

50/600

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-4/98 ordersheet pg-1 INDEX
Disposed date-02/2/98

O.A/T.A No. 121/95.....
R.A/C.P No.....
E.P/M.A No. 4/98.....

1. Orders Sheet. OA-121/95.....Pg. 1.....to 4.....
2. Judgment/Order dtd. 10/9/97.....Pg. 1.....to 2..... Disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 121/97.....Pg. 1.....to 11.....
5. E.P/M.P..... 4/98.....Pg. 1.....to 4.....
6. R.A/C.P..... NIL.....Pg.....to.....
7. W.S......Pg. 1.....to 2.....
8. Rejoinder..... NIL.....Pg.....to.....
9. Reply..... NIL.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLN.NO. 121 OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. OF 1995 (IN OA NO.)
REVIEW APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN. NO. OF 1995 (IN OA NO.)

Karna Kanta Das..... APPLICANT(S)

-VS-

U.O. 1. 2. 3. 4. 5...... RESPONDENT(S)

FOR THE APPLICANT(S)

...MR. G. P. Bhosmik
MR. A. Deb Roy
MR. A. Verma

FOR THE RESPONDENTS

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

OFFICE NOTE

DATE

ORDER

7-7-95

Adjourned to 12-7-95.

lm

Member

This application is to
form and within time.

C. F. of Rs. 50/-

deposited vide

PO/BB No. 885504

Dated 28.6.95

12-7-95

Mr. A. Deb Roy with Mr. G. P. Bhosmik
for the applicant. Mr. A. K. Choudhury
Addl. C.G.S.C. for respondents on notice.
The applicant has been working as
casual labourer since 20-1-87. He seeks
quasi-permanent status and regularisa-
tion.

Application is admitted. Issue
notice to the respondents. 8 weeks for
written statements. Adjourned to
11-9-95 for orders. Liberty to apply
for early hearing after 11-9-95. Notice
be directly issued to the respondents.
Mr. A. K. Choudhury Addl. C.G.S.C. is re qu-
ested to file memo of appearance.

Vice-Chairman

Member

Requisite in and
and vide no. 3055-58
21/9-95

Notice duly send
on R. no. 284
22/7.

lm

11.7.95 Ho. 27-10-95

27.10.95

Time to file written statement
is extended and adjourned for orders
to 4.12.1995.

25.10.95

W/S on behalf of
Respondent No. 1, 2, 3 and 4 has
been submitted.

Member

Vice-Chairman

pg

10.4.96

List for hearing on 24.5.96.

4.12.95

Eto ~ 10.1.96!

Member

pg

10.1.96

24.5.96

Mr A.K. Choudhury, Addl. C.G.S.C.,
and Mr G.P. Bhowmik, learned counsel
for the applicant are present.

List for hearing on 28.6.96.

Member

nkm

By order
Bos

28.2.96

for hearing
on 10.4.96 ✓

28-6-96

Learned counsel Mr. G.P. Bhowmik
for the applicant. List for hearing on
25-7-96.

Member

pg

25-7-96

Learned counsel Mr. G.P. Bhowmick
for the applicant. List for hearing on
22-8-96.

lm
Member

lm

25/9
22.8.96

Counsel of the parties are present.
List for hearing on 19.9.96.

22/9
Member

pg

19.9.96

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

List for hearing on 17.10.96.

16/10
Member

nkm

20/9

17.10.96

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

List for hearing on 5.12.96.

17/10
Member

pg

17/10

7-5-97

Learned counsel for the parties
submit that this case is ready for
hearing.

Let this case be listed for hearing
on 27-6-97.

26/6
Member

26/6
Vice-Chairman

lm

8/5

(4)

W/S. As per b/w.

27.6.97

D.B. is not sitting.

Adjourned to 6.8.97 for hearing.

By order.

W/S As per b/w.

6.8.97

There is no sitting in Division Bench. List on 10.9.97.

By order.

