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

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

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

....

Attested
B. K. Bishy

GRAM: "CENCAST"
GUWANATI

PHONE NO. 61073

NO.A-15017/12(1)/92-Estt. II/2192-94
Government of India
Brahmaputra-Barak Circle
Central Water Commission
Nabin Nagar : Janapath,
Guwanati (Assam : 781024)

Dated 1/7/1992.

MEMORANDUM

The undersigned offers appointment to Shri Sukumar Bala having Employment Registration No. 5347/75/X02.10 in the work-charged Estt. as Temporary Kharasi in the pay Scale of Rs. 750-12-870-CA-14-940/- with usual allowances at the rates admissible under rules from time to time.

1. The appointment is purely temporary but likely to continue in future. He will be on probation for 2(two) years.
2. The appointment may be terminated at any time by one month notice given by either side without assigning any reason. The right of terminating the services of the appointee forthwith or before the expiry of the notice period by making payment to him as sum equivalent to the pay & allowances for the period of notice or the un-expired portion thereof rest with the undersigned.
3. Shri Sukumar Bala is hereby asked to report for duty to the Kimi Power house site under M.B. Sub-Division, CWC, Rajgarh Road, Guwanati-7 (Assam) within 15(Fifteen) days from the date of issue of this Memorandum failing which the offer will be treated as cancelled.

CONDITIONS OF SERVICE

1. The appointment carries with it the liability to serve any part of the North Eastern Region and West Bengal.
2. The appointee should produce before joining the post a certificate of physical fitness from a competent medical authority.
3. No travelling allowance will be allowed for joining the above appointment.
4. This offer does not carry All India Transfer Liability benefit, if any.

To,
Shri Sukumar Bala,
C/O. Late B.R. Bala,
P.O. Vivekananda Patti,
Dt. Jalpaiguri (West Bengal)

Sd/-
Superintending Engineer

Copy for information & necessary action to:-

1. The Executive Engineer, L.B. Divn., CWC, Hakimpore, Jalpaiguri-735101(WB) for information & necessary action. The memorandum may kindly be handed over to the concerned person duty/obtaining ack. receipt.
2. The Executive Engineer, F.B. Divn., Guwanati for information and necessary action.

Sd/- 30.6.92.
Superintending Engineer

Attested.

B. K. Baishya.

Advocate.

Central Administrative Tribunal
Principal Bench, New Delhi.

✓ RA-165/94 in OA-2246/92, RA-171/94 in OA-1601/92
and RA-172/94 in OA-2418/92.

New Delhi this the 9th Day of May, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(J)
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

RA-165/94 in OA-2246/92 RA-171/94 in OA-1601/92 &
RA-172/94 in OA-2418/92.

1. The Secretary,
Ministry of Water Resources,
Shram Shakti Bhavan,
New Delhi.

2. The Chairman,
Central Water Commission,
Sewa Bhavan, R.K. Puram,
New Delhi.

3. The Executive Engineer,
Central Stores Divn.,
Central Water Commission,
R.K. Puram, New Delhi.

Review Applicants/
Respondents in OA.

(through Sh. Jog Singh)

RA-165/94 in OA-2246/92 versus

Shri Jayant Kumar Pathak,
S/o Sh. Kusheshwar Pathak,
Assistant Electrician,
Central Stores Divn.,
Central Water Commission,
West Block 1, Wing No.4,
2nd Floor, R.K. Puram,
New Delhi.

Respondent in RA/
applicant in OA.

RA-171/94 in OA-1601/92

Shri Rajesh Kumar Saini,
S/o Shri Veer Sain Saini,
Workchargee Khilasi,
under Executive Engineer,
Central Stores Division,
Central Water Commission,
West Block No.1, Wing No.4,
2nd Floor, R.K. Puram,
New Delhi.

Respondent in RA/
applicant in OA

RA-172/94 in OA-2418/92

1. Shri Rajender Sharma,
S/o Sh. Bhawan Sharma,
Carpenter, Central Stores Divn.,
Central Water Commission,
West Block No.1, Wing No.4,
2nd Floor, R.K. Puram,
New Delhi.

Attested.

B. K. Baisya,
Advocate.

2. Sh. Raju Kashyap,
S/o Shri Nikka Ram.
3. Sh. Daya Ram,
S/o Sh. Ganga Ram.
4. Shri Dali Singh,
S/o Sh. Bhup Singh.
5. Shri Giri Raj,
S/o Shri Mishri Singh.
6. Shri Bijendra,
S/o Sh. Tota Ram.
7. Sh. Ram Kumar,
S/o Sh. Harendra Ram.
8. Sh. Udal Kumar,
S/o Shri Kurukul.

Respondents in RA/
Applicants in OA.

(Serial No. 2 to 6 working in Central Stores
Divn., Central Water Commission, R.K. Puram,
New Delhi.)

