

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 73/195.....

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SECTION OFFICER (Judl.)

Gahita
22/10/00

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI, D.

O.A.No.

73/95

Misc.Petn.

C.P. No.

R.Appl:

.....R.K.Portionam.....APPLICANT'S
frs.

.....U.C.I.T.O.S..... RESPONDENT'S

Mr. B.K. Sharma, Mr. B. Mitra FOR THE APPLICANTS

Mr. R.K. Paul.....

.....

Mr. A.K. Chanchani FOR THE RESPONDENTS
Addl. case

OFFICE NOTE	DATE	ORDER
This application is in form and within time.	4.4.95	Mr. B.K.Sharma for the applicant.
C. F. of Rs. 50/- deposited vide IPO/ED No. 5145/16		The grievance of the applicant is that he is covered by the Casual Labourers (Grant of Temporary Status and Regulari- sation) Scheme of the Department of Telecommunications, 1989 which came into force with effect from 1.10.89 but he has been abruptly and arbitrarily not allowed to work after 30.9.91 and his service was thus terminated orally and he is denied the benefit of the scheme. Prima facie it appears that the applicant case must be considered by the respondent for extending benefit and unless any convincing reason is shown as to why he has not been given the benefit of the scheme, the applicant would appear to be entitled to be considered by the respon- dents under the scheme. With a view to enable the respondents to clarify the situation we direct that notice to be issued to the respondents to show cause as to why the application be not admitted and appropria-
Dated 29.3.95		

O.A. No. 73/95

OFFICE NOTE	DATE	COURT'S ORDER
	4.4.95	<p>relief granted to the applicant. Returnable on 2.5.95. It is made clear that pending the admission of the application the respondents will be at liberty to deal with the representation of the applicant stated to have been filed on 20.12.94.</p> <p>94 Annexure 9 to the application.</p> <p><i>60</i></p> <p>Member</p>
Requisites on demand 24.4.95 & case note N.1763-65 d. 26487	trd	<p><i>60</i></p> <p>Vice-Chairman</p>
Office due demand 24.4.95	2.5.95	<p><i>60</i></p> <p>Mr A.K.Choudhury is awaiting instruction. Adjourned to 5.6.1995.</p> <p><i>60</i></p> <p>Member</p>
23.6.95 Written statement on behalf of the respondent 1, 2 and 3 has been submitted.	6.7.95	<p><i>60</i></p> <p>Vice-Chairman</p> <p>pg</p> <p>for hearing 1.9.95</p>
	14.9.95	<p><i>60</i></p> <p>for hearing 15.11.95</p>
	15.11.95	<p><i>60</i></p> <p>Adjourned to 26.11.95</p>
Memo of appearance has been filed by A.K.Choudhury Addl. Chd. 27.2.96 from 22.4.96 to 28.11.95	28.11.95	<p><i>60</i></p> <p>Adjourned to 2.1.96.</p> <p>By order 2.2.96 for hearing 27.2.96</p>

OFFICE NOTE

DATE

COURT'S ORDER

5.6.95

Mr B.K.Sharma/M A.K.Coudhury.

The respondents have not yet filed any show cause reply. In case not only disclosed prima facie case but required to be heard and disposed of as early as possible. The nature of the relief sought requires early hearing. We therefore request Mr A.K.Coudhury, the learned Addl.C.G.C who appears for the respondents to instruct the respondents to file their written statement without further delay. Mr Coudhury fairly states that a further notice after admission is necessary and he will instruct the respondents to file their written statement. We grant four weeks to the respondents to file the written statement making it clear that that should be treated as final.

O.A. is admitted. Notice to the respondents waived. Appearance of Mr A.K.Coudhury, Addl.C.G.C for the respondents already noted. The respondents to file written statement within four weeks.

List the application for hearing on 6.7.1995.

D
Member

Jice-Chairman

Pg

A
26

OFFICE NOTE	DATE	COURT'S ORDER
Noticeably serve on Rajeshwari 183	22.4.96	Written statement has been submitted. List for hearing on 5.6.96.
		6 Member
	pg	
	5-6-96	Learned counsel Mr. B. Mehta prays for adjournment on behalf of Mr. B. K. Sharma for his unable to attend the Court due to personal difficulty and he has no objection for adjourn- ment. Hearing adjourned to 5-7-96.
	5-6-96	Learned counsel Mr. B. Mehta prays for adjournment on behalf of Mr. B. K. Sharma for his unable to attend the Court due to personal difficulty. Mr. A. K. Choudhury, Addl. C.G.S.C. has no objection. Hearing adjourned to 11-6-96.
		Member (A)
		Member (J)
07/11/96 Stationed in for AW	30.9.96	Learned Addl. C.G.S.C. Mr A.K. Choudhury for the respondents. List for hearing on 15.11.96.
		6 Member
	nkm M 30/9	

OFFICE NOTE

DATE

COURT'S ORDER

5-6-96

Learned counsel Mr. B. Mehta /S.

for adjournment on behalf of Mr. B. Mehta due to his personal difficulty. Mr. K. Choudhury, Addl. C.G.S.C. has no objection. Hearing adjourned to 11-6-96.

Member (A)

Member (S)

11-6-95

List

8.7.96

Mr. A.K. Choury, learned Addl. C.G.S.C., is present.

List for hearing 6.8.96.

B/S/8

Member

nkm

6.8.96

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

List for hearing on 2.9.96.

1) Notice duly served on Respondent no. 1 & 3.

pg

M
6/8

2.9.96

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

None for the applicant.

List for hearing on 30.9.96.

Member

trd

M
2/9

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

List for hearing on 17.12.1996.


Member

pg


2/5/1

26.3.97

The Division Bench is not available
as the Hon'ble Administrative Member is
on leave.

Let this case be listed on 30.4.97.


Vice-Chairman

nkm

30.4.97

On behalf of Mr. B.K.Sharma, Mr.
S.Sarma, prays for short adjournment as Mr.
B.K.Sharma is out of station for personal
reasons. Prayer allowed.


List on 21.5.97 for hearing

Member


Vice-Chairman

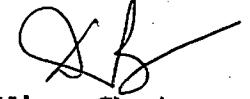
trd


2/5

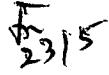
21-5-97

Left over. List for hearing on
28-5-97.


Member

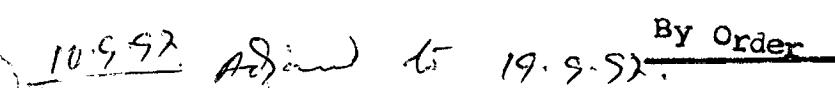

Vice-Chairman

lm


23/5

14-8-97

Division Bench is not sitting.
Let this case be listed for hearing on
10-9-97.


10.9.97 Admon to 19.9.97 By Order

28.5.97

Mr S. Sarma on behalf of Mr B.K. Sharma, learned counsel for the applicant, prays for a short adjournment on the ground that Mr B.K. Sharma is attending the eye operation of his mother, and therefore, he is unable to attend court today. Mr A.K. Choudhury, learned Addl. C.G.S.C., has no objection.

The case is adjourned till 25.6.97 for hearing.