10.9.97

Heard the learned counsel for the 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

Received the copy of the
Judgement on behalf of
the applicant.
H. Verma,
Advocate
3.11.97

Recd copy.
M. Chandra
Addl C/S
28/11/97

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

D.A. NO. 121 of 1995.
T.A. NO.

DATE OF DECISION 10.9.1997

Shri K.K. Das

(PETITIONER(S))

Mr A. Deb Roy

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

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

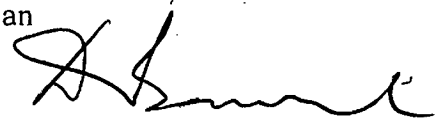
ADVOCATE FOR THE
RESPONDENT (S)

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 ? *NO*
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



K

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.121 of 1995

Date of decision: This the 10th day of September 1997

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

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

Shri Karuna Kanta Das
Resident of Khaliamari, Gabarupathar,
P.O. Kadamani, Dibrugarh.

.....Applicant

By Advocate Mr A. Deb Roy.

- versus -

1. The Union of India, through the
Secretary to the Government of India,
Posts & Telegraphs Department,
New Delhi.
2. The Post Master General,
Assam Circle, Guwahati.
3. The Superintendent of Post Offices,
Dibrugarh Division, Dibrugarh.
4. The Chief Medical Officer,
Posts & Telegraphs Dispensary,
Department of Posts,
Dibrugarh.

.....Respondents

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

.....

O R D E R

BARUAH.J. (V.C.)

In this application the applicant has prayed for grant of temporary status and thereafter regularisation.

2. Facts for the purpose of disposal of this case are:

The applicant was engaged on 20.1.1987 and since then he has been working continuously. It is also stated that he worked for a minimum period of 240 days in each year. As per Casual Labourers (Grant of Temporary Status and Regularization) Scheme, temporary status should be conferred on casual labourers

XB

8

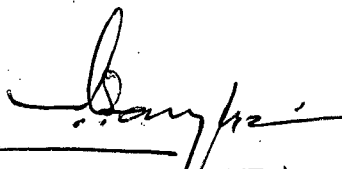
who were in employment as on 29.11.1989 and who continued to be employed and had rendered continuous service of at least one year, i.e. they must have been engaged for a period of 240 days (206 days in the case of offices observing five days week). The Scheme further provides that the casual labourers receiving temporary status shall be regularised in due course. In the present case also the applicant was engaged as casual labourer as far back as on 20.1.1987. Since then he has been working as such and in each year he had completed 240 days, as claimed by the applicant, but the applicant has not been given temporary status. Hence the present application.

3. We have heard Mr A. Deb Roy, learned counsel for the applicant and Mr A.K. Choudhury, learned Addl. C.G.S.C.. According to Mr Deb Roy the applicant was appointed as far back as on 20.1.1987 as casual labourer and since then he has been working as such completing 240 days in each year. This fact is not disputed by Mr Choudhury.

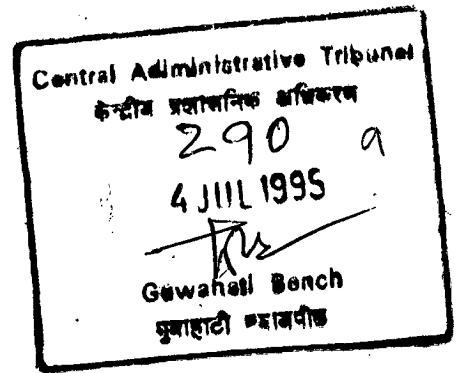
4. On hearing the learned counsel for the parties we hold that as per the Scheme the applicant is entitled to get the temporary status and thereafter regularisation.

5. Accordingly we dispose of this application with the direction to the respondents to give temporary status to the applicant as early as possible, at any rate within a period of fifteen days from the date of receipt of this order and thereafter regularise the applicant.

