

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No. 12/96
E.P/M.A No.

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI -5.

ORIGINAL APPLICATION NO.

22/95

MISC PETITION NO.

(J.A. NO.

REVIEW APPLICATION NO

(J.A. NO.

CONT. PETITION NO.

(J.A. NO.

Bimod Kumar J. and

APPLICANT(S)

VERSUS

U.O.I & ORS.

RESPONDENT(S)

Mr. A. Dasgupta, Mr. M.K. Saiki

Advocate for the
Applicant.

Mr. B.C. Chaudhury.

Mr. A.K. Chaudhury

Advocate for the
Respondents

Add. C.A.S.C.

Office Note

Court Orders

23-2-95

24.2.95

This application is in
form and within time

C. F. of Rs. 50/-

deposited vide

IPO/BD No. 803 & 8298

Dated 23.2.95

23/2/95
W. K. Choudhury (A)
RD

Mr A. Dasgupta for the applicants

Mr A.K. Choudhury, Addl. C.G.S.C
present on notice. and is heard.

Admit. Notice waived.

The applicants who are casual
labourers were discharged from service
with effect from 4.8.94. In the very
fact that they have approached so
late makes it difficult to consider
the cases for their reinstatement.
Moreover for the purpose of consider-
ing the question of reinstatement
the applicants have to disclose a
legal right for the same. The
applicants although they have worked
since 1987 till 1994 and would be
entitled to acquire temporary status
they have no right to continue in
service merely on those grounds.
Precisely for this reason the depart-
ment has prepared a scheme namely,
Casual Labourers (grant of Temporary
Status and Regularisation) Scheme

contd...

2
O.A. 22/95

OFFICE NOTE

COURT ORDER

24.2.95

of the Department of Telecommunications, 1989. The applicants were employed in that department. The scheme contemplates absorption of all existing casual labourers fulfilling the eligibility conditions in preference of outsiders. The object of the scheme is to absorb persons like the applicants provided that they are eligible for regular appointment. The scheme further contemplates that after rendering 3 years continuous service on attainment of temporary status the casual labourers will be treated on par with temporary Group 'D' employees for certain purposes but no other benefits will be admissible to them by reason of the temporary status. That does not include regularisation. The case of the applicants therefore will have to be governed by the scheme which ~~further contemplates that regular Group 'D' staff rendering surplus or any reason against existing future vacancies.~~

We have no reason to assume ^{that} in due course the respondents will ^{not} consider the case of the applicants under the scheme. However, since such an apprehension is expressed and nothing has happened since August 1984, we direct the respondents that ^{the} case of the applicants may be examined to determine whether they are eligible for the benefit under the scheme to be extended to them and if they are found eligible and work is available then they

contd...

24.2.95 should be considered sympathetically having regard to length of service they have put in.

It is left open to the respondents to consider to give purely temporary appointment to the applicants, if possible till their case can be considered under the scheme, ⁱⁿ as much as they have faced unemployment after having been in service since 1987.

With the above observation the application is disposed of finally. No order as to costs.

Copy to be supplied to the counsel.

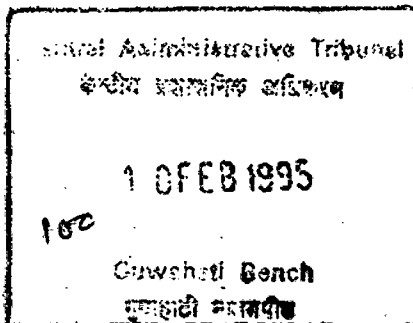
hcc
Vice-Chairman

ba
Member

pg

ba - 2/2/95

24.4.95
Copy of order dtd. 24²/₉₅
issued to all concerned
by Regd. Post and their
counsel also vide S/No.
1723-1729 dtd. 24.4.95



Filed by The
Applicants Through
B.C. Choudhury
Advocate
9-2-95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI

O.A. 22 / 1995

Sri Banod Kr. and Another

... Applicants

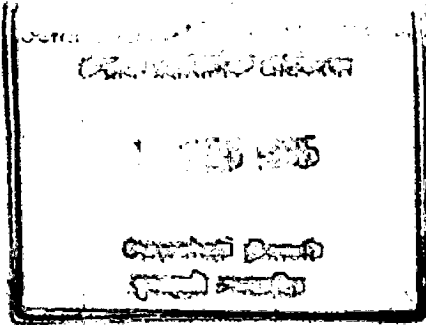
- Vs -

Union of India & Ors

... Respondents

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Sri Binod Kumar and Ors

... Applicant

- Vs -

Union of India & Ors .