Member

Vice-Chairman

nkm

25-6-97

On 28-5-97 this Division Bench of this Tribunal ordered to list this case on 25-6-97. Accordingly, the Cause List has been prepared, listing this case as 1st item of the hearing. But we find that the said item has been struck off from the list. On enquiry, Mr.K.M. Rabha, Assistant informs that he has done this on his own. It is absolutely unbecoming for an Assistant to do so. Mr. Rabha should ^{obt to} explain within the 7 days from today why action should not be taken against him for this.

List this case for further hearing on 21-7-97.

Member

Vice-Chairman

21-7-97 There is no representation

list on 14-8-97

By order

318

19.9.97

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.



Member



Vice-Chairman

nkm



29/9

Received copy of order
22. 19.9.97
Bidders' fees
12.11.97
Received copy
Aff. Ch. Adalit (cy5C
28/11/97)

28/11
Copy the judgment
by been issued to
the suspender. 26/11
2/dec. 2007

dh
Received well
J. No. 3460 &
3461 on 21.11.97

dh

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI-5.

O.A. NO. 73 of 1995
T.A. NO.

DATE OF DECISION 19.9.1997

Shri R.K. Barman

(PETITIONER(S))

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

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

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

ADVOCATE FOR THE
RESPONDENT (S)

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

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble Vice-Chairman

R. Barman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.73 of 1995

Date of decision: this the 19th day of September 1997

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

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

Shri Rohini Kumar Barman,
Village: Pukhuripara,
P.O. Silgarh, Distt. Dhubri.

.....Applicant

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

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Telecommunication,
New Delhi.

2. The Chief General Manager,
Assam Telecom Circle,
Guwahati.

3. The Telecom. District Engineer,
Department of Telecommunications,
Bongaigaon.

.....Respondents

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

.....

O R D E R

BARUAH.J. (V.C.)

The applicant, in this application, was a casual employee in the Department of Telecommunication. According to him he worked in the office of the SDO(T), Bongaigaon, for the period from 1.2.1986 to 1.2.1987 and again from 9.3.1987 to 30.12.1988. Thereafter he worked in the office of the A.E.P. (L/D), Bongaigaon, from 1989 to 1991 and then in the office of the Telecom District Engineer, Bongaigaon, from 6.5.1991 to 30.9.1991. According to the applicant, in spite of his working for such a long time he was not granted temporary status and thereafter regularised as per the Scheme of the Telecommunication Department known

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as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme (for short the Scheme). This Scheme came into force with effect from 1.10.1989. The Scheme is applicable to the casual labourers employed by the Department of Telecommunication and it relates to employees of Group 'D' cadre. The Scheme provides as follows:

- "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 day 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 Gr. 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 a need basis. He may be deployed anywhere within the recruitment unit/territorial circles 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 Gr. 'D' posts."

2. The applicant has very clearly stated that he had worked from 1986 to 1991 in the Department of Telecommunication with small breaks and in evidence of that claim the applicant has given details about his employment in para 4.3 of his application. Besides that he has also enclosed the certificates given by the SDO, Telegraphs, Bongaigaon, the S.E.T., Bongaigaon and the T.D.M., Bongaigaon, stating interalia that the applicant had been working

in.....

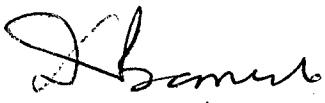
as casual labourer in the respective offices. In their written statement the respondents have made an evasive denial of para 4.3 stating that the statements made in para 4.3 of the application were not correct. However, the respondents remained silent about the certificates given to the applicant. Photocopies of the certificates have been placed before us. The photocopies of the certificates were shown to Mr A.K. Choudhury and he does not dispute the genuineness of the same.

3. Considering the above we are of the opinion that the applicant had worked as casual labourer for the periods mentioned by him. Mr Choudhury, however, fairly submits that the certificates show that the applicant comes within the scope of the Scheme. The applicant's casual employment was terminated in 1991. Mr S. Sarma submits that this was not just and proper because as per the Scheme he ought to have been granted temporary status and thereafter regularised. Mr Choudhury does not dispute this aspect of the matter.

4. Accordingly we dispose of this matter with the direction to the respondents to engage the applicant afresh and grant temporary status immediately thereafter and then as per rule he may be regularised. This must be done as early as possible, at any rate within a period of one month from the date of receipt of the order. We, however, make it clear that during the period when the applicant was out of employment he shall not claim any wages.

5. The application is accordingly disposed of. Considering the entire facts and circumstances of the case we make no order as to costs.


(G. L. SANGLYINE)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

15
B. A.
Filing in Application
through

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: : GUWAHATI BENCH

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

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

Shri Rohini Kumar Barman ... Applicant

- Versus -

The Union of India & Ors. ... Respondents.

I N D E X

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Received copy
AK Choudhury
Filing C of SC
31/3/93

For use in Tribunal's office :

Date of filing :

Registration No. :

REGISTRAR

15

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: : GUWAHATI BENCH

O.A. No. of 1995

BETWEEN

1. Shri Rohini Kumar Barman,
Village Pukhuripara,
P.O. Silgarh, Dist. Dhubri

... Applicant

AND

1. The Union of India,
represented by the Secretary to
the Govt. of India,
Ministry of Telecommunication,
New Delhi.
2. The Chief General Manager,
Assam Telecom Circle,
Ulubari, Guwahati-7.
3. The Telecom. District Engineer,
Department of Telecommunications,
Bongaigaon.

... Respondents

DETAILS OF APPLICATION

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

The instant application is directed against the deemed rejection of the representation of the applicant for regularisation of his service in Group D category under the department of Telecommunications pursuant to the Apex Court's decision and scheme made thereunder. The application is also directed for a direction to the official respondents for regularisation of the services of the applicant in Group-D category and/or absorption of the applicant in the Department of Telecommunication

under the relevant scheme and confirmation of temporary status with all consequential benefits.

3. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the 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. However, the circumstances leading to the filing of the instant application has been explained under the Head - 'Facts of the Case' and which may be taken into account.

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and a permanent resident of Assam and as such, he is entitled to all the rights and protections guaranteed under the Constitution of India.

4.2 That the applicant belongs to the Other Backward Classes as recognised by the Government of India. The name of the applicant is registered under the District Employment Exchange, Dhubri and his registration number is 3407/94. The applicant has passed the H.S.L.C. Examination held in 1994. He hails from a very poor family and is not in a position to prosecute his studies further and is compelled to go for a job for earning livelihood for the members of his family.

4.3 That the applicant was appointed in the Department

of Telecommunication, Bongaigaon, Assam on casual basis and he continued as such till 1991 when his services were arbitrarily terminated orally. All his ~~xxx~~ representations for taking him back into services have gone in vain. The different spells during which the applicant had worked in the Department of Telecommunication on casual basis is indicated below :

<u>Worked under</u>	<u>Period</u>
S.D.O. (T), Bongaigaon	1.2.86 to 1.2.87
S.D.O. (T), Bongaigaon	9.3.87 to 30.12.88
A.E.P. (L/D), Bongaigaon	1989 to 1991
T.D.E. Bongaigaon	6.5.91 to <u>30.9.91</u>

Copies of the certificates in respect of the casual services barring period 1989-91 are annexed herewith as ANNEXURES 1, 2 and 3 respectively.

~~4.3~~ The respondents may be directed to produce the service particulars of the applicant for the period 1989-91.