6. The application is accordingly disposed of. No order as to costs.


(G.L. SANGLIYNE)
MEMBER (A)


(D.N. BARUAH)
VICE-CHAIRMAN



DISTRICT: DIBRUGARH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(Application U/S 19 of the Administrative Tribunal Act 1985)

O.A. No. 121 of 1995

Sri Karuna Kanta Das Applicant

-Versus-

Union of India & ors. Respondents

I N D E X

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7.	W/s on behalf of Respondent No. 1, 2, 3 & 4	12 -

Recd copy
A.K. Choudhury
29/6/95

Filed by :-
Advocate

(1) PARTICULARS OF THE APPLICANT

Shri Karuna Kanta Das.

son of late Uma Kanta Das

resident of Khaliamari, Gabarupathar

P.O. Kadamani 786001

Dibrugarh.

(2) PARTICULARS OF THE RESPONDENTS

1. Union of India.

(Through the Secretary to the Govt of India,

P & T Department)

2. The Post Master General, Assam Circle Guwahati.

3. Superintendent of post Office

4. Dibrugarh Division, Dibrugarh 781001

4. Chief Medical Officer,

P & T Dispensary Deptt. of Posts

P.O. Dibrugarh, Assam.

3. PARTICULARS FOR WHICH THE APPLICATION IS MADE

Application is made for regularisation of service of the applicant in group 'D' post at P & T Dispensary, Dibrugarh,

4. JURISDICTION

The applicant declares that the subject matter against which he wants redressal is within the Jurisdiction of the Tribunal.

5. LIMITATION

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

Contd. 2.....

6. Facts of the case

I. That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India.

II. That the applicant is a permanent resident of Dibrugarh. He passed High School Leaving Certificate Examination in 1974 and thereafter got his name registered with the local Employment Exchange.

III. That the applicant was appointed as a full time casual labour on 20-1-89 in the P & T Dispensary, Dibrugarh where he was working as a Choukidar and since then he has been working continuously for last 8 (eight) years till the date, against a substantive post, but his service has not been regularised. The respondent no. 4 issued a Certificate on 1-2-93 to the effect that the applicant has been working as a casual Mazdoor since 20-1-87 till date.

A copy of the Certificate dt. 1-2-93 is filed hereto and marked as ANNEXURE - 1.

IV. That the applicant begs to state that under the circular No. 45-95/87-SPB, I dated 20-4-91 on the subject "Casual Labours (grant of Temporary Status and Regularisation) issued from the office of the Secretary Post, New Delhi, a casual labour rendering continuous service of at least one year and completed 240 days without break is entitled to temporary status with pay scale for a regular group D official. Relevant portion of the said circular is quoted under :-

" Temporary status- would be conferred on the casual labourers in P & T department as on

on 29-11-89 and who continue to be ~~currently~~ and have ~~remanded~~- rendered continuous service of atleast one year and in the year they must have engaged for a period of 240 working days in the case of offices observing ~~five~~ days week. Such casual worker engaged for full working hours viz eight hours including $1\frac{1}{2}$ hours last time will be paid a daily rates on the basis of minimum of the pay scale for a regular group-D official including D.A. H.R.A. and C C A ".

V. That the respondent No.3 by issuing a letter under memo no. B3/K.K.Das date 12-12-90 gave appointment to the applicant against a substantive post of Day Choukidar, P & T Dispensary, Dibrugarh on temporary basis on regular pay scale But after about 3(three) months the said regular appointment of the applicant has been terminated on the basis of the office memo No. B3/K.K.Das dt. 27-3-91 issued by the respondent No.3

Copy of the letter dt. 12-12-90 and 27-3-91 issued by the respondent No.3 are filed herewith as Annexure - II and III respectively.

VI. That however the applicant was allowed to continue as casual labour in the same office as office Peon/Day Choudi Choukidar which is also a substantive post, being Vacant since 1-2-90 and the services of the petitioner is being utilised as full time casual labour against the said vacant post till the date.

VII. That the petitioner begs to state that he made several representations to the authority for temporary status and regularisation of his service and the last representation

was made on 27-3-95 to the Chief Post master General, Assam circle, Guwahati, and the same was ^{forwarded} ~~founded~~ by the respondent No.4 with recommendation.

