

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

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

440/95
N
ORIGINAL APPLN. NO.
TRANSFER APPLN. NO.
CONT. EMPT APPLN. NO.
REVIEW APPLN. NO.
MISC. PETN. NO.

OF 1995
OF 1995
OF 1995 (IN OA NO.)
OF 1995 (IN OA NO.)
OF 1995 (IN OA NO.)

APPLICANT(S)

VS

RESPONDENT(S)

FOR THE APPLICANT(S)

...MR.
MR.
MR.
MR.

FOR THE RESPONDENTS

...MR.

OFFICE NOTE

DATE

ORDER

11-9-95

Mr. I Hussain for the applicant.
Mr. A.K. Choudhury Addl.C.G.S.C. for
the respondents.

Although we desired to have show
cause reply early looking to the
nature of the application the Assistant
Commissioner requests adjournment
for two months to file the same.
Under the circumstances the O.A. is
admitted. Issue notice to the respon-
dents to show cause as to why interim
relief should not be granted as prayed,
returnable on 13-11-95. Written
statement ~~to~~ will be filed on or before
13-11-95. Adjourned to 13-11-95.


Vice-Chairman

1m

Member

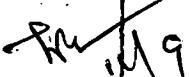
14.11.95

Adjourned to 3.1.1996 for
written statement.


Member


Vice-Chairman

Notice send on
R.no. ~~123~~ 3.


15/11/95

Notice issued
to Advocate, vide
N. 4248-50 d. 22.9.95 pg
15/11/95

Notice send on
R.no. 143-

ORIGINAL APPLN. NO. 140 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.)

..... Pradip Sarkar APPLICANT(S) \

..... M. O. I. RESPONDENT(S)

FOR THE APPLICANT(S)

...MR. A. S. Choudhury
 MR. I. Hussain
 MR.
 MR.

FOR THE RESPONDENTS

...MR. A. K. Choudhury

OFFICE NOTE	DATE	ORDER
<p>This application is in form and within time C. F. of R. S. deposited via IPO/ED No. 826327 Dated 12.7.95</p> <p><i>RP 8/8</i> <i>RP 8/8</i> <i>Defects may be fixed pl be informed</i> <i>RP 8/8</i> <i>8/8/95</i> <i>Praying for comply.</i> <i>8/8/95</i> <i>Defects as pointed out have been removed and the advocate's undertaking at page 1 may rightly be seen. Submitted for favor of kind order & signature.</i></p>	9-8-95	<p>Mr. I. Hussain for the applicant. Mr. A. K. Choudhury Addl. C. G. S. C. for the respondents now seeks to appear It is difficult to whether the nature of the appointment of the applicant and on what basis he was continued up to 21-3-95. However, in view of Annexures 1, 2 & 4 respondents are required to clarify the position. Issue notice to respondent No. 3 to show cause as to why the applicant be not admitted and why the interim relief as prayed may not be granted.</p> <p>Returnable on 11-9-95.</p>
	1m	<p><i>RP 8/8</i></p>
		<p><i>RP 8/8</i></p>
		<p><i>RP 8/8</i></p>

RP 8/8
 Vice-Chairman

RP 8/8
 Member

RP 8/8

RP 8/8

Requirements are granted
 & issued to R. No. 3 vide
 no. 3790 dt. 24.8.95
RP 8/8

OATA/CP/RA/MP No. 140 of 1995

OFFICE NOTE

DATE

ORDER

1.1.96

Written Statement
on behalf of Respls.
No. 1, 2 and 3 has
been submitted.

2.4.96

Learned counsel Mr I. Hussain for the
applicant. Case is ready for hearing.
List for hearing on 30.5.96.

69
Member

pg

3.1.96

Orders on
20.2.96 /

by order.20.2.96

To be listed
for hearing
on 2.4.96.

by order.20.2.96

Rejoinder submitted
by the applicant
against the W/S
submitted by the
Respls. 1, 2 & 3.

20.2.96

W/S to show cause
on behalf of Respondent
1, 2 & 3.

by order.

QA/TA/CP/RA/MP No. 1 of 19

OFFICE NOTE	DATE	ORDER

OA/IA/CP/PA/MP No. 140 of 1995

OFFICE NOTE	DATE	ORDER
D Service ready on Respondent 3. W/ statement & hearing hs been fixed.	30.5.96	Learned counsel Mr I.Hussain for the applicant. Learned Addl.C.G.S.C Mr A.K.Cheudhury for the respondents. Part heard. Adjourned to 10.6.96 for further hearing. 60 28/5.
	pg	Member (A)
	10.6.96	Mr. I Hussian for the applicant. Mr. A.K.Chowdhury, Addl. C.G.S.C. for the respondents. During the course of argument the learned counsel for the applicant was directed to file original Identity Cards, copy of these are at Annexure 3 to O.A. We wanted to give time for the same but the learned counsel states that all the 3 Identity Cards have been returned. He has not been able to give date of the same but indicated his helplessness to file the same.
		Counsel of parties have concluded their submissions. Hearing concluded. Judgement reserved. 60 Member (J) Member (A)
Recd. copy of judgment AK Choudhury Addl CGSC 2/8/96	trd 14.6.96	Judgment pronounced. Application is dismissed. No order as to costs. 60 Member (J) Member (A)
copy of final order issued to the parties vive d.no 2359 to 2361 pg 9-5.8.96 shre	pg	

QA/TA/CP/RA/MP No. of 19

OFFICE NOTE

DATE

ORDER

15

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

O.A. NO. 140 of 1995.
T.A. NO.

DATE OF DECISION 14-6-1996.

Sri Pradip Sarkar

(PETITIONER(S)

Mr I. Hussain

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

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

ADVOCATE FOR THE
RESPONDENT (S)

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

THE HON'BLE SHRI D.C. VERMA, MEMBER (J)

1. Whether Reporters of local papers may be allowed to Yes.
use the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of
the judgment ? NO
4. Whether the Judgment is to be circulated to the other
Benches ?

Judgment delivered by Hon'ble Member (A)

Longpi
14-6-96

9

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.140 of 1995.

Date of Order : This the 14th Day of June, 1996.

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

Hon'ble Shri D.C.Verma, Member (J)

Sri Pradip Sarkar
son of late Abani Kanta Sarkar,
C/O Sri Hare Krishna Chanda,
Ward No.1, Santinagar,
P.O. & Dist. Kokrajhar, Assam. . . . Applicant.

By Advocate Shri I.Hussain.

-Versus-

1. Union of India
represented by the Secretary,
Cabinet Secretariat, Special Bureau,
Govt. of India, South Block,
New Delhi-1.
2. The Commissioner,
Special Bureau No.48/A Syed Amir Ali
Avenue, Calcutta-700 017.
3. The Assistant Commissioner,
Special Bureau, Govt. of India,
Kokrajhar, Assam. . . . Respondents.