... Respondents .

1. Particulars of the Applicants :

a). Sri Binod Kumar

son of Sri Ramankar Mahato

resident of Manipur Basti

Guwahati, District Kamrup, Assam

b). Md. Reyaz Akhtar

@ Riaz Ali,

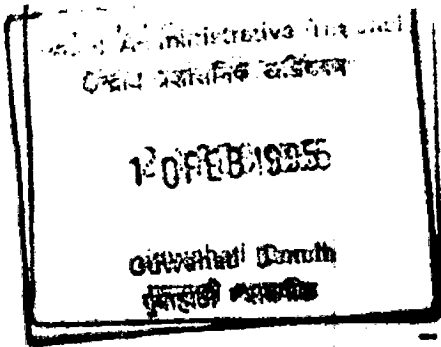
resident of Charan Basti

Sri Nagar Nalinibala Devi path

P.O. Dispur, Guwahati, Kamrup

... Applicants .

Contea....2



- 2 -

2. Particulars of the Respondents :

1. Union of India

represented by ~~the~~ the Secretary,
Ministry of Tele-Communication,
New Delhi.

2. Sub-Divisional Engineer Cable (East)

Department of Tele-Communication
Ambari, Guwahati-1 .

3. Assistant Engineer (Administration)

C/O. T.D.M. Guwahati

4. Dist. Manager

Department of Tele-Communication
Guwahati, Kamrup .

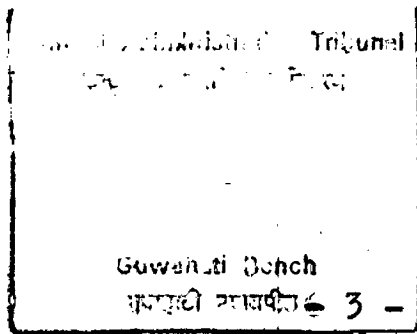
3. Particulars of the order against which application
is made :-

1. An order dated 3/8/94 issued by the
Sub-Divisional Engineer Cable (East) Ambari,
Guwahati-1 contained in letter No. E-B/94-95/
10 whereby the Services of the applicants
were terminated .

4. Jurisdiction of the Tribunal :

The applicants declare that the subject
matter of the order against which the appli-
cants want redressal is within the Jurisdiction
of the Tribunal .

Contd...3



5. Limitation :

The applicants further declare that this application is within the period of limitation prescribed in section 21 of the Administrative Tribunal Act .

6. Fact of the case :

The humble petition of the above named applicants .

MOST RESPECTFULLY SHEWETH :-

- i). That the applicants are citizens of India having their permanent residences at Guwahati in the District of Kamrup, Assam .
- ii). That the applicants were the casual Mazdoor in the Tele-Communication Department under the establishment of Assistant Engineer, Cable (East) Ambari, Guwahati-1.
- iii). That the applicants were engaged in service in the month of January 1987 and their services were extended from time to time . They were in service till 3.8.94.

Details particulars of their tenure of services furnished herewith in a tabular Form :-

Sl. No.	Name of the Casual Labour.	Service from 01.4.85 to 93
1.	Shri Binod Kumar	Jan/87 to Dec/87 = 289 days Jan/88 to Dec/88 = 275 days Jan/89 to Dec/89 = 283 days Jan/90 to Dec/90 = 295 days