ORDER (BY CIRCULATION)
delivered by Hon'ble Mr. B.N. Dhoundiyal, Member (A)

These review applications have been filed
by the respondents against the common judgement delivered
on 10.02.94 in O.A.Nos. 223, 884, 1601, 2246 & 2418 of
1992. The following directions were given:-

- (i) the respondents shall prepare a scheme
for retention and regularisation of the
Casual Labourers employed by them. This
scheme should take into account the regular
posts, that can be created, taking into
account the fact that even if a particular
scheme is completed, new schemes are launched
every year. An assessment of the regular
posts that can be created on this basis
should be made. For regularisation, all
those, who have completed 240 days service
in two consecutive years, should be given
priority in accordance with their length
of service;
- (ii) Those, who have complete 120 days of service
should be given temporary status in accord-
ance with the instructions issued by the
department of personnel from time to time.
After completion of the required period of
service, they should be considered for
regularisation;

for

Attested
B.K. Baisya.

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- (iii) Adhoc/temporary employees should not be replaced by other ad hoc/temporary employees and should be retained in preference to their juniors and outsiders;
- (iv) Such a scheme shall be submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of communication of this order by the petitioner to them.

The review applicants claim that though the impugned order is very much legal and has been passed after giving considerable thought, it would result in retention of junior people while rendering the senior people surplus. It is their contention that due to financial constraint and completion of works in hand W/C staff under different categories from both Central Store Division as well as Planning Division are likely to be rendered surplus after 31.3.1994. It has also been mentioned that the Ministry of Finance has emphasised surrender of 10% of existing post under W/C Estt. also for declaring 10% post on W/C establishment. They have stated that due to financial constraints and lack of schemes, the applicants were not entitled for any regularisation of their services.

There is nothing in these directions which forces the review applicants to regularise casual workers. In the absence of any post. They can take into account the latest position regarding the projects which are continuing and reach the conclusion that no more regular post can be created. The second direction only relates to implementation of the decision of the Deptt. of Personnel regarding temporary status being given to casual workers who have worked for 120 days. Certainly, it cannot be accepted that the applicants will not implement their own orders. The direction No.3 is based on a well

Attested
B.K. Sawhney

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(71)

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established principle.

We, therefore, hold that no error apparent on the face of judgement has been brought out in the review applications, which are hereby dismissed. It is reiterated that a scheme prepared in the light of these directions, shall be presented for scrutiny to this Tribunal within the stipulated time.

Let a copy of this order be placed on all the three files.

(B.N. DHONDIAVAL)
MEMBER(A)

(S.K. SHACK)
VICE CHAIRMAN

/vv/

Original cases in
- 24/7/74 (10/1/74)
Added the copy
10/1/74
9.5.74
CC CII
CAT P.B.
New Delhi

CERTIFIED
True/Duly

30/7/74
Section Officer
Tribunal

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To

The Executive Engineer,
Government Of India
Central Water Commission,
Middle Brahmaputra Division-II
Six mile, Panjabari road,
Khanapara, Guwahati-781022.

Dated Guwahati, the 16/8/95, 1995.

(Through proper channel)

Subject :- Request for appointment as khalasi
on regular basis regarding.

Sir,

With reference to the subject cited
above I beg to inform you that I am serving under your
department as casual labour/seasonal khalasi since the
year 15th February 1988 to till now.

It is to ^{be} noted ^{here} ~~due~~ that I served
for more than 240 days in different years.

I am to inform you that vide O.M.
No. 49014/4/90-Estt (C) issued by the Ministry of Per-
sonnel, Government Of India dated 8th April 1991 and
similar other circular issued by the Govt. Of India from
time to time, it has been stressed the need for regula-
rising all casual employees like me and I beg to state
that on the basis of the circular and other guide lines
issued by the Govt. Of India from time to time, I was
entitled to be regularised, but till date my services
were not regularised.

Therefore, I request you to kindly
take necessary action for regularisation of my service
at an early date.

Your's faithfully

Ramu Sharma

Attested.

B. K. Bishya.
Advocate.

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NO. 1482/6444/S.H.7/51/370 Date 16/8/95

To

The Executive Engineer
M.B. Division
C.W.C., Guwahati

Subject :- Regularisation of services regarding.

Sir,

I am to forward herewith the following applications where in the applicants have requested for regularisation of their services.

1. Shri Gada dhar Bharali, S/Khalasi
2. Shri Dina Ram Gogoi, -do-
3. Shri Ramu Sharma, -do-

It will note be out of place to mention here that the above seasonal khalasis are working in this organisation as casual khalasi/seasonal khalasi from time to time for quite a long period. It is therefore requested that their services may please be regularised as per prevailing rules & regulation framed by the Govt. for the purpose.

your's faithfully

[Signature]
16/8/95

(D.C. MANDAL)

ASTT. ENGINEER, MECH. SUB-DIVISION
C.W.C., KHANAPARA, GUWAHATI-781022

Attested.

B. K. Barishya.
Advocate.