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

O R D E R

G.L.SANGLYINE, MEMBER (A)

According to the applicant he was verbally appointed temporarily as a "Safe House Keeper" on 1.4.1990 in the office of the Assistant Commissioner, Special Bureau, Government of India, Kokrajhar and he received pay of Rs.1150/- per month. He continued in service till 24.3.1995 when he was told verbally by respondent No.3 that his service as Care taker/Safe House Keeper had been terminated with immediate effect. The applicant claims that he was an employee under the respondents and had completed five years continuous service. In support of his claim that he is an employee of the respondents he relies on the certificate dated 16.7.1993.

14.6.96

contd. 2...

Annexure-2, issued by the Respondent No.3 which shows that the applicant was employed as a Safe House Keeper (non regular) at Special Bureau, Kokrajhar since 1.4.1990. Further he relies on the Photo copies of Identity Cards as shown in Annexure-3 and Identity Certificate at Annexure-1. He also relies on letter dated 15.11.1993 (Annexure-4) sent by SB Calcutta forwarding application forms for the post of Chowkidar to his address in SB Kokrajhar. He counters the claim of the respondents that he was never in Government service but was engaged for operational work. According to him he was always working in the office of the respondents and never did any operational work or was engaged for such work. He claims that having been in service for a long period he had acquired a right to be regularised and that he is entitled to be regularised under the scheme of regularisation as notified on 10.9.1993. In this O.A he had prayed for the following reliefs :

i) to reinstate him as Safe House Keeper under respondent No.3,

ii) to pay his current as well as arrear salary 24.3.95 from the date of termination from 23.2.95 and then

iii) to regularise his service as Chowkidar.

2. The respondents have contested the application.

They deny that the applicant was a Government servant or an employee of the Government of India. They admit that the applicant was used in operational work by them but claim that this is not under the purview of Government service.

They deny that the applicant was appointed temporarily in the office of respondent No.3. They maintain that the applicant was

14.6.96

strictly engaged for operational work which is not of the nature of employment. They contend that the identity cards and certificates issued to the applicant cannot be said to be a proof of Government service. Such papers are merely to facilitate his movements and activities which were being carried out by him in public interest. Police verification also cannot be construed as having been done towards employment to Government service. In fact police verification was necessary in his type of work. Further communication addressed by Calcutta office to the applicant in the address of the office of respondent No.3 is not a proof that the applicant was in Government service. There is no formal or even informal communication from the respondents that the applicant was appointed to Government service.

3. Under normal circumstances the onus to prove that one is an employee is on the employee concerned by producing the appointment letter. In this case as admitted by both sides there was no appointment letter. Therefore, no appointment letter can be produced. The photo copies of Identity cards and certificate are no proof that the applicant was a temporary Government servant. He claims that he was appointed temporarily as Safe House Keeper on 1.4.1990 and continued till 24.3.1995. The designation shown against him in the Identity cards is however different from that of 'Safe House Keeper'. He has been shown as 'Caretaker' in the identity certificate dated 22.10.1990, no designation of the applicant has even been shown. In connection with the identity cards it may be mentioned that when we expressed our desire to see the original copies of the Identity cards the learned counsel for the applicant had pleaded inability to produce the same on the ground that they were returned to the

14.6.96

authority. It is seen from the letter dated 15.11.1993, Annexure-4, forwarding application forms to him for the post of Chowkidar, that there is no designation of the applicant mentioned therein. It reads -

"To

Sri P.Sarkar,
Special Bureau, G.O.I
P.O.& Dist.Kakrajhar
Assam."

This is therefore is no proof that the applicant was holding a temporary Government Service in the Special Bureau. The Certificate dated 16.7.1993 at Annexure-2 also is no proof that the applicant was a temporary government servant under the Special Bureau. There is no dispute that the applicant worked as Safe House Keeper in the Special Bureau. The dispute is that such work is not normal Government service and does not bring the applicant within the purview of Government service. The very word "non-regular" used in the certificate would itself clearly show that the applicant was neither in temporary government service nor was he a temporary government servant as claimed by him. We have heard the submissions of both sides and perused the application with rejoinder and written statement and given our due thoughts to the matter in hand. We however find ourselves unable to come to the conclusion that the applicant was a temporary government servant under the Special Bureau. The attempt now made by the learned counsel of the applicant to bring the applicant within the purview of the scheme of regularisation under Government of India, Department of Personnel and Training No.51016/2/90-Estt(C) dated 10.9.1993 is not entertainable as there was no pleading in the O.A. that the applicant was an employee falling within the

14-6-96

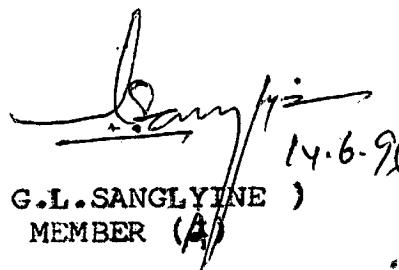
contd. 5...

purview of the aforesaid scheme. This is rejected.

In the light of the above discussion, we decline to grant the reliefs prayed for. The application is dismissed. No order as to costs.



(D.C. VERMA)
MEMBER (J)



14.6.96

(G.L. SANGLYINE)
MEMBER (A)

G.A. 140/95

FORM NO. 1

(See Rule - 4)

25 JUL 1995

Guwahati Bench

গুৱাহাটী বৰাবৰী

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985.

FOR USE IN TRIBUNALS OFFICE

Date of filing :-

Date of Receipt by post :-

Registration :-

Signature of Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH AT GUWAHATI.

BETWEEN

Sri PRADIP SARKAR

APPLICANT

- AND -

The Union of India and others RESPONDENTS

DETAILS

Pradip Sarkar

14
Filed by
Applicant
Through
G. B. Main
Bd. Advocate
20.7.95

DETAILS OF APPLICATION :-

1. Particulars of Applicant :-

i) Name of Applicant : - Mr. Shri Pradip Sarkar.

ii) Name of Father : - Late Abani Kanta Sarkar.

iii) Designation and Office in which employed. : - Safe House Keeper office of the Assistant Commissioner, Special Bureau, Govt. of India, Kokrajhar, P.O and Dist. - Kokrajhar.

iv) Office Address : - Sri Pradip Sarkar, Safe House Keeper, Office of the Assistant Commissioner Special Bureau, Govt. of India, Kokrajhar, P.O and Dist. - Kokrajhar, Assam.

v) Name for service of all Notices. : - Sri Pradip Sarkar, S/O late Abani Kanta Sarkar, C/O Sri Hare Krisna Chanda Ward No.1, Santinagar, P.O and Dist. - Kokrajhar, Assam.

2. Particulars of Respondents.

: - 1. The Union of India represented by the Secretary, Cabinet Secretariat, Special Bureau ...

Pradip Sarkar

Bureau, Govt. of India,
Room No. 8-13, South Block,
New Delhi- 110 001.

2. The Commissioner,
Special Bureau No. 48/A Syed
Amir Ali Avenue, Calcutta-
700 017.
3. The Assistant Commissioner,
Special Bureau, Govt. of India,
Kokrajhar, P.O. and Dist.-
Kokrajhar, Assam.