1 OFEB 1995

Guwahati Bench

गुवाहाटी ढ्यासपीठ

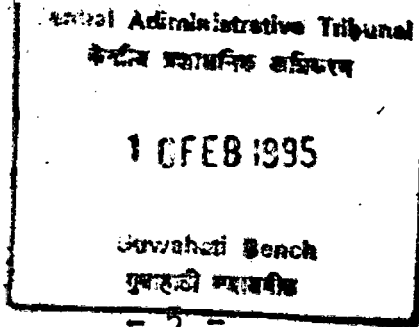
- 4 -

Sl. No.	Name of the Casual Labour	Service from 01-4-85 to 93
		Jan/91 to Apr/91 = 102 days (Wkg. under Task force under ACG-17) May/91 to Dec/91 = 202 days Jan/92 to Dec/92 = 295 days Jan/93 to Apr/93 = 100 days
2.	Shri Reaz Akhtar	Jan/87 to Dec/87 = 283 days Jan/88 to Dec/88 = 270 days Jan/89 to Dec/89 = 295 days Jan/90 to Dec/90 = 311 days Jan/91 to Apr/91 = 102 days (Wkg under Task force under ACG- 17 May/91 to Dec/91 = 211 days Jan/92 to Dec/92 = 320 days Jan/93 to Apr/93 = 100 days

iv). The applicants performed skilled and manual jobs of cable line fitting and maintenances . During their tenure of service the applicants performed their jobs to the satisfaction of all concerned, In no point of time their services were spotted by any stigma .

v). That all ^{on} a sudden, on 3.8.94, the Sub-Divisional Engineer cable (East) , the Respondent No. 2 passed an order to ommit the name of the applicants from the list of the casual labourers . This order was issued to the Assistant Engineer (Administrative) C/O T.D.M. , Guwahati The Respondent No. 3 vide letter No. E-13/94-95/10 dt. 3.8.94 .

Conted....5



A copy of the impugned order dated 3-8-94 issued by the Respondent No. 2 is annexed hereto and marked as Annexure- A .

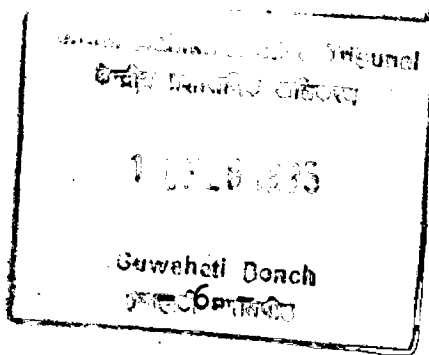
vi). That the applicants beg to state that no-reason whatsoever was assigned in the aforesaid impugned order whereby the names of the applicants were directed to be omitted from the list of casual labourers .

vii). That the applicants beg to state that the Department of Tele-Communication STN section, New Delhi issued a circular vide their office order No. 269-4/93 on 17-12-93 . By this order it was directed to all concerned that the casual Mazdoors who were engaged by the project circle/Electrification ~~and~~ circles during the period 31.3.85 to 22-6-88 should be given the temporary status This order was circulated to all concerned including the staff members of J.C.M.

Relevant extract of order dated 17.12-93 is annexed hereto and marked as Annexure-B .

viii). That in view of the aforesaid order dated 17.12.93 the applicants were entitled to be upgraded as Temporary mazdoor, but they have been arbitrarily terminated ~~from~~ from their services without any reason whatsoever.

Contd....6



ix). That being highly aggrieved by the aforesaid termination order the applicants preferred a representation before the Respondent No. 4 vide their representation dt. 22nd August '94 But these representations could not evoke any response till date .

Copies of the representation dt. 22nd August '94 are Annexes ^{hereto as Annexures} A C and D respectively .

7. Relief sought :

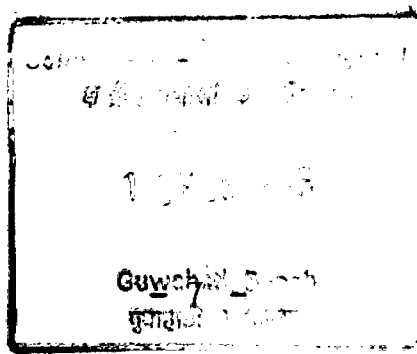
In view of the facts stated above the applicants pray for the following reliefs :-

1. The impugned order issued by the Sub-Divisional Engineer Cable (East), the Respondent No. 2 vide his letter No. E-13/94-95/10 dt. 3.8.94 may kindly be set aside and quashed .

2. The Respondents may be directed to ^{absorb} ~~pay~~ the applicants in their posts with full back wages . Further the Respondents may be directed to upgrade the applicants by providing the temporary status as per the provisions of the order dt. 17-12-93 (Annexure-B) .