4.4 That pursuant to the aforesaid services rendered by the applicant on casual basis for the period 1986-1991 the applicant in the natural course expected that his services would be regularised by the respondents in due course till such time. It was also the expectation of the applicant that he would be conferred with temporary status with all consequential benefits. It will be pertinent to mention here that the casual employees who had entered the services of the respondents with that of the applicant and even after his such entry have since been either regularised or conferred temporary status under the relevant scheme pursuant to a decision of the Apex Court and

they are all enjoying the benefits of the said Apex Court's decision and the scheme prepared by the respondents. However, the applicant has neither been favoured with regularisation of his services nor confirmation of his temporary status rather his service has been terminated in the year 1991 and in spite of his repeated representations he has not been favoured with any reply and thus he has got no other alternative remedy than to come under the protective hands of this Hon'ble Tribunal.

4.5 That the applicant states that he has made numerous representations urging upon the authorities for his re-engagement and confirmation of benefits as have accrued to the applicant pursuant to the decision of the Apex Court and the scheme prepared by the respondents but till now he has not been favoured with a reply as stated above. It will be pertinent to mention here that some of the casual employees like that of the applicant had filed Writ Petition (C) No. 1280/89 (Ram Gopal & Ors. Vs. Union of India & Ors) before the Apex Court urging for regularisation of their services. Alongwith the said Writ petition some other Writ petitions have also been filed by similarly circumstanced casual employees of the Department of Telecommunication. The Hon'ble Supreme Court in the light of the decision rendered in Daily Rated Casual Labourer Vs. U.O.I. and others reported in (1988) 1 SCC 122 concerning the casual employees of the Department of Posts, passed Judgment in conformity and in the light of the said Judgment. Under the said Judgment, the respondents were directed to prepare a scheme on a rational

basis for absorbing as far as practicable the casual labourers including the petitioners therein who have continuously worked for more than one year in the Telecom Department. The Apex Court also directed for doing the needful within six months from the date of the Judgment.

Copies of the representations submitted by the applicants dated 28.9.91, 30.10.91, 22.8.92, 24.10.94 and 20.12.94 and a copy of the Judgment dated 17.4.90 passed by the Apex Court are annexed herewith as ANNEXURES 5, 6, 7, 8, 9 and 10, respectively.

4.6 That pursuant to the aforesaid Judgment, the Department has prepared a scheme called Casual Labourer (Grant of Temporary Status and Regularisation) Scheme dated 7.11.89. Further clarifications were issued on the said scheme vide letter dated 22.10.92. The case of the applicant is squarely covered under the said scheme and he is entitled to confirmation of temporary status with all consequential benefits like that of the other casual employees. However, not to speak of conferring the said benefits, the applicant has not even been replied to his representations and he is out of employment since 1991 although at the time of delivering the Judgment by the Apex Court and preparation of the scheme in 1989 he was very much in the roll of the Department of Telecommunications.

Copies of the scheme dated 7.11.89 and subsequent clarification dated 22.10.92 are annexed herewith as ANNEXURES 11 and 12 respectively.

4.7 That although the case of the applicant has not been considered and his services have ~~not~~ been illegally terminated in 1991, persons who were appointed alongwith the applicant or even after him had been granted temporary status. One such notification of granting temporary status was issued under No.P-75/PT'CM/PT-II/94-95/87 dated 4.1.95 The notification was issued from the office of the Telecom District Engineer, Bongaigaon under whom the applicant had been working. By the said notification, the persons who were engaged alongwith the applicant have been granted temporary states ~~xx SkxxNxx8x~~ and they are still continuing in their respective service. The persons at Sl. No. 3, 7, 11, 17, 18 and 21 had entered the Telecom Department as casual workers as that of the applicant and alongwith him and now they have been granted the temporary status and are still continuing in the service of the Telecom. Department. Thus the applicant has been illegally deprived of the same benefit in violation of the Apex Court's Judgment as well as the scheme formulated by the respondents. This is in hostile discrimination and violation of Article 14 and 16 of the Constitution of India.

A copy of the said order dated 4.1.95 is annexed herewith as ANNEXURE-13.

4.8 That the applicant states that although he cannot claim regularisation of his service as a matter of right ; but at least he has got a right to be considered for such regularisation under the scheme which was formulated pursuant to the decision of the Apex Court. But the respondents not to speak of consideration of his case

have not even replied to his representations mentioned above. Be it also stated here that apart from the aforesaid representations, the applicant has made some other representations to various authorities and has also made oral representations before the respondents. He has been visiting the offices of the respondents but all in vain. All his representations have fallen into the deaf ears of the respondents.

4.9 That the applicant states that there is no earthly reason as to why he should not be considered for confirmation of temporary status with all consequential benefits if not regularisation of his service.

4.10 That the applicant states that the termination of his service without any written order is violative of relevant provisions of law and also violative of the principles of natural justice. It is also violative of the dictum laid down by the Apex Court and the scheme formulated by the respondents. Thus under no circumstances his service could have been terminated by the respondents and appropriate direction is required to be issued by the Hon'ble Tribunal for his immediate reinstatement with all consequential benefits under the scheme.

4.11 That the applicant after termination of his service in 1991 was all along assured by the respondents whenever he visited the offices that needful would be done in the matter and it was a matter of time only before the applicant should be reinstated in service

and conferred with the benefits of the Apex Court's decision as well as the scheme formulated by the respondents. It was with this hope the applicant kept on pursuing the matter and now as a last resort he has come under the protective hands of this Hon'ble Tribunal. It was under the assurances of the respondents the applicant kept on hoping with reasonable expectation that his case would also be considered alongwith other such similarly circumstanced persons ; but contrary to such reasonable expectation, he has found that his name has not been included in the order dated 4.1.95 by which his ~~etc~~ colleagues have been granted temporary status with effect from 17.12.93. Thus under these circumstances, the applicant has filed the instant application. His financial position also did not permit him to approach this Hon'ble Tribunal immediately after termination of his service coupled with the assurances given by the respondents for inclusion of his name in appropriate order granting him temporary status. The applicant could not approach this Hon'ble Tribunal at the earliest opportunities and now after passing of the order at Annexure-13, he has approached this Hon'ble Tribunal seeking appropriate relief. The applicant belongs to the lower stratum of the society and his family members are living in a very precarious predicament due to financial hardship. Thus if there is any delay in approaching this Hon'ble Tribunal, same may be condoned to render justice to the applicant.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that the applicant has been illegal deprived of the benefit of the Apex Court's decision and the scheme

formulated by the respondents and thus appropriate direction be issued to the respondents.

5.2 For that there is gross violation of the Article 14 and 16 of the Constitution of India inasmuch as the applicant has been singled out for differential treatment under similar circumstances.

5.3 For that the termination of the services of the applicant was most illegal having no sanction of law and being violative of the decision of the Apex Court and also the scheme formulated by the respondents.

5.4 For that when the juniors and the colleagues of the applicant have been granted temporary status under the scheme, there is no ~~xx~~ earthly reasons as to why the applicant should not be granted the same benefit as that of his juniors and his colleagues.

5.5 For that the respondents cannot apply the scheme as well as the dictum laid down by the Apex Court on pick and choose basis and the respondents having done so, same is violative of the constitutional provisions and the applicant is entitled to the reliefs sought for in this application.