... Respondents

3. Office address of:-
the Respondents.

1. The Union of India
represented by the Secretary,
Cabinet Secretariat, Special ~~ENCL~~
Bureau, Govt. of India,
Room No. 8-13 ,South Block,
New Delhi-110001
2. The Commissioner,
Special Bureau,
No.48/A Syed Amir Ali
Avenue ,Calcutta-700017
3. The Assistant Commissioner
Special Bureau,
Goyt. of India,
Kokrajhar, P.O.-Kokrajhar.
Dist.-Kokrajhar.

Pradip Sarkar

4. Particulars of Order
against which applica-
tion is made

:- This application is made
against verbal Order dated
24.3.95 of the Assistant
Commissioner (Respondent
No.3) asking the Applicant
to hand over office key,
identity card etc. and not
to come to office.

5. Jurisdiction of Tribunal :- The applicant declares that
the subject of the order
against which he wanted red-
ressal is within the juris-
diction of this Hon'ble
Tribunal including reliefs
prayed for.

6. Limitation

:- The applicant further de-
clares the application is
within the limitation descri-
bed in the Section 21 of the
Administrative Tribunal
Act, 1985.

FACTS

Pradip Sarkar

7. FACTS OF THE CASE :-

That the applicant is a citizen of India being the permanent resident of Ward No.1, Santinagar, P.O- Kokrajhar, P.O and District- Kokrajhar, Assam and as such is entitled to the rights, privileges and protections guaranteed under the Constitution and other laws of the country.

2. That the applicant reads upto Class VIII, but could not prosecute his further study due to acute poverty and was looking after for some to maintain his family. His father expired some time back and the applicant has to look after his widowed mother, his wife and the minor child. At present he is out of employment and is facing acute poverty and it has become impossible to maintain the family.

3. That the applicant was appointed temporarily as safe House keeper on 1.4.90 in the office of the Assistant Commissioner (Respondent No.3) and he was receiving pay of Rs. 1150/- per month. He continued in his service till 24.3.95 with honestly and sincerely without any adverse remark. The respondents also obtained the Police verification report from the Inspector General of Police, Special Branch, Assam, Guwahati and to his information there was no adverse remark against

him

Pradip Sarkar

him in the report. The identity cards valid upto 16.10.95 were also issued to the applicant by the Respondent No.3 as per rule from time to time. The Respondent No.3 had also issued a certificate dated 16.7.93 certifying that, the applicant had been working since 1.4.90. In this connection it is stated that as a matter of practice the House Keepers are appointed by verbal orders of respondent No.3 and no formal appointment letters are issued. As the applicant was appointed in the similar manner he could not annex the appointment order alongwith this application.

The photo copies of the certificates dated 22.10.90, 16.7.93 and the identity cards issued by the Assistant Commissioner (Respondent No.3) are annexed herewith and are marked as ANNEXURE Nos. 1, 2 and 3.

4. That the applicant states that, while he was in temporary service of Safe House Keeper, some posts of Chowkider fell vacant under respondent No.3 in 1993 and the applicant applied for the same through proper channels. He appeared in the interview in July, 1993. After this the Calcutta office of the respondents vide a Memorandum dated 15.11.93 sent ~~to~~ 6 sets of application form to the applicant and directed him to return the same urgently after duly filled up. Accordingly the applicant filled up the forms and sent to the Calcutta office as directed.

The copy of the letter dated 15.11.93 sent from Calcutta Office of the respondents is annexed herewith and is marked as ANNEXURE No.4.

5. That ...

Prachip Sarker

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5. That the applicant states that, he came to know that, the respondent authorities had also obtained the police verification report from the competent authority and to his knowledge there was no remark against him. The applicant was awaiting anxiously to get the appointment letter as other candidates who appeared alongwith him in the interview had received their appointment letters and joined in their posts. As there was no information as regards to his appointment, he submitted a representation dated 20.3.95 to the Commission ^{ur} (Respondent No.2) through proper channel stating all the facts and with a prayer to give him an opportunity to serve as full fledged Chowkider. He also stated in the representation that, he is in great hardship to maintain the family consisting of his widowed mother, wife and a son with a meagre salary of Rs. 1200/- P.M. which he was getting as Safe House keeper.

The copy of representation dated 20.3.95
21 to the applicant to Respondent No.2 is

annexed herewith and is marked as

ANNEXURE NO.5.

6. That the applicant states that, while he was expecting his appointment as a Chowkider on regular basis, he was surprised to know verbally from

the

Pradip Sarkar

that
the Respondent No.3 on 24.3.95 ~~at his service as~~ caretaker/Safe House Keeper had been terminated with immediate effect because of the reasons that, some local persons lodged a complaint against the applicant to the respondent authorities. Accordingly, the Respondent No.3 asked the applicant to hand over the office key, identity card etc. and directed him not to come to office any more. At this, the applicant was dumb founded as he had been serving with ~~ext~~ outmost sincerely, honestly and to his best of ability. Having no alternative, he submitted a representation dated 1.4.95 to the Additional Commissioner, Special, Bureau, Govt. of India Calcutta stating the facts regarding his verbal termination Order on false allegations of some local persons and prayed for revoking the termination order and allowing him to continue in service.

The copy of the representation dated 1.4.95 to the Additional Commissioner is annexed herewith and is marked as ANNEXURE NO.6.

7. That the applicant states that, in the meantime he collected information regarding the persons who submitted allegations to the respondents against him. He came to know that, three persons submitted the allegations in their fictitious names, as Mr. Nath, Mr. Dhar and Mr. Paul. But actually, the

names of

Pradip Sarkar

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names of the persons are Mr. Birendra Pratap Singh (Owner of the house where the respondent's office is situated) Mr. Subhas and Mr. Chanchal Das. The owner of the office house Mr. Birendra Pratap Singh used to come to the office premises frequently and were using the office telephone for his personal purpose in the absence of the officer-in-charge and when this was objected by the Applicant, Mr. Singh intimidated him with severe consequences. Mr. Singh was very much annoyed and ⁱⁿ ~~with~~ connivance of Mr. Subhas and Mr. Chanchal Das in fictitious manner submitted false and fabricated allegations against the applicant.

8. That the applicant states that, he submitted another representation dated 14.4.95 to the Respondent No.2 stating all the facts regarding the false and fabricated allegations submitted by the three persons. The applicant vehemently denied the allegations as he had done his duties very sincerely and honestly to the satisfaction of all concerned. He stated that the persons enimical to him were interested to see that, the applicant cannot continue in his service. He also stated that prior to his termination from service, neither any show cause was served upon him nor any opportunity was given to him to place

his

Pradip Sarkar

his case before the respondent authorities. As such and he prayed for an equity into the affair them to reinstate him in service as he is the only earning member of the family.

The copy of the representation dated 14.4.95 to the Respondent No.2 is annexed herewith and is marked as ANNEXURE NO.7.