A copy of the representation dt. 27-3-95 is filed hereto and marked as Annexure - IV.

VIII. That the petitioner begs to state that no consideration of those representations has been effectively ~~was~~ given as yet, although the applicant was entitled to get temporary status vis-a-vis regularisation long ago.

IX. That the petitioner ~~states~~ that he is married and having a host of dependents and by this time he crossed the age bar for getting a new employment in any Govt. Deptt. and as such unless his service is regularised he will suffer irreparable loss and injury.

X. That the application is made ~~and~~ bonafide.

(7) RELIEFS PRAYED FOR

1. The respondents may be directed to grant temporary status with all financial benefits with effect from the day following completion of one year/240 days of continuous service as casual worker by the applicant.

II. Regularisation of the service of the applicant against the vacant post of Peon in the office of the P & T Dispensary Dibrugarh or in any group 'D' post under the respondents.

The above reliefs are prayed for on the following amongst other

G R O U N D S

I. For that the applicant is deprived of his legitimate claims of getting temporary status and being regularised in service arbitrarily and illegally which amounts to a glaring injustice done to the applicant.

II. For that the action of Respondent in not giving the Temporary status and not regularising the applicant in services amounts to clear violation of Article 14, 16, 21 and 300-A of the Constitution of India.

III. For that the respondents acted against the Principle of National Justice and administrative fair play which is not tenable in law.

IV. For that the applicant after serving continuously for more than 8(eight) years has acquired a valuable right for regularisation of service of the casual workers.

V. For that the action of the Respondents caused great hardship and irreparable loss and injury to the applicant.

8. INTERIM RELIEF PRAYED FOR

During the pendency of the case the applicant prays for the following interim relief.

The Respondents be directed to give the applicant temporary status.

The above relief is prayed for on the grounds explained in para 7 above.

9. The applicant states that he has not filed any other Case/ application before any Court/Tribunal
10. There~~re~~ is no remedy under any ~~rules~~ and the Hon'ble Tribunal is the only remedy.

11. Particulars of the Postal Order :

Postal Order No : 03885506
Date : 28.6.95
Issued from : Panbazar Main Post Office
Payable to : Gurohathi

12. Details of Index

An index showing the particulars of documents are enclosed

13. List of enclosures

As per Index.

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

I, Sri Karuna Kanta Das son of late Uma Kanta Das aged about 37 years resident of Khaliyamari, Gabarupathar P.O. Kadamari 786001, Dibrugarh, Assam do hereby verify that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts.

Date :

Place:

Sri Karuna Kanta Das

Signature

ANNEXURE - I

Corr.-22

DEPARTMENT OF POSTS, INDIA

From

To

No.

Dated at

SUBJECT

Certified that Shri Karuna Kanta Das working
as Casual Mazdoor Since 20th January 1987 till date.

Dated, Dibrugarh

The 1st February '93

Sd/- Illegible

1-2-93

Chief Medical Officer

P & T Dispensary

Dibrugarh.

Attended
by
Asst. Commr.
28/6/95

ANNEXURE II

DEPARTMENT OF POSTS
OFFICE OF THE SUPDT. OF POST OFFICES: DIBRUGARH DIVN.
DIBRUGARH : : : 786001

Memo No. B3/K.K.Das

Dated Dibrugarh the 12-12-90

In pursuance of the Postmaster General, Assam Region Guwahati letter No. Est/5-621/86 dated 6-9-89 circulated vide SP/DR letter No.A-1/P&T Dispensary/DR dated 16-11-90 the Service of Shir Karuna Kanta Das daily wage basis Day Chowkidar, P&T Dispensary, Dibrugarh is appointed as Day Chowkider purely temporary basis with immediate effect in the scale of pay Rs.750/- to Rs.940/- plus other allowances as admissible, subject to satisfactory police verification report.

The appointment does not confer any right for future absorption in the regular cadre and can be terminated at any time without notice.