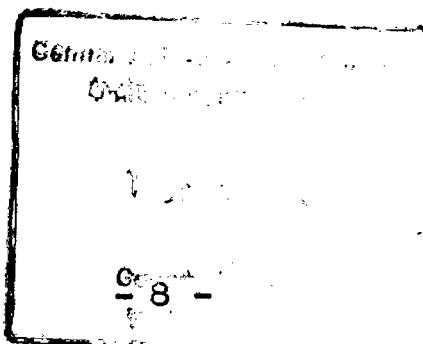
8. The reliefs are sought on the following amongst other .

Contd....7



G R O U N D S

1. For that the impugned order is absolutely whimsical and capricious . No reason whatsoever been assigned . This order is violative of Article 14 and 16 of the constitution of India .
2. For that the applicants are entitled to have the status of temporary employees . But same had been denied to them, on the ~~contrary~~ contrary they have been illegally terminated from their services . This arbitrary action of the Respondents is apparently violative of Article 14 and 16 of the constitution of India and as such the impugned orders of terminations are liable to be set aside and quashed .
3. For that according to the Rule in force the Respondents should provide temporary status to the applicants but this Rule has been grossly violated by the Respondents .
4. For that impugned order is apparently violative of the principle of natural justice as such same is liable to be set aside and quashed .
5. For that the applicants have been deprived of their means of livelihood against the procedure established by law . This action of the Respondent is against the provision of Article 21 of the constitution of India . As such the impugned order is liable to be set aside and quashed .



9. Details of the remedies exhausted :

That the applicants beg to submit that ~~that~~ they have no other alternative efficacious remedy and the remedy sought in this application, are just proper and adequate .

10. Matter not pending with any Court :

The applicant further declares that the matter regarding which this applications has been made is not pending before any court of law or any other authority or any other bench of the Tribunal .

11.. Particulars of the postal order in respect of the application fee :

1. Number of postal order 03 882999
2. Name of the issuing post office G.P.O
3. Date of issue of the postal order 9-2-95
4. post office at which payable G.P.O

12. Details of Index :

An Index in duplicate containing the details of the documents to be relied on is enclosed.

13. List of enclosures :

As shown in the Index of application .

Guwahati Bench
গুৱাহাটী বেঞ্চ

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

I, Md. Reyaz Akhtar, alias Riaz Ali, son of Ali Reja, aged about 26 years a resident of Christian Basti, Sree-Nagar, Nalinibala Devi Path, P.O. Dispur, Guwahati, District Kamrup, Assam do hereby solemnly state and affirm as follows :

1. That I am one of the applicants of this Original Application and I have been duly authorised to verify this application .

2. That I am well acquainted with the fact and circumstances of this case and I am competent to verify this application .

3. That the statements made in paragraphs 6 of this application are true to my knowledge and those made in paragraph

are matter of records derived therefrom, which I believe to be true

4. That I put my verification on this day of January 1995 at Guwahati .

Reyaz Akhtar

ANNEXURE :- A

DEPTT. OF TELECOM

No. E-13/94-95/10

Dtd. 3/8/94

To
The A.E. (Adm)
90 TDM/Gauhati

Sub:- Omission of the names

Ref: 1. Our letter No. E-13/93-94, 9

Dtd. 20.4.94

2. No. E-13/93-94/3 dtd 12.10-94

Please ref. to this office No. cited above it is
to be intimated to you that names of the following
office ^{already} ~~already~~ ~~recd~~ listed may kindly be omitted from
the above

1. Sri B. Prasad
2. Sri Binod Kumar
3. " Kafil Yadav
4. " Riaz Ali

Sd/- Illegible

Sub-Divisional Engineer Cable (East)

Amoari, Guwahati

Attested
By
[Signature] (Advocate)

ANNEXURE :- B

No. 269-4/93-STN-II

Government of India
Department of Telecommunication
STN Section
New Delhi

17 Dec 1993

To.

- All Heads of Telecom. Circular/Metro Telecom. Distt.
- All Heads of other Administrative Offices
- All Heads of Mtce. Regions/Project Circles.