-: G R O U N D S :-

7.

I. That the applicant submits that, he was appointed as a House Keeper way back on 1.4.90 and continued as such till March, 1995 and he had completed 5 years of continuous temporary service without any adverse remark against him. As such he has accrued the right to be regularised in service as per the law laid down by the Hon'ble Supreme Court of India in many such cases.

II. That the petitioner submits that, he had appeared in the interview for the post of Chowkider on regular basis and he fared well. His police verification report was also completed and was expecting his appointment as Chowkider. But to his utter surprise instead of appointing him as Chowkider, the Respondent No.3 directed him hand over the key of the office,

identity

Pradip Sarker

identity card and asked him not to come to office any more on the ground that, some local persons had submitted complaints against him. The applicant denies all such allegations as he had served the organisation with utmost sincerity and honestly. The respondent authorities ought to have enquired into the ~~xxx~~ affair before taking any action against the applicant.

III. That the applicant submits that, the owner of the office premises Mr. Singh wanted to take action against the applicant as because, he objected regarding use of office telephone and as such he (Mr. Singh) alongwith 2 others submitted false allegations against the applicant on fictitious names. As such any action taken against the applicant on the basis of false allegation is arbitrary, illegal and is against the principle of natural justice, equity, good conscience and administrative fairness.

IV. That the petitioner submits that he is a poor man and has to look after and maintain his family consting of widow mother, wife and a child and if he is not allowed to work, the family will die of starvations. As such this Hon'ble Tribunal may kindly look into the humanitarian aspect of the matter also

and ...

Pradip Sarker

and may be pleased to direct the respondent authorities to re-appoint the applicant.

V. That the applicant submits ~~and~~ that he had submitted several representations to the respondent authorities stating in details regarding his removal from service etc. and with prayer for his reinstatement in service. But till date nothing has been done by the respondent authorities to reinstate the applicant. This action of the respondent authorities is against the principles of equity, good conscience and administrative fairness.

VI. That it is respectfully submitted here that the case of the applicant was not at all fairly treated. It was arbitrarily singled out and whimsically discriminated to deprive the livelihood of the Applicant and for that matter his entire family members are denied and deprived of their livelihood without following the procedure established by law.

VII. For that in the circumstances, the applicant has no other alternative and affidacious remedy save and except by way of his application which would be just, adequate and complete if so granted.

VIII.

Prachip Sorkund

VIII. That justice was demanded but the same has been denied to the applicant.

Under the above circumstances, it is therefore, prayed that, your Lordships would be pleased to admit this application, call for the records, issue notices upon the respondents and after perusing the same and hearing the parties would be pleased to pass an Order directing the respondent authorities to reinstate the applicant Safe House keeper under the Assistant Commissioner, (Respondent No.3) and pay his current as well as arrear salary from the date of termination i.e. from 24.3.95 and as Choukidur then regularise his service under the Respondent No.3 in the interest of justice.

8. INTERIM ORDER PRAYED FOR :-

Pending final disposal of the application, the applicant seeks

issuance

Pradip Sarkar

issu nce of the following interim Order.

The respondent authoritics parti-
cularly the Respondent No.3 may kindly
be directed to reinstate the applicant
and allowed to work temporarily as safe
House keeper under the Respondent No.3
and pay his salary.

9. DETAILS OF REMEDIES EXHAUSTED.

The applicant declares that, he
had availed of all the remedies available to him under
the relevant service rules etc and his representation
dated 21.3.95, 1.4.95 and 14.4.95 have not yet been
disposed off.

10. MATTER NOT PENDING IN ANY OTHER COURT ETC.

The applicant further declares that the
matter regarding which the application 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 POSTAL ORDER IN RESPECT OF THE
APPLICATION FEE :-

1. No. of I.P.O 8 09 326327

II.

Prudhip Sarker

II. Name of the P.O. *Guwahati Court P.O.*

III. Date of issue 17.7.95

IV. P.O at which payable :- *Guwahati*

12. DETAILS OF INDEX :-

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. LIST OF ENCLOSURES - ENCLOSED

Details of INDEX.

1. Particulars of applicant :-

2. Particulars of Respondents :-

3. Particulars of orders impugned :-

4. Jurisdiction of Tribunal :-

5. Limitation :-

6. Facts of the case :-

7. Relief sought :-

8. Interim Order :-

9. Remedies exhausted :-

10. Matter not pending in other court :-

11. Postal order :-

12. ANNEXURE No.1 - Copy of certificate dated 22.10.90
of respondent No.3.

13. Annex- 2

Pradip Sarkar

13. ANNEXURE No.2 - Copy of certificate dated 16.7.93 of Respondent No.3 regarding the date of appointment of the applicant.

14. ANNEXURE No.3 Copy of identity cards issued to the Applicant by Respondent No.3.

15. ANNEXURE No.4 - Copy of letter dated 15.11.93 of Calcutta office of the respondents regarding sending of application form for post of Chowkider.

16. ANNEXURE No.5 - Copy of representation dated 21.20.3.95
20 to the Respondent No.2.

17. ANNEXURE No.6 - Copy of representation dated 1.4.95 to the Additional Commissioner.

18. ANNEXURE No.7 - Copy of representation dated 14.4.95 to the Respondent No.2.

VERIFICATION

Pradeep Sarkar

-: VERIFICATION :-

I, Sri Pradip Sarkar son of late Abani Kant Sarkar, aged about 29 years, a resident of Ward No.1, Santinagar, Kokrajhar P.O and Dist.- Kokrajhar, Assam do hereby verify that, the contents from para 1 to 8 are true to my personal knowledge and belief and that I have not suppressed any material fact.

And I sign this application on the 20th day of July, 1995 at Guwahati.

Place :- Guwahati.

Date :- 20.7.95.

Pradip Sarkar
BY NATURE.

Pradip Sarkar

AX. NO. 1

-18-



TO WHOM IT MAY CONCERN

Certified that Shri PRADIP K. SARKAR

bearee of this letter is employed to the office of the
Assistant Commissioner, Spl. Bureau, Kokrajhar.

All necessary assistance extended to him in
discharge of his duties would be gratefully acknowledged.

This identity certificate is valid upto December
31th 1990 from this date of issue.

Date : 22.10.90

Place: KOKRAJHAR

Pradip. K. S. Sarkar
(SPECIMEN SIGNATURE OF HOLDER)

22.10.90
Assistant Commissioner
SPECIAL BUREAU
KOKRAJHAR
ASSAM

Attested
D. Hossain
Dohooze

TO WHOM IT MAY CONCERN

This is to certify that Shri Pradip Sarkar Son of late A.K. Sarkar, aged 27 years has been employed as a Safe House Keeper (non-regular) at Special Bureau, Kokrajhar, since 01.4. 1990.