5.6 For that in any view of the matter, the inaction on the part of the respondents are not sustainable and liable to be remedied by appropriate direction by this Hon'ble Tribunal.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative remedy other than approaching this Hon'ble Tribunal.

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

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made before any other Court of law, or any other authority and/or other Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicant prays that the instant application be admitted records be called for and upon hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to allow the application by granting the following reliefs :

- (i) To set aside and quash the oral termination of the services of the applicant resorted by the respondents with all consequential benefits ;
- (ii) To ~~set aside~~ direct the respondents to regularise the services of the applicant with retrospective effect and/or alternatively to confer the benefits to which he is entitled under the Apex Court's decision as well as the scheme formulated by the respondents.

(iii) To direct the respondents to include the name of the applicant in the Annexure-13 order dated 4.1.95 and/or in any other subsequent order conferring temporary status to the casual employees like that of the applicant with all consequential benefits.

(iv) Cost of the application

(v) Any other relief or reliefs to which the applicant is entitled under law and equity.

9. INTERIM ORDER PRAYED FOR :

The applicant does not pray for any interim relief at this stage.

10.

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

(i) I.P.O. No. : DD 514516

(ii) Date : 29.3.95

(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

VERIFICATION

I, Shri Rohini Kumar Barman, aged about 22 years, son of Harendra Barman, resident of vill. Pukhuripara, P.O. Silgarh, District Dhubri, the applicant in the instant application, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice. I have not suppressed any material facts.

And I sign this verification on this the day of 31 March 1995 at Guwahati.

Rohini Kumar Barman

13

This is to certify that Sri Rohini Kumar Barman
S/O Harendra Barman of Bongaigaon worked as casual labour
in the P & T Department from 1.2.1986 to 1.3.1987. He is a
good worker. He bears a good moral character.

I wish him success in life.

<u>Month</u>	<u>M.R. No.</u>	<u>Work No.</u>	<u>Days</u>
1. 2. 86	AH 19932/18	150/85-86	25
1. 3. 86	AH 1993/29	129/85-86	20
1. 4. 86	AH 1993/4	1/86-87	25
1. 5. 86	AH 1938/10	14/86-87	25
1. 6. 86	AH 1938/24	34/86-87	25
1. 7. 86	AH 21256/1	43/86-87	25
1. 8. 86	AH 21256/9	55/86-87	25
1. 9. 86	AH 21256/18	63/86-87	22
1. 10. 86	AH 21256/21	99/86-87	25
1. 11. 86	AH 21256/29	10/86-87	21
1. 12. 86	AH 21260/1	2/86-87	25
1. 1. 87	AH 21260/8	2/86-87	25
1. 2. 87	AH 21260/9	56/86-87	25

Sd/-

S. E. T.

Bongaigaon

29.8.87.

*Collected
R. N. Barman
Advocate
31/3/95*

....

TO WHOM IT MAY CONCERN

It is certified that Sri Rohini Kumar Barman S/O Sri Harendra Barman of Pukhuri Para Village, P.S. Chapar, District Dhubri was working in Muster Roll in the Department of Telecommunication from 1.2.86 to 1.2.87 and he was engaged in daily wage basis when required in A.C.G.-17 in the year Jan 89 - Apr.91 under A.E.P. (L/D), Bongaigaon for maintenance and construction of lines/wires etc.

He bears a good moral character.

I wish him every success in life.

Sd/-

Dy. Telecom District Engineer,
Bongaigaon.

• • •

attested
Baruah
Advocate
31.3.95

TO WHOM IT MAY CONCERN

It is certified that Shri Rohini Kumar Barman, son of Shri Harendra Barman of Pukhuripara village P.S. Chapar District Dhubri, was working in this office (i.e. O/O the S.D.O.T. Bongaigaon) as D.R.M. since 9th May of March 1987 to 30th day of December 1988.

He shown very good performance in his duties during that period.

He bears a good moral character.

I wish him all every success in life.

Sd/-

Sub-Divisional Officer, Telegraphs
Bongaigaon, PIN-783380.

•••

attested
B. D. Barman
Advocate
31.3.93

TO WHOM IT MAY CONCERN

It is certified that Sri Rohini Kumar Barman
S/o Sri Harendra Barman of Pukhuripara village, P.S. Chapar
Dist. Dhubri was working in this office (i.e. O/O TDE/BGN)
as D.R.M. since 6th of May '91 to 30th of Sept. '91. He
shown very good performance in his duties during that period.

He bears a good moral character.

I wish him every success in life.

Sd/- 29.10.91

(seal)

(P.R. SAHA)

Dy. Telecom District Engineer,
Bongaigaon.

Attested

Ram S. A.
Advocati
31.3.95

To

Telecom District Engineer,
Bongaigaon.

Dated at Bongaigaon the 28th Sept. '91.

Sub : Prayer for continuing as a daily wages mazdoor

Sir,

I have the honour to state that I have been working as a daily wages in this office w.e.f. 6.5.91 till today. Besides that I was working in this department under the S.D.O. Te Bongaigaon in muster Roll w.e.f. 1.2.86 to 1.2.88 and as a D.R.M. w.e.f. 9.2.87 to 30.12.88 and also as a daily wages basis in the year 1989-91 under the A.E.P.(L/D), Bongaigaon. Since the office of A.E.P.(L/D) shifted to Kokrajhar, I have been diverted to this office as per the instruction of then Dy. TDE, Bongaigaon.

So I requested you to kindly consider my case sympathetically and allow me to continue as a daily wages mazdoor.

Enclo :

1. Certificate as a casual labour on Muster roll.
2. Certificate as a DRM
3. Certificate as a Muster roll.
4. High School Certificate.
5. H.S.L.C. Admit Card.
6. Certificate of Panchayat
7. Castex Certificate.
8. Employment Exchange Reg. card.

Yours faithfully,

Sd/-

(Rohini Kumar Barman)

23.9.91.

Rohini Kumar Barman
31.3.95

....

To

The Telecom District Engineer,
Bongaigaon.

Dated at Bongaigaon, the 30th Oct. '91.

Sub : Prayer for continuing as a daily wages mazdoor.

Sir,

I have the honour to state that I was working at the C/O the S.D.O.T./Bongaigaon as a Muster Roll w.e.f. 1.2.86 to 1.2.87 and as a D.R.M. w.e.f. 9.2.87 to 30.12.88 and also a daily wages basis in the year 1989-91 under the AEP(L/D) Bongaigaon. As the office of the AEP(L/D) shifted to Kokrajhar, I have been diverted to the TDE/Bongaigaon Office as per the instruction of then Dy.TDE/Bongaigaon, and I was working at that office as a D.R.M. w.e.f. 6.5.91 to 30.9.91.

So I requested you to kindly consider my case sympathetically and allow me to work as a daily wages Mages Mazdoor under your unit.

List of enclosures :

1. Certificate as a casual labour on Muster Roll
2. Certificate as a DRM
3. Certificate as a Muster Roll
4. Certificate as a DRM
5. High School Certificate
6. H.S.L.C. Admit Card.
7. Caste Certificate
8. Certificate of Panchayat
9. Employment Exchange Reg. Card.

Yours faithfully,

Sd/-

(Rohini Kumar Barman)

31.10.91.

Celmod
Rohini Kumar Barman
Advocate
31.10.91

...

