

50/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

RA 9/97 under para 10 2

Final order dt 14.5.99 210
common order RA 7, 8
2, MP 290/97 Final order para 10 7 9 & 10/97
Albaid 3.3.98 common order MP 292, 299
290 & 291/97

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O.A/T.A No. 141/95
R.A/C.P No. 9/97
E.P/M.A No. 290/97

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SECTION OFFICER (Judl.)

CEILING ADMINISTRATIVE TRIBUNAL, GUWAHATI

ORIGINAL APPLN. NO. 141 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.)

.....S.K. Das & L. Anon APPLICANT(S)

-VS-

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

FOR THE APPLICANT(S)

...MR. B.K. Sharma
MR. B. Mehta
MR. S. Sarma

FOR THE RESPONDENTS

...MR. S. Ali, Sr. C.G.S.C.

OFFICE NOTE

DATE

ORDER

28.7.95

Mr. S. Sarma for the applicant.

Mr. S. Ali, Sr. C.G.S.C. for the respondents on notice.

Having regard to the nature of the relief sought the case of each applicant will have to be examined separately. Hence we refuse leave to the two applicants to join in a single application as orally prayed. This O.A. shall be treated as filed for applicant No. 1. The applicant No. 2 is given liberty to file a separate O.A. and it will be assumed to have been filed on the date on which this application has been filed.

In view of the interim order passed on O.A. 138/95 which raises similar question and has been admitted, the instant O.A. is admitted. Issue notice to the respondents. Written Statement to be filed on or before 20.9.95.

During the pendency of the O.A. the operation of the impugned orders dated 9.3.95 and 30.6.95 is stayed. The respondents however, will be at liberty to apply for variation of this order if so advised on giving 48 hours prior notice to the applicant's Advocate. Adjourned to 20.9.95.

This application is in form and within time. E. F. of Rs. 50/- deposited vide PO/BD No. 384291 dated 17.7.95

R. Panda
27/7
Pud

22

O. A. No. 141/95

28.7.95 The above interim order shall operate in favour of both the applicants subject to leave granted to bifurcate these applications.

Requisites are made
& send v.m. 3425-27
& 28495
1/2/95

Member

Vice-Chairman

trd

76/397995

Notice Served on

R.O. 1 & 2 29.11.95 Adjourned to 3.1.1996 for fixing date of hearing.

for 8/9

Member

Vice-Chairman

w/ statement - has not been filed

trd

20/9/95

76/29/4

20.9.95

for hearing

on 29.11.95

22.2.96

for hearing on 3.4.96

Box

w/ statement - has not been filed

By order Box

26/11

3.4.96

Learned Sr.C.G.S.C Mr S.Ali is present. Written statement has not been submitted.

List on 14.5.96 for written statement and further orders.

w/ statement - has not been filed

3.1.96

21/11 Do be listed for hearing

Member

22.2.96
Box

ICE NOTE

DATE

ORDER

14-5-96

Learned counsel Mr.B.K.Sharma for the applicant. Mr.S.^Ali, Sr.C.G.S.C. for the respondents.

List for hearing on 21-6-96 . In the meantime respondents may submit written statement.

lm

Member

21-6-96

None is present. Written statement has not been submitted. List for hearing on 19-7-96. In the meantime respondents may file written statement.

lm

Member

19.7.96

Mr B.Mehta for the applicant.

Written statement may be submitted by the respondents within 19.8.96.

List on 19.8.96 for hearing.

pg

Member

16.8.96

Mr. S. Sarma for the applicants.

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

Written statement has not been submitted. Mr. Ali seeks for further time for filing written statement.

List for hearing on 16.9.96. In _____ the meantime respondents may submit written statement with a copy to the opposite party.

Member

trd

19/8

Wt statement has not been filed
19/7

Wt statement has not been filed
16/8

(4)

O.A. 141 of 1995

1) NO rejoinder on Respdt 16.9.96
no 1 & 2
2) w/ statement - has not been
f.w.

Mr. S.Sarma present for the applicants.

List for hearing on 10.10.1996.

ba
Member

2/10

trd
m
16/10

10.10.96

Learned counsel Mr S. Sarma for the applicant. Mr S. Ali, learned Sr. C.G.S.C. for the respondents. Written statement has not been submitted. However, list for hearing on 28.11.96. Mr Ali may file written statement in the meantime.

w/ statement - has not been
f.w.

ba
Member

27/11

nkm

28.11.96

Mr. S.Sarma for the applicant.

Written statement has ~~not~~ been submitted.

List for hearing on 19.12.1996.

ba
Member

trd
m
28/11

30.1.97

This case be listed for hearing on 10.3.97.

ba
Member

SB
Vice-Chairman

28.11-96

w/ statement filed by m

R. No. 1, 2 & 3.

6-3-97

1) NO rejoinder has been filed.

nkm
m
6/12

2) memo of appearance not yet filed.

m
6/13

10-3-97

On the request of Mr. B.K.Sharma counsel for the applicant case is adjourned to 27-3-97.

ba
Member

SB
Vice-Chairman

The case is ready for hearing as regards service w/s

lm
m
11/3

O-A 141/95

27.3.97

Heard Mr S.Sarma, learned counsel for the applicant and Mr S.Ali, learned C.G.S.C for the respondents at some length. Mr Ali is directed to produce record. Part heard.