Pradip 16/7/93

(T.T. LEPCHA)

ASSISTANT CHIEF INSPECTOR

COLLECTORATE AU

GOVT. OF INDIA

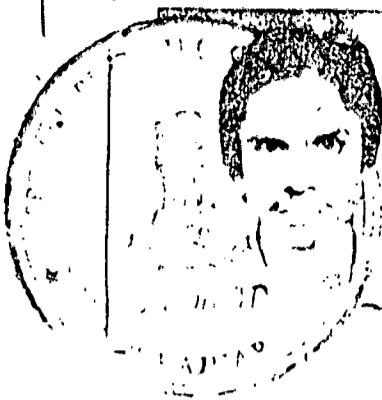
KOKRAJHAR

ASSAM

Pradip Sarkar
A.S. 22/7/93
A.P.O. Civil Hospital
Kokrajhar

Attested
J. Hossain
Advocate

P



Parash P. K. Sarkar

Full Signature of Holder.

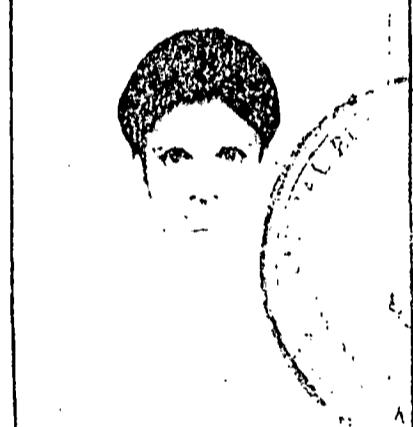
Date 22.11.91

Office of the Asstt. Commissioner
SPL. BUREAU, KOKRAJHAR
Issued to (in block letter):
Sri/Smti. Pradip Sarker
Designation: Caretaker
Address: 2/1, Bazar
KOKRAJHAR
Date of issue: 11.11.91
Valid upto: 11.11.92

Seal
Signature of the issuing authority with Postage
G. O. M.R. No. 1000

No. 8/43 Dt 9/8/83 Valid
10/04/94

IDENTITY CARD
KOKRAJHAR



Office of the Asstt. Commissioner
Spl. Bureau, Kokrajhar
Name: Pradip Sarker
Father's Name: Late A.K. Sarker
Designation: Caretaker
Address: 2/1, Bazar, Kokrajhar
Age: 26 years Height: 5.4'
Identification Mark: Scar on the nose
Signature of the issuing authority
KOKRAJHAR

VALID UNTIL 8/7/94

Abhik
S. Thomas
Abhik

IDENTITY CARD



Office of the Asstt. Commissioner
Spl. Bureau, KOKRAJHAR
Name: Pradip Sarker
Father's Name: Late A.K. Sarker
Date of Birth: 30.12.67
Designation: Caretaker
Address: KOKRAJHAR
(Shambhunagar)
Valid upto: 16.10.95
Signature of issuing authority

26 years Height: 5.11'
Identification Mark: Scar on the nose
P. Sarker

ANNEXURE NO. 4

No. 21/88/93-Cal(EH) 18846

Special Bureau,
Government of India
48A, Syed Azir Ali Avenue,
Calcutta - 700 017.

Dated : th 15.11.93

MEMORANDUM

With reference to your application for
the post of Chokidar six sets attestation forms
along with S.S.Q and one copy part-II are enclosed
herewith, which may please be filled up and returned
to the undersigned URGENTLY

Endo - As above

Sd/- Illegible
(K.K. Bangra)
Section Officer (Pers)

To :-

Sri P. Sarkar,
Special Bureau, G.O.1
P.O. & Dist. Kakrajhar
Assam.

*M. H. Khan
J. Horain
Advocate*

ANNEXURE NO. 5

To,

The Commissioner,
Special Bureau,
Govt. of India,
Calcutta.

Through Proper Channel.

Sir,

I would like to state the following few words for your kind consideration and necessary action please.

That Sir, during the month of July, 1993 I had given an interview for the post of Chowkidar at Hatikanda of this organisation after few months back the Police verification was conducted in favour of me at Kokrajhar. The same had been despatched from here vide Memo No. 2/94 7/94/PVR/35 dated 23.3.94 by the district Police. Verification carried out by the D.S.B. was sent from their office vide memo No. 8/94/PVR/31 dated 22.7.94. But till date no reply has been received by me in this connection whether I have been selected or not. Besides this, all of my colleagues those who appeared the interview along with me have received their appointment letter and already joined at their new place of postings. It is stated that I am working in this department since 1st April, 1990 and carried out my duty as S/H keeper satisfactorily. I am running my family consisting of my widow mother, wife and son in a hardship with mere salary of Rs. 1200/- in this odd days, everything is getting costlier day by day. If I would been given an opportunity to be full fledged Chowkidar I would be a great help to pull my family smoothly.

Therefore.....

*Ahmed J. Hossain
Advocate*

AX. No. 5 (Contd)

Therefore it is requested that kindly
look into the matter in humanitarian ground for
this act of kindness I shall ever remain greatful to
you.

Thanking you,

Yours faithfully,

Place : Kokrajhar

dated 20.3.95
21

Sd/- Illegible.

(PRADEEP SARKAR)

SH. Keeper.

Runikhata.

Attested
S. Churni
Advocate

TO,

The Additional Commissioner,
Special Bureau,
Government of India,
Calcutta - 18

(Through proper channel)

Sir,

I am given to understand by the Officer in charge of SB, Kokrajhar, that my services as Caretaker has been terminated on the basis of complaints lodged by some locals. Even though the exact nature of complaints against me is not clear, it may be stated that I have not done anything or committed any security lapses as far as my duty as caretaker of the office and its premises is concerned. I have always remained conscious about my duties and discharged the duties sincerely with utmost care. I have never failed in fulfilling whatever official works delegated to me by the officers and staffs of SB, Kokrajhar and Deosiri.

As far as my knowledge is concerned, I can state with confidence that the complaints lodged against me by some locals are not true and baseless. The locals who have lodged complaints might have done so purely because of personal enmity and jealousy as I am employed in the office of Central Government.

...2.

*Abdul
Jaffar
Deosari*

Annexure No. 6 (Contd)

I also beg to state that I have an aged widow mother, wife and a child. I am the only one to look after them and I have no other means of earning income for my family.

I therefore, submit this with sincere request that your order of termination of my service may most kindly be revoked and I may be re-instated by kindly allowing me to continue my service in your office.

Thanking you sir,

Yours faithfully,

Sd/. Illegible
1.4.95

(Pradip Kumar Sarker)

*Pradip
Kumar
Sarker*

ANNEXURE NO. 7

To,

The Commissioner,
Special Bureau,
Government of India,
Calcutta.

Sub. : Prayer for consideration of reinstatement

Sir,

The undersigned draw your kind attention and sympathetic consideration in respect of the matter as hereinafter stated.

1. That your poor applicant is the only earning member of the family and my old mother, wife and children are maintained by my salary.
2. That your petitioner has been serving with his utmost sincerity and devote his full time for the cause of the task entrusted on him.
3. That since his service period, i.e. from the last 5 years nothing adverse is found against your petitioner.
4. That all of a sudden your petitioner has been terminated from his service at his no fault.
5. That prior to his termination from the service no show cause was served on him and also not given any opportunity to be heard either in written or personally.
6. That your petitioner became the victim at false allegation and the allegation made against him was totally false, fabricate concocted and distortion to facts.
7. That....