To

The Asstt. Engineer Phones (L/D),
Kokrajhar.

Dated at Bongaigaon the 22nd August/92.

Sub : Prayer for a job of daily wages Mazdoor

Sir,

I have the honour to state that I was working at the O/O the S.D.O.T. Bongaigaon as a Muster Roll w.e.f. 1.2.86 to 1.2.87 and as a D.R.M. w.e.f. 9.2.87 to 30.12.88 and also a daily wages basis in the year 1989-91 under the AEP (L/D), Bongaigaon. As the office of AEP (L/D) shifted to Kokrajhar, I have been diverted to the TDE/Bongaigaon office as per the instruction of then Dy.TDE/Bongaigaon and I was working at that office as a D.R.M. w.e.f. 6.5.91 to 30.9.91.

So I request you to kindly consider my case sympathetically and allow me to work as a daily wages Mages Mazdoor under your unit.

List of enclosures :

1. Certificate as a casual labour on Muster Roll
2. Certificate as a DRM
3. Certificate as a Muster Roll
4. Certificate as a DRM
5. High School Certificate.
6. H.S.L.C. Admit Card
7. Caste Certificate
8. Certificate of Panchayat
9. Employment Exchange Reg. Card.

Yours faithfully,

Sd/-

(Rohini Kumar Barman)

Attested
Rohini Kumar Barman
Advocate
32.395

...

To

The Telecom District Engineer,
Bongaigaon.

Dated Pukhuripara the 24th Oct. '94.

Sub : Prayer for a job of daily wages Mazdoor.

sir,

I have the honour to state that I was working at the O/O the S.D.O.(T), Bongaigaon as a Master Roll w.e.f. 1.2.86 to 1.2.87 and as a D.R.M. w.e.f. 9.2.87 to 30.12.88 and also as a daily wages basis in the year 1989-91 under the AEP(L/D) Bongaigaon. As the office of AEP(L/D) shifted to Kokrajhar I have been diverted to the TDE/Bongaigaon office as per instruction of the then Dy. TDE/Bongaigaon and I was working at that office as a D.R.M. w.e.f. 6.5.91 to 30.9.91.

So I request you to kindly consider my case sympathetically and allow me to work as a daily wages Mazdoor under your unit.

List of enclosures :

1. Certificate as a casual labour on Master Roll.
2. Certificate as a DRM
3. Certificate as a Master Roll
4. Certificate as DRM
5. High School Passed certificate and marks sheet.
6. H.S.L.C. Admit Card
7. Caste Certificate
8. Certificate of Panchayat.

Yours faithfully,

Sd/-

(Rohini Kumar Barman)

24.10.94.

*Alested
Barman
Advocate
31.3.95*

...

To

The Telecom District Engineer,
Bongaigaon,

Dated Pukhuripara the 20th Dec. '94

Sub : Prayer for a job of daily wages Mazdoor.

Sir,

I have the honour to state that I was working at the O/O the S.D.O. (T) Bongaigaon as a Master Roll w.e.f. 1.2.86 to 1.2.87 and as a D.R.M. w.e.f. 9.2.87 to 30.12.88 and also as a daily wages basis in the year 1989-91 under the AEP (L/D) Bongaigaon. As the office of AEP (L/D) shifted to Kokrajhar I have been diverted to the TDE/Bongaigaon office as per instruction of the then Dy. TDE/Bongaigaon and I was working at that office as a D.R.M. w.e.f. 6.5.91 to 30.9.91.

So I request you to kindly consider my case sympathetically and allow me to work as a daily wages Mazdoor under your Unit.

List of enclosures :

1. Certificate as a casual labour on Master Roll.
2. Certificate as a DRM.
3. Certificate as a Master Roll.
4. Certificate as a DRM
5. High School Passed Certificate
6. H.S.L.C. Admit Card.
7. ~~Ex~~ H.S.L.C. Mark Sheet.
8. Caste Certificate
9. Certificate of Panchayat.

Yours faithfully,

Attested
R. K. Barman
Advocate
31.3.95

Sd/-
(R.K. Barman)

...

Absorption of Casual Labours

Supreme Court directive Department of Telecom to take back all Casual Mazdoors who have been discharged after 30.3.1985.

In the Supreme Court of India
Civil Original Jurisdiction

Writ Petition (C) No. 1280 of 1989

Ram Gopal & Ors. Petitioners

- versus -

Union of India & Ors .. Respondents.

With

Writ Petition Nos. 1246, 1248 of 1988, 176, 177 and 1248 of 1988.

Jant Singh & Ors. etc. etc. ... Petitioners

- Versus -

Union of India & Ors. ... Respondents.

ORDER

We have heard counsel for the petitioners. Though a counter affidavit has been filed, no one turns up for the Union of India even when we have waited for more than 10 minutes for appearance of counsel for the Union of India.

The principal allegation in these petitions under Article 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as casual labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising their employment their services have been terminated on 30th September 1988. It is contended that the principle of the Petition of this Court in Daily Rated Casual Labour vs. Union of India & Ors. 1988(1) section (122) squarely applies to the petitioners though that was rendered in the case of casual employees of Posts and Telegraphs Department. It is also contended by the Counsel that the decision rendered in that case also related to the Telecom Department as earlier Posts and Telegraphs Department was covering both sections and now Telecom has become a separate department. We find from paragraph 4 of the reported decision that communications issued to General Managers Telecom have been referred to which support the stand of the petitioners.

By the said Judgment this Court said :

"We direct the respondents to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department."

*Ambedkar
B. A. U.
Advocate
31.3.85*

Contd...P/23

3X

We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working for more than one year, the counter affidavit does not dispute that the petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this Court in the reported decision. On principle therefore, the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondents shall prepare a scheme on a rational basis for absorbing as far as practical who have continuously worked for more than one year in the Telecom Deptt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are disposed of accordingly. There will be no order as to costs on account of the fact that the respondents' counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-

(Ranganath Misra) J.

Sd/-

(Kuldeep Singh) J.

New Delhi
April 17, 1990.

....

*Ambedkar
Babu J.
Advocati
30.3.95*

CIRCULAR NO.1

Government of India
Department of Telecommunications,
STN Section.

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers Telecom Circles
M.T.H.L. New Delhi/Bombay, Metro Distt. Madras/
Calcutta,
Heads of all other Administrative Units.

**Subject: Casual labourers (Grant of Temporary Status and
Regulation) Scheme.**

Subsequent to the issue of instruction regarding
regularisation of casual labourer vide this office letter No.
269-29/87-STN dt. 18.11.88, a scheme for conferring temporary
status on casual labourers who are currently employed and
have rendered a continuous service of at least one year has
been approved by the Telecom Commission. Details of the
scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer
temporary status on all eligible casual labourers in
accordance with the above scheme.

3. In this connection your kind attention is invited
to letter No. 270-6/84-STN dt. 30.5.85 wherein instructions
were issued to stop fresh recruitment and employment
of casual labourers for any type of work in Telecom Circles/
Districts. Casual labourers could be engaged after 30.3.85
in Projects and Electrification Circles only for specific
works and on completion of the work the casual labourers so
engaged were required to be retrenched. These instructions
were reiterated in d.o. letters No. 270-6/84-STN dt. 22.4.87
and 22.5.87 from Member (Pers. and Secretary of the Telecom.
Departmental respectively. According to the instructions
subsequently issued vide this office letter No. 270-6/84-STN
dt. 22.6.88 fresh recruitment of casual labourers even for
specific works for specific periods in Projects and
Electrification circles also should not be resorted to.