Subject : Casual Labourers (Grant of Temporary Status and Regularisation) Scheme , 1989 engaged in Circle after 30.3.85 and upto 22.6.88

Sir,

I am directed to refer to this office order No. 269-4/93-STN dated 25th June , 1993 wherein orders were issued to extend the temporary status to all these casual mazdoors who were engaged by the project circles/Electrification Circles during the period 31.3.85 to 22.6.88 and who were still continuing for such works where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the above said orders .

Contd...2

*Checked by
MP Gankia
Advocate*

Contd page 2, Annex-B

2. The matter has further been examined in this office and it is decided that all those Casual Mazdoors who were engaged by the Circles during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the circles where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the above said scheme .

3. The engagement
.....Officers .

4. It has, also
.....instructions .

5. It is further
..... 25.F, G & H .

6. These orders
..... Dated 1.12.93 .

Hindi version follows

Yours faithfully

Sd/- Illigible
(S.K. Shawan)

ASSISTANT DIRECTOR GENERAL (SEN)

copy to :

1. All the staff members of Department JCM
2. All Recognised Union/Associations
3. Budget/TE-1/TE-II/SEA/CWS/rAT/ section
of the Telecomm. Commission
4. SPB-1 section, Department of posts & New Delhi

*Mexed
Dine (as K. Saini)
Advocate*

ANNEXURE :- C

To.

The Telecom District Manager

Kamrup Telegom District

Guwahati 781 007

Dated at Guwahati the 22nd August '94

Sub:- Discharged from service as Muster Roll
workers

Sir, I

I have the honour to state that I was working
as Casual Mazdoor since Jan/87 record of which has been
forwarded by the S.D.E. Cables Mtcc. (East)/GH. But
unfortunately I alongwith three others of my batch have
been asked verbally by the then S.D.E. cable (East)/GH
Mr. K.K. Kakati not to come in duty w.e.f from 04-3-94
the reason for which is not known to me .

In view of above I would fervently request you,
kindly to get the case verified and arrange reengagement
in Muster Roll as I was working and save me with my
family .

Thanking you,

Yours faithfully

sd/- Vinod Kumar

(Binod Kumar)

Attested
by MK-Saiven
Advocate

ANNEXURE :- D

To.
The Telecom District Manager
Kamrup Telecom District
Guwahati-7

Dated at Guwahati the 22nd August '94

Sub:- Discharged from service as Muster Roll
worker .

Sir,

I have the honour to state that I was working as Casual Mazdoor since Jan '87 record of which has been forwarded by the S.D.E. Cables Mtcc.(East)/GH . But unfortunately I alongwith three others of my batch have been asked ~~xxxxx~~ verbally by the then S.D.E. Cable(East) /GH Mr. K.K. Kakati not to come in duty w.e. from 04-8-94 the reason for which is not known to me .

In view of above I would forwently request you, kindly to get the case verified and arrange re-engagement in Muster Roll as I was working and save me with my family

Thanking you,

Yours faithfully

Reyaz Akhtar

(Md. Reaz Akhtar)

12/8/94
M. K. Sankar
Advocate

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

Memo No. :

Date :

Copy for information & necessary action to :

- (1) Shri Bined Kumar, S/O. Sri Ramsankar Mahato, resident of Manipur Basti, Guwahati, Dist. Kamrup, Assam.
- (2) The Secretary, Ministry of Tele-Communication, New Delhi.
- (3) The Sub-Divisional Engineer Cable (East), Department of Tele-Communication, Ambari, Guwahati-1.
- (4) The Assistant Engineer (Admn.), C/O. T.D.M., Guwahati.
- (5) The District Manager, Department of Tele-Communication, Guwahati, Kamrup.
- (6) Mr. A. Dasgupta, Advocate, Gauhati High Court, Guwahati.
- (7) Mr. A.K. Choudhury, Addl. CGSC., C.A.T., Guwahati Bench, Guwahati.

SECTION OFFICER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI - 5

O.A. 22/95

Sri Binod Kumar & Anr. ... Petitioners
-VS-

Union of India & Ors. ... Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE CHAIRMAN
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Petitioners ... Mr. A. Dasgupta,
Mr. M.K. Saikia,
Mr. B.C. Chaudhury.

For the Respondents ... Mr. A.K. Choudhury,
Addl. C.G.S.C.