*Mukund
Shivaji
Pawar*

Ax. No. 7 (Contd)

7. That the persons (as collected by me) made allegation naming them as Mr. Nath, Mr. Dhar and Mr. Paul are not their actual name. Those persons identified themselves as such name but the real name of them are Mr. Birendra Pratab Singh (Owner of the office house), Mr. Subhas and Mr. Chanchal Das. They intentionally made false personification so that the complainants name never be traced out.

8. That sir, if your good offices enquire into the matter as stated in para 7 to justify the matter then the truth will come out.

9. That sir, your petitioner noticed that owner of the office house Mr. Birendra Pratab Singh trespasses office premises and uses office telephone in absence of officer in charge which was informed by the applicant and accordingly the officer in charge warned the house owner not to use office telephone.

10. That due to objection of your petitioner Mr. Birendra Pratab Singh intimated him for harm consequences and as a result of which the owner of the office house with the connivance with two other persons made false allegation to you against your petitioner identifying themselves as Mr. Nath, Mr. Paul and Mr. Dhar.

11. That the complainants intentionally making and committing false personification caused great harm to your petitioner at his no fault.

12. That....

*Abhink
S. Thomas
Advocate*

Ax. No. 7(Contd)

12. That your petitioner for the security and sanctity of the offices requested the owner of the house Mr. Birendra Pratap Singh not to use the unused office from after the office hours.

13. That for the same owner of the house annoyed and took retaliation against your petitioner.

14. That your petitioner does not indulge himself in any other works excepting his official duty nor he is engaged in any other job.

15. That the service record and documents are enclosed for your kind perusal.

In the circumstances it is benignly prayed that your goodself would be gracious enough to look into the matter so that your poor petitioner may be reinstated to his job applying judicial mind for the ends of justice. And for this act of kindness your petitioner shall remain ever grateful to you.

Yours faithfully

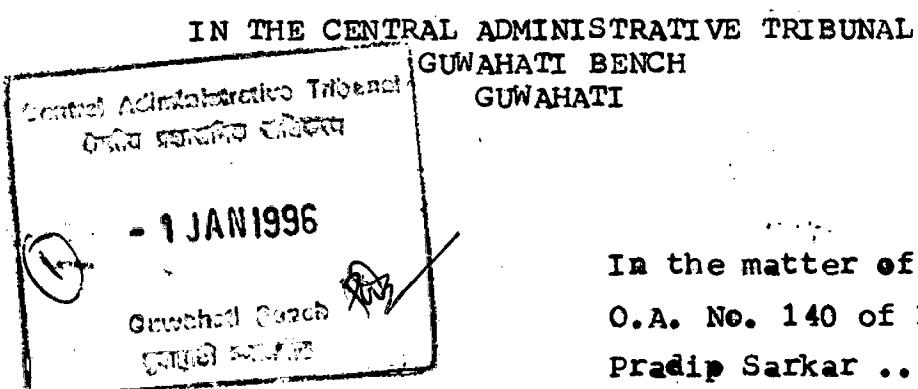
Sd/- Illegible,
14.4.95

Copy to :

(Pradip Sarkar)
Care Taker
Spl. Bureau,
P.O. Kokrajhar,
Dist. Kokrajhar.

1. Deputy Commissioner,
Spl. Bureau,
Govt. of India,
Siliguri, for information.
2. Asstt. Commissioner,
Spl. Bureau, Govt. of India.
Kokrajhar, for information.

*Albered
Hussain
Dewascha*



In the matter of :-
O.A. No. 140 of 1995
Pradip Sarkar .. Applicant
- VS -
Union of India & others
.. Respondent

Written statement/shew cause on behalf of
Respondents Nos. 1,2 & 3.

I, S. Chandrasekhar, Deputy Commissioner, Special Bureau (Govt. of India), Guwahati, do hereby solemnly affirm and say as follows :-

- 1) That I am the Deputy Commissioner, Special Bureau (Government of India) Guwahati, and 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 accept whatever is specifically admitted in the 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 the Respondents beg to state that the applicant is not a Government servant or an employee of the Government of India, his application for redressal of grievance does not fall within the jurisdiction of the Hon'ble Central Administrative Tribunal as envisaged in the Administrative Tribunal Act.
- 3) That the Respondents beg to state that the Safe House Chawkidars are like any other person whose services are used for operational work as and when required just like informers etc. Such individuals are used in the normal course of intelligence work and deployed strictly on the understanding that their services would be utilised to the extent and only till it is required and this would not entail them to any kind of claim / benefits

Contd..p/2-

X. S. Chandrasekhar
Deputy Commissioner
Special Bureau
Govt. of India
Guwahati

which may otherwise be given to any Government servant. Such individuals are also clearly told about the conditions of service and all care is taken for their welfare/well being. However, their services are only a part of the entire operational machinery and totally beyond the purview of Government service. Any facility given to them towards identity papers etc. cannot be taken as the same given to other Government servants. The applicant's contention of violation of natural justice, principles of equity, good conscience etc. and following of course of law is invalid and based on a false pretention/assumption that he is entitled to benefits due to a Government servant.

4) That the Respondents have no comments to the statements made in paragraphs 7(1), 7(2) of the applications.

5) That with reference to the statement made in paragraph 7(3) of the application the respondents beg to state that the applicant was appointed temporarily as Safe House keeper on 1-4-90 in the Office of the Assistant Commissioner (Respondent No.3) is incorrect. The applicant was engaged strictly for operational work which is not of the nature of employment as is done for normal cases of Government employees/Government servants. The nature of operational work is in public interest required to be kept secret. As such the question of any appointment as alleged by the individual is erroneous. While engaging any such person, no liability for continued engagement can be fixed on the authority concerned as such action is bound by concerns of security and national interests. Police Verification of all such persons is done on a routine basis and such verification cannot be construed as having been done towards employment to Government service. Moreover, since the applicant was engaged in the disturbed area of Kokrajhar district, Identity papers were asked for by him for his own safety and welfare without any claim to being a Government servant. Since the individual is/was not a government servant such papers cannot be said to be a proof of government service. Such papers are merely to facilitate his movement/activity which is being carried out by him in public interest.

6) That with reference to the statement made in paragraph 7(4) & 7(5) of the application the respondents beg to state that the recruitment of Chowkidhars is done as per rules and no claim of the applicant is tenable for the post since it is done strictly on merits. Any communication addressed to him on this, as was done in the instance quoted, is merely because the applicant was known to the office of Assistant Commissioner, Special Bureau, Kokrajhar. This is not any proof of being in government service as

as claimed.