3.2 In view of the above instructions normally no
casual labourers engaged after 20.3.85 would be available
for consideration for conferring temporary status. In the
unlikely event of there being any cases of casual labourers
engaged after 30.3.85 requiring consideration for conferment
of temporary status, such cases should be referred to the
Telecom. Commission with relevant details and particulars
regarding the action taken against the officer under whose
authorisation/approval the irregular engagement/non-retren-
chment was resorted to.

Contd...

*Ambedkar
B. A.
Advocate
31.3.85*

3.3 No casual labourer who has been recruited after 30.3.85 should be granted temporary status without specific approval from this office.

4. The scheme furnished in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No. SMF/78/89 dt. 27.9.89.

5. Necessary instructions for the expeditious implementation of the Scheme may kindly be issued and payment of arrears of wages relating to the period from 1.10.89 arranged before 31.12.89.

Sd/-

ASSISTANT DIRECTOR GENERAL (STN)

Copy to :

P.S. to MDS(C)

P.S. to Chairman, Telecom Commission

Member (S)/Adviser (HRD), GM (Est), GM (IR) for information.

NCG/SEA/TE-II/IPS/Admn.I/CSE/PAT/SPB-I/SR Secs.
All recognised Unions/Associations/Federations.

Sd/-

ASSISTANT DIRECTOR GENERAL (STN)

*Attended
Barkali
Adrochli
31.3.85*

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 the Department of Telecommunications, 1989".

2. This Scheme will come in force with effect from 1.10.89 onwards.

3. This Scheme is applicable to the casual labourers employed by the Department of Telecommunications.

4. The provisions in the Scheme would be as under :-

A) Vacancies in the Group 'D' Cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointments on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility conditions including the educational qualifications prescribed in the relevant Recruitment Rules. However, regular Group D staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In the case of illiterate Casual Labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed age relaxation equivalent to the period for which they had worked continuously as casual labour for the purposes of the age limits prescribed for appointment to the Group D cadre, if required. Outside recruitment for filling up the vacancies in Gr. D will be permitted only under the condition when eligible casual labourers are NOT available.

B) Till regular Gr. D vacancies are available to absorb all the casual labourers to whom this Scheme is applicable, the casual labourers would be conferred

.....2/-

*Amrit
Ranbir
Shashi
31/3/95*

(5) -2-

a Temporary Status, as per the details given below.

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 day 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 Gr. 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 a need basis. He may be deployed anywhere within the recruitment unit/territorial circles 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 Gr. D posts.

6. 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 regular Gr. 'D' official including DA., HRA and CCA.
- ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 day week) in the year.
- iii) Leave entitlement will be on a pro-rata basis, one day for every 10 days of work. Casual leave or any

..... 3/-

*allied
B.S.D.
Admire
3/6/85*

other kind of 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 benefit of encashment of leave on termination of services for any reason or their quitting service.

iv) Counting of 50% of service rendered under temporary status for the purpose of retirement benefits after their regularisation.

v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated on a par with temporary Gr. 'D' employees for the purpose of contribution to 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 Gr. 'D' employees, provided they furnish two sureties from permanent Govt. servants of this Department.

vi) Until they are regularised, they would be entitled to Productivity Linked Bonus only at rates applicable to casual labour.

7. No benefits other than those specified above will be admissible to casual labourers with temporary status.

8. Despite confirmation of temporary status, the services of a casual labourer may be dispensed with in accordance with the relevant provisions of the Industrial Disputes Act, 1947 on the ground of nonavailability of work. A casual labourer with temporary status can quit service by giving one month's notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his / will be dispensed with. They will not be entitled to the benefit of encashment of leave on termination of services.

10. The Department of Telecommunications will have the power to make amendments in the Scheme and/or to issue instructions in detail within the framework of the Scheme.

ALL INDIA TELECOM EMPLOYEES UNION LINESTAFF AND GROUP 'D'

(Central Headquarters)

Copy of the letter No. 271-13/92-STN dated 22.10.92 from the DOT addressed to All Heads of Telecom Circles/Metro Districts/MTNL and Heads of other Administrative Offices by name.

Sub : Casual Labourer recruited after 30.3.85 - confirmation of Temporary Status regarding.

Attention is invited to this office orders No. 270-6/84-STN dated 22.6.88 wherein it has been directed that no fresh casual labourer could be engaged even for Co-axial Cable laying works in the Projects Organisation and in line dismantlement/construction work in the Electrification Project Circle. This amounts to the fact that the ban for not engaging new casual labourers for co-axial cable laying works in the Projects Organisation and line dismantlement/construction in the Railway Electrification Project Circle is with effect from 22.6.88 while for other works it is with effect from 30.3.85.

2) You are therefore, requested to furnish the following information in respect of your Circle by return FAX for further necessary action.

- (i) Fresh casual labourers engaged from 1.4.85 to 22.6.88 for co-axial cable laying works in the Project Organisation and in line dismantlement/construction in the Railway Electrification Organisation.
- (ii) Fresh casual labourers engaged for the above-mentioned works after 22.6.88.
- (iii) Fresh casual labourer engaged from 1.4.85 till date for the works other than co-axial cable laying works in project Organisation and for line dismantlement/construction in Railway Electrification Project Organisations.

3) It may be ensured that the required information reaches this office by all means before the 15th of November 1992 on FAX Nos. 3716099 and 3717016.

To

All Circle Secretaries.

The DOT has issued the above order limiting the condonation period upto one year only. Kindly inform the CHQ about the effect of this order so that case may be taken up with the DOT again for extending the period more than one year, if such cases are there in the Circle.

Sd/- Illegible.

*acted
B.S.D.
Advocacy
30.3.93*

Contd.....

Copy of the letter No. 269-3/92-STN dated 21.10.92 from the DOT addressed to Chief General Managers (All Head of Telecom Circles/Metro Districts/MTNL/Projects/Maintenance Heads of other Administrative Offices of DOT, by name).

Please refer to Dte's letter No. 269-29/87-STN Vol. I dated 30.8.89 wherein instructions were issued on the condonation of break in service of casual labourers is to be disposed of. The issue has been under the consideration of the Directorate's and it has been decided to modify the instructions as indicated below :

2) Powers of Divisional Engineer

- (1) Condonation of break in service upto one month for any reason.
- (ii) condonation upto 6 months for sickness or non-availability of work provided the necessary medical certificates/details of lay-off are suitably prechecked.

3) Powers of CGMs

Condonation of break in service upto one year can be done by the Chief General Manager for any reasons on the merit of the case such as sickness, after checking medical certificates, non-availability of work ; after checking details of lay-off.

4) No condonation beyond one year is to be considered As such henceforth no case, for condonation of break in service beyond one year, need be referred to Telecom. Commission Headquarters.

5) All cases which stand referred to Directorate on date, may be considered on the basis of these instructions

6) This order supersedes all orders issued till date on the subject.