(C.K.KUTUM)

Supdt.of Post Offices
Dibrugarh Dn.Dibrugarh 786001

Copy to :-

1. The Postmaster, Dibrugarh H.O. for information and taking necessary action.
2. The Sr.M.O. I/C P & T Dibrugarh Dispensary, Dibrugarh for information and necessary action.
3. Shri K.K.Das, P&T Dispensary, Dibrugarh.
4. The P.M.G. Assam Region, Guwahati-1 for information w.r.t. Co' s No. cited above
5. The Chief P.M.G. Assam Circle, Guwahati for information
6. The Esstt. Br. Divl. Office Dibrugarh.
- 7-8. S p a r e.

Supdt. Of Post Offices
Dibrugarh DnDibrugarh 786001.

*Attested
Copy
28/6/95*

ANNEXURE - III

DEPARTMENT OF POSTS - INDIA
OFFICE OF THE SUPDT. OF POST OFFICES DIBRUGARH DN.
DIBRUGARH.

To,

Shri Karuna Kanta Das
Day Chowkider
P & T Dispensary Dibrugarh.

No. B E K K Das.
at Dibrugarh 27-3-91.

Sub: Termination of service.

Your absorption in the regular cadre as Day Chowkider is used vide this office memo of even no. dt. 12-12-90 in hereby treated as cancelled with immediate effect untill further orders.

Sd/- Illegible

(C.K.KUTUM)

Supdt. of Post Offices
Dibrugarh, Dibrugarh Dn.
786001

Handwritten: 28/5/95
Copy forwarded to :-

1. The Postmaster Dibrugarh HO for information and taking necessary action.
2. The Sr.M.O..I/C P&T Dispensary for information.
3. The Asstt. Branch Divl. office Dibrugarh . ~~for~~
4. Spare.

Sd/- Illegible

Supdt.

ANNEXURE - IV

To,

The Chief Postmaster General

Assam Circle, Guwahati- 786001.

(Through proper channel)

Dated: at Dibrugarh the 27-3-95

Sub:- Prayer of the Regularisation of the service of Casual
at P&T Dispensary, Dibrugarh.

Respected Sir,

1. With due respect and humble submission I beg to lay the following few lines for favour of your kind consideration and sympathetic action.
2. That Sir, I am working in the P & T Dispensary, Dibrugarh as full time casual labour since 20-1-1987 and rendering continuous service since then as full time casual labour. Now my service is utilised in place of the office peon post lying vacant since 1-2-90.
3. That Sir, once I was appointed on a regular basis in the P&T Dispensary, Dibrugarh wide the Supdt. of Post offices, Dibrugarh memo No. B3/K.K.Das dtd. 12-12-90 (Copy enclosed) but suddenly my service was terminated on 27-3-91 without showing any reason.
4. That Sir, I represented several times to the Supdt. of Post Offices, Dibrugarh praying for regularisation of my service in the interest of justice but ~~in-vi~~ I am not even

Contd. 2...

(Annexure IV Contd.2)

allowed to be treated as per with temporary Group D as per DG's circular No. 45-95/87-SBB-I dtd. 12-4-91 and thereby depriving me from entitled bonafide.

5. In view of the above stated facts, I beg to pray before you to be kind enough to consider my case ~~ferw~~ feveurably on humanitarian ground and arrange regularisation of my service early and for theact of Your kindness I shall remain ever grateful to you.

With profound regards.

Yours faithfully

(Karuna Kanta Das)

Office peon

P & T Dispensary

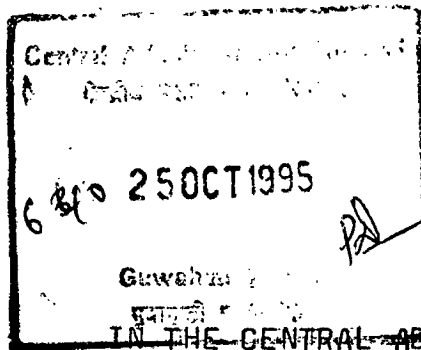
Dibrugarh.