7) That with reference to the statement made in paragraph 7(6) of the application the respondents beg to state that the nature of engaging such individuals is strictly for operational reasons and without any claim to government service. Such individuals cannot take recourse to the plea that their service was terminated as there is no liability whatsoever to engage their services continuously or to regularise them. They are engaged strictly for operational work in the public interest and for duties connected with national security, the exact nature of which cannot be disclosed.

8) That with reference to the statements made in paragraph 7(7) of the application the respondents beg to state that the charges are baseless and irrelevant as the action taken was strictly on security grounds and to prevent any hazard to operations of the Special Bureau.

9) That with reference to the statements made in paragraph 9(Grounds) of the application the respondents beg to state that the nature of services rendered by the applicant was strictly operational and in no manner, can it be construed to be that of a government servant. The applicant is also clearly in the knowledge of the nature of his work and has clearly breached the provisions of his engagement by violating the security of operations. Moreover, since there is no formal or even informal commitment from the office of Assistant Commissioner, Special Bureau, Kokrajhar that the applicant is appointed to government service, his claim is totally untenable and cannot be entertained.

10) The applicant has also committed serious breach of secrecy and security by Xeroxing and disclosing the operational details/nature of work of the office of Asstt. Commissioner, Special Bureau, Kokrajhar and the other offices of the Special Bureau. In view of this, the applicant has also violated the provisions under which his services were engaged and therefore would not have any claim to continued engagement. Such action would also be detrimental to national security and public interests.

10) That the respondents beg to submit that in case the applicant's erroneous contentions are upheld, this would create tremendous amount of burden both to the operational functioning

Contd..p/4-

Copy to
Supt. of Police
C.P. of Dibrugarh

(4)

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as also the financial conditions of intelligence/investigating agencies of the Government of India.

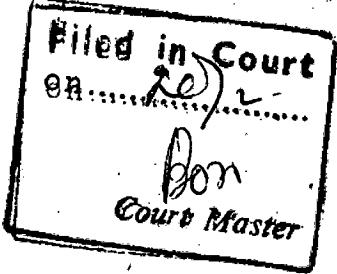
- 11) That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.
- 12) That the respondents craves leave of the Hon'ble Tribunal to file additional written statement if occasion arises.

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

I, S. Chandrasekhar, Deputy Commissioner, Special Bureau (Government of India) Guwahati, do hereby declare that the statements made in this written statement/show cause are true to my knowledge derived from the records of the case.

I sign this verification on this the 18 th day of December, 1995 at Guwahati.


S. Chandrasekhar
Deputy Commissioner
DEPONENT
S. Chandrasekhar
GUWAHATI



Filed by
Applicant
S.S. Bhattacharya
20/2/1995

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BRANCH
GUNAHATI.

I. No.

O.A. No. 140 of 1995

Pradip Sarkar

...Applicant

-Versus-

The Union of India & Others

...Respondents.

Rejoinder submitted by the
applicant against the written
statement made by the respondents
1,2 & 3.

The applicant most respectfully state as under -

1. That, as regards to the statements made in
paragraph 2 the applicant denies the correctness of the
same. The applicant begs to state that he is a temporary
Govt. servant working continuously since 1.4.90 till
his verbal termination order on 24.3.95 and as such
he falls under the Jurisdiction under this Hon'ble
Tribunal as envisaged in the Administrative Tribunal
Act.

2. That as regards statement made in para 3, the
applicant denies the correctness of the same. The

con.td....

2.

The safe House keepers are the chowkidars and look after the office works as directed by the Officials concerned. The nomenclature itself means this. The applicant was never used for any intelligence works and there was no understanding that, his service would be utilised to the extent of providing information and as such he is entitled for similar claim/benefits as given to Govt. servants. The service of the applicant is within the ~~previous~~^{purview} of Govt. service. Moreover it is pertinent to mention that no identify card is issued to the informers as is given to other staff of the department. As such the contention of the applicant regarding violation of natural justice, equity and food conscience are based on fact and law and there is no false pretension/assumption regarding his entitlement to benefits due to him.

3. That, in regards to statement in paragraphs 5, the applicant denies the contentions. The applicant was employed on 1.4.90 as ~~where~~ already stated in detail in his original application and the Hon'ble Tribunal may be pleased refer to the O. A. regarding the contention of the applicant. The applicant was never engaged in operational work and he always worked in the office of the respondents as such there is no question of effecting the security and national interests. The police verification in case of the applicant was done at a time when ~~his~~

con td..

3.

his case was considered for regular appointment of chowkidars after interview etc. while he was already in ~~homosex~~ temporary service as Safe House Keeper /Chowkidar. The identity cards are never issued to the casual informers and are issued to temporary/regular employees of the department.

4. That as regards to the statement in paragraph 6, the applicant states that, he was selected for the post of chowkidar after due interview etc. and all the ~~preliminary~~ ^{formalities} ~~promotions~~ were completed. His appointment was not given effect to, because of some false allegations by some persons as already stated in para 7 of the O.A. The respondent authorities communicated through the Asstt. Commissioner because the applicant was serving under him at the relevant period.

5. As regards to statement in paragraph 7, there may be provisions of engaging individuals strictly for operational reasons and they may not have any claim for Govt. service. But the applicant cannot come under purview of such engagements as he was appointed as Safe House keeper/chowkidar for Office work.

6. That, as regards to statement in paragraph 8 the applicant denied that charges are baseless and irrelevant and there was no question of any hazard to operation of the Special Bureau.

contd...

36
18

7. That, as regards to statement in paragraph 9, the applicant denies that his service was operational. It is to submit that, he was engaged for doing office work only like other chowkidars in regular posts. As such the applicant is deemed to be a temporary Govt. servant. The applicant vehemently denies the contention of the respondents that he has breached the provisions of his service by violating the security of operations. He has done nothing against the security operations and has not divulged anything in this regards and the same can be assumed by perusing the original application. The commitment of the respondent authorities regarding appointment of the applicant in Govt. service does not arise as he was already in temporary post of chowkidar. As such the applicant has a claim for regularisation of his service.

8. That, as regards to statements in paragraph 10 the applicant denies the contention of the same. There will not be any amount of burden to the operational functioning and financial ~~and~~ conditions of the agency of the Govt. if his contentions in the O.A. is upheld.

9. That as regards to statements in paragraph 11, the applicant is entitled for relief as prayed for in the application and the respondent authorities may be directed to regularise the service of the petitioner.

contd.

5.

10. That, the applicant further states that, the fact of being an employee of the respondents organisation can be proved by the fact that, the Assistant Commissioner (Respondent No.3) wrote a letter of Police, Kokrajhar ^{Dt. 18/3/95 to the Subdt} regarding his intervention in a case of assault upon the sister of the applicant by one Sontosh Debnath. In this letter the respondent No.3 stated that the bearer of the letter (applicant) is an employee of the organisation. If the applicant would not have been a employee of the respondents, then the respondent No.3 would never have mentioned the applicant as an employee of his organisation.

The typed copy as well as the photocopy of the letter dated 18.3.95 are annexed herewith as Annexure A.& B respectively.