To

All Circle Secretaries, AITEEU L/S and Group D
Dear Comrades,

All of you are requested to meet your respective Chief GM Telecom/Telephones/CGAT and OG Project etc. and request them to furnish the required information to the Telecom Commission, New Delhi in respect of those ~~casual~~ casual Mazdoors who were recruited in their Circle, Telephone District and units etc. after 3.13.1985 so that confirmation of temporary status order may be issued by the DOT.

This is urgently needed and a letter to this effect has been sent by the DOT to all Heads of Telecom Circles and Telephone District on 27.10.92.

*Editorial
B. A.
Adarsh
31.3.95.*

GOVERNMENT OF INDIA
OFFICE OF THE TELECOM DISTRICT ENGINEER: BONAI AON-783380.

No. E-75/PT & CM/Pt-II/94-95/87 Dated at Bongaigaon the
04-01-95

In continuation to this office letter of even No. dt. 24.12.94 and in pursuance of orders contained vide DOT/NE's letter No. 269-4/93-STN-II dt. 17.12.93 communicated vide CGMT/GH's letter No. Rectt-3/10/Pt-III dt. 04-01-94, the following Casual Mazdoors of this Telecom Distt. who were engaged by the Circle during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the Circle where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of DOT's above order are brought under the scheme of TEMPORARY STATUS with effect from 17.12.1993.

The names of casual Mazdoors conferred Temporary Status are mentioned below :

Sl. No.	Name of C/Mazdoors	Community	Date of entry as C/Mazdoor	Office in which working
1.	Sri Ruhit Ali	OC	01-08-87	SDOT/BGN
2.	Sri Tirat Ch. Brahma	ST	01-06-86	- do -
3.	Sri Ramesh Kalita	OC	01-01-87	- do -
4.	Sri Dilip Kr. Mahato	OC	01-01-88	- do -
5.	Md. Abdul Kayam	OC	01-08-87	- do -
6.	Sri Badal Sil Sarma	OC	01-08-87	- do -
7.	Sri Satrughana Prasad Singh	OC	01-06-87	- do -
8.	Md. Md Abdul Barik	OC	01-05-88	- do -
9.	Sri K. Barman	OC	01-02-88	- do -
10.	Sri Donen Basumatary	SC	01-01-88	- do -
11.	Sri Gour Gopal Sarkar	SC	01-06-87	- do -
12.	Sri Sankar Mallik	SC	01-06-87	- do -
13.	Sri Ram Narash Thakur	OC	01-11-84	SDOT/NBR
14.	Sri Phukan Ch. Boro	ST	08-10-84	- do -
15.	Sri Sadhan Ch. Das	OC	01-05-88	SDOT/BGN
16.	Sri Gobinda Paul	OC	01-01-88	SDOT/KKJ
17.	Sri Madan Basfore	SC	01-05-85	SDOT/NBR
18.	Sri Lubash Barman	OC	01-01-86	SDOT/BGN
19.	Sri Omkar Bhowmick	OC	01-01-88	- do -
20.	Sri Jogen Ch. Deka	OC	01-05-88	- do -
21.	Sri Sarbeswar Rajbangshi	OC	01-01-88	SDOT/NBR.

Sd/-

Telecom District Engineer,
Bongaigaon

Copy forwarded for information and necessary action to :

1.....
.....

13. Spare .

Sd/-

Telecom District Engineer,
Bongaigaon.

*Abul
Borhan
Advocate
31.3.95*

...

Central Administrative Tribunal
Guwahati Bench

23 JUN 1995
252 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
Guwahati

Filed by:
A. K. Chaudhuri
23.6.95
M. Central Govt.
Standing Counsel

In the matter of :-
O.A. No.73 of 1995
Rohini Kumar Barman
..... Applicant
- Vs -
Union of India & others
..... Respondents

Written statement on behalf of Respondents No. 1, 2 and 3.

I, H. Singha, Asstt. Director Telecom(HRD) Office of the Chief General Manager Telecom, Assam Circle, Guwahati-781007, do hereby solemnly affirm and say as follows :-

- 1) That I am the Asstt. Director Telecom (HRD), Office of the Chief General Manager Telecom, Assam Circle, Guwahati. I am acquainted with the facts and circumstances of the case. I have gone through the copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement, the other contentions and statements made in the application may be deemed to have been denied. I am competent and authorised to file this written statement on behalf of all the respondents.
- 2) That with reference to paragraph 1 of the application, the respondent beg to state that the Department of Telecom has conferred temporary status to the working casual labourers from time to time as per guidelines issued by the Telecom Commission on the basis of judgement given by the Hon'ble Supreme Court of India.

R
C. M. Barman
M. K.
23/6/95

(2)

Accordingly, the working casual labourers who have completed the prescribed period of more than one year continuous service upto 30-3-85 and fulfilled other conditions in respect of age, qualification etc. were conferred temporary status vide this No.E-75/C.M. & PT/140, dtd.23-01-90 giving effect from 1-10-89 under the scheme "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989.

The applicant Sri Rohini Kumar Barman, who did not work in the Department of Telecom upto 30-3-85 does not come under the purview of this scheme and the alleged rejection of his application as stated by the said applicant is not true.

It is also pertinent to mention, that the next regularisation of Casual Labourers as temporary status mazdoor's has been made under this office order No.E-75/CM & PT/Part-II/80 dtd.24-12-93 and No.E-75/CM & PT/part-II/94, dtd.4-1-95 from the currently working casual labourers who worked continuously for more than one year service upto 22-6-88 and fulfilled all other conditions i.e. age, qualification etc. as per guidelines issued under the scheme.

The applicant who did not attain the age of 18 years on 22-6-88 as per certificate of age given by the applicant and also did not work in the department of Telecom since 1-10-91 can not be treated as currently working casual labourers and hence as per conditions laid in the scheme, the applicant can not claim the benefit of the scheme.

Therefore, it is not true that the application of Sri Rohini Kumar Barman has been rejected by the Department of Telecom.

3) That the respondents have no comments to the statement made in paragraph 2 and 3 of the application.

(3)

4) That the respondents beg to state that the statement made in paragraph 4.1 are correct.

5) That with reference to the statement made in paragraph 4.2 of the application the respondents beg to state that the applicant has admitted that he has registered himself in the District Employment Exchange in 1994 under No. 3407/94 and also passed HFLC Examination in 1994 which is a prime facie proof that the applicant left the job of casual labourer in the Department of Telecom to continue his study.

6) That the statements made in paragraph 4.3 are not correct.

The applicant was not appointed by the Telecom District Engineer Bongaigaon as this Office was functioning as T.D.E. at Guwahati and it was shifted to Bongaigaon in October, 1990. Hence, oral termination of the service of the applicant (not appointed in TDE, Bongaigaon) is not true. The applicant left the job to continue his study as stated in para 5 above.

7) That with reference to the statement made in paragraph 4.4, 4.5 and 4.6 of the application the respondents beg to state that the applicant left the job on 30-9-91 and did not work thereafter. Therefore, he lost the continuity of service. Since the condition of "currently employed and rendered a continuous service" is a definite perquisite for giving the benefit of the scheme, the applicant does not come under the purview of the scheme.

Therefore, his claim for regularisation can not be entertained as per conditions of the scheme itself.

8) That with reference to the statement made in paragraph 4.7 of the application the respondents beg to state that the service of the applicant was not terminated. The applicant on his own did not turn up for duty since 1-10-91.