List on 1.4.1997 for further ~~xx~~ hearing as first item.


Member


Vice-Chairman

pg

q
3113

30.5.97

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

9.6.97

Copy of the Judgment has been sent the parties through Regd. Mail A/O vide D.No. 2023 to 2026 on 9.6.97 or 2017 or 6.6.97

nkm

Copy of Judgment also sent to the Reporter vide D.No. 14.5.99

Judgment and order dated 30.5.97 is modified vide order passed today in R.A.No.9/97.

Member

Vice-Chairman

pg

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

O.A. NO. 138/95; O.A.No.141/95; O.A.No.145/95 & O.A.No.144/95

T.A. NO.

DATE OF DECISION 1.4.1997

1. Ms Anjali Thakuria (O.A.No.138/95)
- 2) Shri Shyamal Kr Das & Shri Ratan Talukdar (O.A.No.141/95)
- 3) Shri Ratan Talukdar (O.A.No.145/95)
- 4) Ms Manju Barman (O.A.No.144/95)

(PETITIONER(S))

Mr D.K. Mishra, Mr C.T. Jamir,
Mr B.K. Sharma and Mr B. Mehta.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Mr S. Ali, Sr. 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

L. Baruah

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.138 of 1995
Original Application No.141 of 1995
Original Application No.145 of 1995
Original Application No.144 of 1995

Date of decision : This the 1st day of April 1997

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

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

O.A.No.138/95

Ms Anjali Thakuria,
Casual Worker, Regional Passport Office, Guwahati,
Ministry of External Affairs,
Government of India.

.....Applicant

By Advocate Mr D.K. Mishra and Mr C.T. Jamir.

-versus-

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of External Affairs, New Delhi.
2. Chief Passport Officer,
Ministry of External Affairs,
Government of India,
New Delhi.
3. Regional Passport Officer,
Basistha Road, Guwahati.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

O.A.No.141/95

1. Shri Shyamal Kr Das
2. Shri Ratan Talukdar

Both are working as Casual Workers in the
Office of the Regional Passport Officer, Guwahati,
Ministry of External Affairs, Government of India.

.....Applicants

By Advocate Mr B.K. Sharma and Mr B. Mehta.

-versus-

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of External Affairs, New Delhi.
2. Chief Passport Officer,
Ministry of External Affairs,
Government of India, New Delhi.
3. Regional Passport Officer,
Basistha Road, Guwahati.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

O.A.No.145/95

Shri Ratan Talukdar,
Working as Casual Worker in the
Office of the Regional Passport Officer, Guwahati,
Ministry of External Affairs, Government of India.

.....Applicant

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

-versus-

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of External Affairs, New Delhi.
2. The Chief Passport Officer,
Ministry of External Affairs,
Government of India, New Delhi.
3. The Regional Passport Officer,
Basistha Road, Guwahati.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C. and
Mr G. Sarma, Addl. C.G.S.C.

O.A.No.144/95

Ms Manju Barman,
Working as usual Worker in the
Regional Passport Office, Guwahati,
Ministry of External Affairs, Government of India.

.....Applicant

By Advocate Mr D.K. Mishra and Mr C.T. Jamir.

-versus-

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of External Affairs, New Delhi.
2. The Chief Passport Officer,
Ministry of External Affairs,
Government of India, New Delhi.
3. The Regional Passport Officer,
Basistha Road, Guwahati.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

.....
ORDER

BARUAH.J. (V.C.)

All the above original applications involve common questions
of law and similar facts. Therefore, we propose to dispose of all
the applications by a common judgment.

2. The applicants in the above original applications were
appointed on various dates by the Department of Passport. They

were engaged casual labourers in the Regional Passport Office, Guwahati, under the Ministry of External Affairs, Government of India. Ms Anjali Thakuria, applicant in O.A.No.138/95, was engaged on and from 12.7.1991; Shri S.K. Das, applicant in O.A.No.141/95, and Shri R. Talukdar, applicant in O.A.No.145/95, were engaged on and from 22.6.1992 and 23.6.1992 respectively; and Ms Manju Barman, applicant in O.A.No.144/95, was engaged on and from 1.11.1991, and since their engagement they had been working as casual employees. They were allocated duties of lamination, verification of particulars, etc. Besides this, they were also assigned in various other duties connected to the passport. On 10.9.1993, the Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, Government of India, issued an Office Memorandum No.51016/2/90-Estt(C) dated 10.9.1993, forwarding a Scheme for grant of temporary status and their regularisation thereafter. Accordingly all the applicants were granted temporary status by order No.Pass/Gau/37/88 dated 10.5.1994, with effect from 1.9.1993, i.e. the date on which the Scheme came into force. After the granting of temporary status, the applicants continued to work as such. Under the said Scheme the casual workers who rendered continuous service for more than 240 days in case of 6 days a week or 206 days in case of 5 days a week, were entitled to get the temporary status and the consequential benefit thereof. After awarding the temporary status the applicants were given the consequential benefits as per entitlement under the Scheme. In the said Scheme, the applicants or other employees of similar nature would continue to get the benefits until they were regularly absorbed. The applicants, thereafter, continued to hold temporary status for about two years, when, on 9.3.1995 the temporary status already granted to the applicants by order dated 10.5.1994 was cancelled as the temporary status so granted was found to be in contravention with the rules. Thereafter, by notice dated 30.6.1995 the authorities