11. That the applicant submits that, the Govt. of India, Deptt. of personal and Training vide a notification dated 10.9.93 formulated a scheme for grant of temporary status and regularisation of casual workers who have rendered one year of continuous service in Central Govt. Services other than Deptt. of Telecom, post and Railways.

The copy of the Notification dated 10.9.93 regarding grant of temporary status to casual employees is annexed herewith as Annexure-B.

12. That the applicant further submits that, if he ~~is not~~ ^{taken} back and regularised in service then he will suffer irreparable loss and injury and the whole family will die of starvation. As such this Hon'ble Court may be

contd..

6.

pleased to intervene into the matter and pass appropriate order for regularisation of the service of the applicant in the interest of justice.

Verification

I, Shri Pradip Sarkar, son of Late Abani Kanta Sarkar, aged about 29 years, a resident of Ward No.1, Santinagar, Kokrajhar, P.O. & District-Kokrajhar, Assam do hereby ~~take~~ verify that the contents from paragraph 1 to 10 are true to my personal knowledge and belief and that I have not suppressed any material fact.

And I sign this verification on this the 1th day of February, 1996.

Place - Guwahati

Pradip Sarkar

Signature.

Date - 1/2/96

Annexure No. A.

To

The Superintendent of Police
District Kokrajhar, Assam.

Respected Sir,

Myself presently holding the charge of Assistant Commissioner of Special Bureau, Govt. of India Kokrajhar. My senior officer respected Shri Y.C. Modi, an IPS Officer is well known to you. During his visit in September, 1994 at Kokrajhar we met each other.

The bearer of this letter is also an employee of our organisation. His sister Smti. Usha Rani Roy wife of Shri Ashutosh Roy of Subashpally, Kokrajhar was seriously beaten with an iron rod and assaulted on 13.2.94 at 0830 hours by one Shri Santosh Debnath alongwith his two sons Liton Debnath and Tutan Debnath. More details if you desire you can learn from the letter bearer.

Now your kind honour is requested to look into the matter on humanitarian ground. For this act your kindness I shall remain grateful to you.

Due to some urgent works I am unable to personally meet with you for his home you will not mind.

Thanking you.

Yours sincerely.

Sd/- Illegible

18.2.95

(S.P.CHAKARBORTY)
ASSISTANT COMMISSIONER
SPECIAL BUREAU
GOVT. OF INDIA
KOKRAJHAR :::: ASSAM.

*Abhijit
Jhorai
Debnath*

40

AX NO. B.

-8-

The Superintendent of Police,
Dist : Kokrajhar,
Assam.

Respected Sir,

My self presently holding the charge of Assistant Commissioner of Special Bureau, Govt. of India, Kokrajhar. My senior Officer respected Shri Y.C. Modi an IFS Officer is well known to you. During his visit in September 1994 at Kokrajhar we met each other.

The bearer of this letter is also an employee of our organisation. His sister Mrs. Usha Pani Roy wife of Mr. Ashutosh Roy of Dibrupur, Kokrajhar was seriously beaten with an iron rod and ~~knifed~~ and assaulted on 13.2.94 at 0830 hrs by one Shri Santosh Debbarma along with his two sons Niton Debbarma and others. On the same date 13.2.94 you can be pleased to see our file.

May your kind favour is requested to look into the matter in its expeditious way. For this your act of leniency I shall remain grateful to you.

Due to over workload I am unable to personally meet with you on this occasion. I do not mind.

Thanking you

Yours Sincerely,

(S.P. CHAKRABORTY)
13.2.94

(S.P. CHAKRABORTY)
ASSISTANT COMMISSIONED
SPECIAL BUREAU
GOVT. OF INDIA
KOKRAJHAR
ASSAM.

*Abhijit
Chakraborty
Advocate*

ANNEXURE-17 C.

GOVT. OF INDIA, Dept. of Per. & Trg. No. 51016/2/906/att.
(C) dated 10-9-1983.

Scheme for Grant of Temporary Status & Regularisation
of Casual Workers.

The guidelines in the matter of recruitment of persons on daily-wage basis in central government offices were issued vide this department's O.M. No. 49014/2/88-lett(C) dated 7-6-1988 (G.O. No. 310 of Ministry's Annual, 1988). The policy has further been reviewed in the light of the judgment of the CAT, Principal Bench, New Delhi, delivered on 16-2-1990, in the writ petition filed by Shri Raj Kaul and others v. Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7-6-1988 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in central government offices other than Department of Telecom, Posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance, etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in O.M. dated 7-6-1988. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

LIBERALLY

Department of Personnel & Training, Central Government
of Temporary Status & Regularisation Scheme.

3. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India 1983".

Abdul Ghani Phool

Contd...

CONTINUATION OF APPENDIX C

1. This scheme will come into force with effect from 1-7-1979.

2. This scheme is applicable to casual labourers in employment of the ministries/departments of Government of India and their attached and subordinate offices, on the date of issue of this order. But it will not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

3. **Temporary status**

3.1. Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this order who have rendered a continuous service of at least one year, which means that they must have been employed for a period of at least 240 days (209 days in the case of offices observing 8 days week).

3.2. Such conferral of temporary status would be without reference to the creation/availability of regular posts.

3.3. Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The assignment will be on daily rates of pay as per the scale he may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

3.4. Such casual labourers who require temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for specific posts.

3.5. Temporary status would entitle the casual labourer to the following benefits:-

*After 1st Jan 1979
Casual Labourer*

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- (i) Wages at daily rates with reference to the structure of the pay scale for a corresponding regular Gr. 'D' official including DA, HRA and CCA.
- (ii) Benefits of increments at the same rate as applicable to a Gr. 'D' employees would be taken into account for calculating pro rata wages for every one year of service subject to performance of duty for at least 240 days (200 days in administrative offices observing 6 days week) in the year from the date of confirmation of temporary status.
- (iii) Leave entitlement will be on a pro rata basis at the rate of one day for every 10 days of work. Casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularization. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
- (iv) Maternity leave to lady casual labourers admissible to regular Gr. 'D' employees will be allowed.
- (v) 30% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularization.
- (vi) After rendering three years' continuous service after confirmation of temporary of this, the casual labourers would be treated on par with temporary Gr. 'D' employees for the purpose of contribution to the general service.

M. M. Jaffer Jharkotra

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Fund, and would also further be eligible for the grant of Festival Advance, Flood Advance on the same conditions as are applicable to temporary Or. 'D'. employees, provided they furnish two signatures from permanent Government servants of their Departments.

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

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

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

8. Procedure for filling up of Cr. 'D' posts :-

1. Two out of every three vacancies in Or. 'D' cadre in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by

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Continuation of Annexure C

Department of Per. & Trg. from amongst casual workers with temporary status. However, regular or 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularization will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularization of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.
10. In future, the guidelines as contained in this Department's OM dt. 7-3-1983 should be followed strictly in the matter of engagement of casual employees in central government offices.
11. Department of Per. & Trg. will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

After discussion