(4)

This is confirmed by his own statement that he acquired NSLC qualification in 1994 and got himself registered in District Employment Exchange in 1994.

From this facts, it can be well ascertained that the applicant did not treat himself unemployed till 1994 although he attained the age of 18 years on 31-10-90 and left the Department of Telecom with clear intention to continue his study. Copies ~~of~~ the Admit card and age proof certificate is enclosed at Annexure-I & II.

As regard to other casual mazdoors as mentioned by the applicant, it is already stated in para 1 that the Department of Telecom has given the benifit of the regularisation scheme to the eligible casual labourers i.e., those who are currently and continuously working in the Department.

- 9) That with reference to the statement made in paragraph 4.8 and 4.9 of the application, the respondents beg to state that since the applicant had left the Department of Telecom, he lost continuity in service and there by his claim for granting him the temporary status is forfeited.
- 10) That with reference to the statement made in paragraph 4.10 & 4.11 of the application the respondents beg to state that the termination of service of the applicant as alleged is not true. The applicant abandoned the job on his own volition and thereby forfeited the benefit of the scheme as per condition of the scheme itself.
- 11) That with reference to the statement made in paragraph 5.1 & 5.2 of the application the respondent beg to state that the statement of the applicant is not true. Had the applicant been interested in the service of the Deptt. of Telecom, there would have been some work of that nature under various units as he claimed to have worked under SDOT Telegraph, Bongaigaon, AE L/D Bongaigaon (renamed as SDOT Kokrajhar) etc.

So, his leaving the DOT is deliberate and on his own volition.

12) That with reference to the statement made in paragraph 5.3 of the application the respondents beg to state that the applicant's statement is not correct as he has not been terminated.

13) That with reference to the statement made in paragraph 5.4 of the application the respondents beg to state that no discrimination has been done in conferring temporary status to the casual labourers. Those who were currently and continuously working in the DOT, as per condition of the scheme, have been given the benefit of the scheme.

14) That with reference to paragraph 5.5 of the application the respondents beg to state that ~~the same cannot be~~ (A) admitted due to facts mentioned in the foregoing paras.

15) That with reference to the statement made in paragraph 5.6 of the application the respondents beg to state that the scheme of regularisation has itself does not allow to bestow any benefit to the applicant due to his long break in service through absenteeism.

16) That the respondents have no comments to the statement made in paragraph 6^{and} 7 of the application.

17) That with reference to the statement made in paragraph 8 of the application the respondents beg to state that the applicant is not eligible to claim for any kind of relief as there is no scope on the part of the DOT on the following grounds :-

i) The applicant on his own volition abandoned the job of casual labourer since 1-10-91.

ii) The applicant did not attain the age of 18 years as on 22-6-88 upto which date, the Deptt. of Telecom has regularised the working casual labourers as per Regularisation scheme of the Department.

iii) Since the applicant is no more working in the Department of Telecom (for nearly past 4 years) he can not be treated as currently and continuously working casual labourer to bring him under the scheme.

18) That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

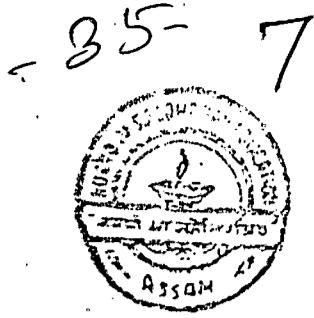
VERIFICATION

I, H. Singha, Asstt. Director Telecom (HRD), Office of the Chief General Manager Telecom, Assam Circle, Guwahati-781007, do hereby declare that the statements made in this written statement are true to my knowledge derived from the records of the case.

I sign this Verification on this the 23rd day of June 1995 at Guwahati.

REPOZI

23.6.95
 सहायक निदेशक दूरसंचार (एच.आर.डी.)
 Asstt. Director Telecom (H. R. D.)
 कार्यालय मुख्य महाप्रबन्धक दूरसंचार
 O/o. The Chief General Manager
 असम दूरसंचार परिषद्बल, गुवाहाटी-7
 Assam Telecom Circle, Guwahati-7



Annexure-I

Board of Secondary Education : Assam,

ADMIT

Rohini K. Baruah

Son/daughter of Harkishen Baruah

Roll No. 23 No. 165

To the High School Leaving Certificate (Special) Examination, 1994 to be commenced on 18.10.1994

His/Her Date of Birth is 31.10.72

Elective	1st Additional	2nd Additional
S.	H	

Subject for Examination:—

Note:—Hours of Examination:— { Morning—From 9 a. m. to 12 noon
Afternoon—From 1p. m. to 4 p m.

N.B.—Any alteration made in the entries on this Admit Card without the authority of the Board renders the candidate liable to disqualification for sitting at this or any subsequent Examinations.

Countersigned

Officer-in-Charge,
Assam S.S.C. EXAMINATION
(State Board) CENTRE
GOALPARA

Sd/- K. C. Deka,

Controller of Examinations,

Board of Secondary Education, Assam

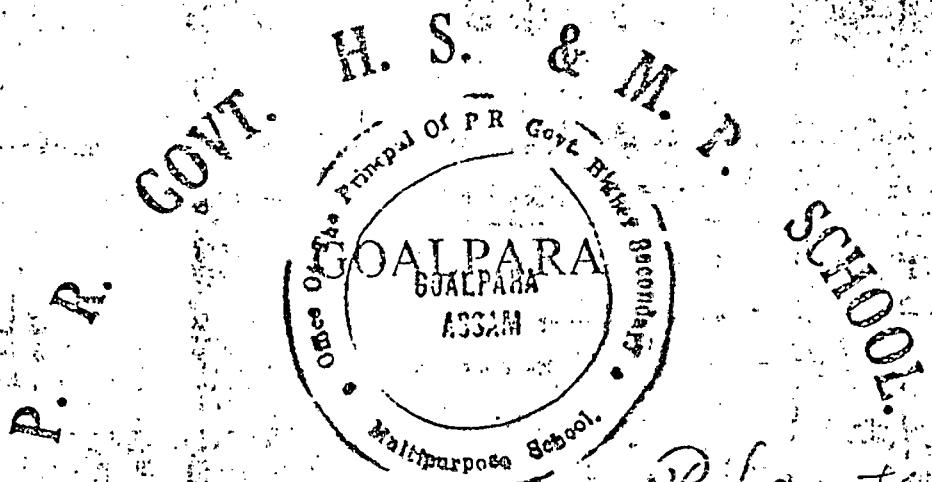
Guwahati-21

Attested
P. H. Choudhury
D.M. Central Govt.
Standing Council

Book No—

Annexure-II

Sl. No— 281



This is to certify that Shri/ Shrimati Rohini Jyoti Bora, son/daughter of Shri/ Smt. Harendra Kumar passed the HSLC Examination 1974 of the Board of Secondary Education Assam under Roll No. 165 through P. R. Govt. H. S. & M. P. School, Goalpara as a Regular/ Private/ Compartmental (—chancee) candidate and he/she was placed in the Third Division.

His/her date of birth is 31-10-72. His/her character and conduct are excellent.

I wish him/her success in life.

Dated Goalpara.

25-5-94

Manju
Principal, p. school
P. R. Govt. H. S. & M. P. School
Goalpara.

*Attended
All Classes
Addl. Central Govt
Standing Council*