Copy in advance fordd for information and necy. action to

1. The Chief Postmaster General, Assam (Staff) :
2. Circle, Cuwahati - 1
2. The P stmaster General, Assam Region Guwahati -1
- 3- The Director of Postal Services, Assam Ciccle Guwahati -1
4. The Visiting DDG(Medical), New Delhi at Dibrugarh.
5. The Supdt. of Post. Dr.
6. The chief MO I/C P&T Disp. Dn.

(K.K. Das)

*Attended
by
AGVocal
28/5/95*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

Filed by:-
P. K. Ghosh
Addl. Control Govt.
Standing Counsel
20/10/95

In the matter of :-

O.A. No.121 of 1995.

Sri Karuna Kanta.Das

... Applicant

- Vs -

Union of India & others

Written statement for and on behalf of Respondent
Nos.1,2,3, & 4.

I, J.K. Barbhuiya, Asstt. Postmaster General(Vig)
Office of the Chief Postmaster General, Assam Circle,
Guwahati, do hereby solemnly affirm and say as
follows :-

- 1) That I am the Asstt. Postmaster General(Vig) Office of the Chief Postmaster General, Assam Circle, Guwahati and I am acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the other contentions and statements made in the application may be deemed to have been denied. I am competent and authorised to file the written statement on behalf of respondents.
- 2) That the Respondents have no comment to the statements made in paragraph 6.I and 6.II ~~xxx~~ of the application.
- 3) That with reference to the statement made in paragraph 6.III the respondents beg to state that the applicant was appointed as Part time Casual Worker/Mazdur since 20-01-87 as per certificate issued by the i/c Senior Medical Officer P & T Dispensary Dibrugarh dated 27th November 1990 and he is working in the same post till now. But such appointment letter was found as this was prior to handover the P & T Dispensary from Telecom to the Department of Post.
- 4) That the Respondents have no comment to the statement made in paragraph 6.IV of the application.

Recd
Gm
Adm
24/5

5) That with reference to the statement made in paragraph 6.V the respondents beg to state that the applicant was appointed as Day Chowkidar vide this office memo No.B-3/K.K.Das, dtd. 12-12-90 in pursuance of PMG Assam Region Guwahati letter No.Est/5-621/86, dtd.6-9-89. It was also mentioned in the appointment letter that the appointment does not confer any right for future absorption in regular cadre.

As Casual labourer/worker can not be absorbed in regular basis and if appointed so, the appointment letter issued earlier was cancelled on 27-3-91. As per normal procedure the Group-D post is to be manned by senior cum fitness from ED employees.

6) That with reference to the statement made in paragraph 6.VI the respondents beg to state that the applicant was allowed to work in part time casual worker in the P & T Dispensary Dibrugarh and not fulltime casual worker against the vacant post since 01-02-1990.

7) That with reference to the statement made in paragraph 6.VII THE respondents beg to state that the applicant made several representations for the temporary status and regularisation in Group-D cadre of his service but it can not be taken into consideration since it does not cover the recruitment rule and the Dte. letter No.45-56/92/SPB-1, dated 01-03-93 and Circle Office letter No.Est/29-9/79/Corr/132, dtd.10-3-93 in paragraph 6.

8) That with reference to the statement made in paragraph 6.VIII the respondents beg to state that as the applicant not convers which is mentioned in paragraph 7 above his claim could not be considered.

9) That the Respondents have no comment to the statement made in paragraph 6.XI & 6.X of the application.

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

11) That the Respondents crave leave of filing addl.written statement if situation so demands.

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

I, J.K. Barbhuiya, Asstt. Postmaster General(Vig) Office of the Chief Postmaster General, Assam Circle, Guwahati, do hereby declares that the statement made in this written statement are true to my knowledge derived from the records of the case.

I sign this Verification on this the _____ Day of
October, 1995 at _____

Jay Kishore Barbhuiya
Asstt. Postmaster General (Vig)
Assam Circle, Guwahati-781001