disengaged.....

disengaged the applicants with effect from 1.8.1995. This notice was issued giving one month notice to the applicants. Hence the present application.

3. All these applications had been filed on different dates. At the time of admission this Tribunal also granted interim order protecting the applicants by staying the order of cancellation dated 9.3.1995 and also notice dated 30.6.1995. The respondents have filed written statement in all the cases.

4. The contentions of the applicants are that the applicants being entitled to get the temporary status the authorities granted temporary status on 10.5.1994 and they continued to get the benefit of the temporary status for about two years next and suddenly by order dated 9.3.1995 temporary status thus granted was cancelled without serving any notice. According to the applicants this was arbitrary and violative of the principles of natural justice. The respondents, on the other hand, in their written statement have stated that as there was no work continuation of their employment was not possible. Besides, according to the respondents, the applicants were engaged in contravention of the rules, namely, that they have not been sponsored by the Employment Exchange.

5. We have heard Mr B.K. Sharma, learned counsel for the applicants in O.A.Nos.141/95 and 145/95 and Mr D.K. Mishra assisted by Mr C.T. Jamir, on behalf of the applicants in O.A. Nos.138/95 and 144/95. We have also heard Mr S. Ali, learned Sr. C.G.S.C. and Mr G. Sarma, learned Addl. C.G.S.C. on behalf of the respondents. Learned counsel for the applicants submit before us that the action of the respondents in cancelling the grant of temporary status was arbitrary, unreasonable and in utter violation of the principles of natural justice. Learned counsel further submit that the applicants after having been granted temporary status

were.....

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were entitled to continue as per the rules. The order dated 10.5.1994 was cancelled depriving valuable rights of the applicants, that too, without giving any opportunity of hearing. The learned counsel for the applicants also submit that the cancellation of the temporary status and subsequent removal by giving notice was not reasonable. This order was passed only for an oblique purpose to oust the applicants. Mr. S. Ali, on the other hand, has supported the action of the respondents. He submits that a notice was given as contemplated under the Scheme. According to him notice of removal was the notice which was contemplated. Besides this, Mr Ali also submits that as stated in the written statement there was no job where the casual workers could be engaged. In view of the that, according to Mr Ali, the impugned action of the respondents was just, reasonable and passed in accordance with the rules.

6. On the rival contentions of the learned counsel for the parties, it is now to be seen whether the cancellation of the order dated 10.5.1994 by a subsequent order dated 9.3.1995 can sustain in law.

7. We have perused the pleadings and also the impugned orders. It is an admitted fact that the applicants were engaged casual labourers and they continued to serve the department for more than 240 days, and as per paragraph 4(i) of Annexure-1 to the Scheme, casual workers serving for more than 240 days are entitled to be given the temporary status. We quote para 4(i).

"Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week)."

Thus para 4(i) indicates that the casual labourers who were engaged on the date of issuance of the O.M., i.e. 10.9.1993, and continuously served.....

served for 240 days they would be entitled to get the status of temporary workers and this conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts. Besides, conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement would be on daily rated on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work, and such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

8. Admittedly, the applicants were engaged prior to the date of issue of the O.M. dated 10.9.1993 and they had been working for more than 240 days. Therefore, they were entitled to get the benefit of temporary status. But, the order dated 10.5.1994 granting temporary status to the applicants was cancelled vide order dated 9.3.1995 on the ground that their engagement was not in accordance with the rules. However, the order was not at all clear. What rules had been followed for disengaging the applicants have not been stated in the order itself. The records have been placed before us. Mr Ali has not been able to show us any office note indicating as to what rules had been followed so far engagement of the applicants as casual employees was concerned. The office record is absolutely silent in this regard. However, a stand has been taken in the written statement that there was paucity of work and as a result their temporary status had been cancelled and thereafter notices were issued terminating their services.

9. It is true that as per the Scheme itself the casual employees could be removed by giving one month notice, but, so far as cancellation of temporary status is concerned there must be some reason, and as the applicants were not given an opportunity

of.....

12 of hearing the cancellation of the order dated 10.5.1994, granting temporary status to the applicants, was illegal and violation of the principles of natural justice. Besides, the termination itself, we do not find from the records any valid ground. The ground of paucity of job is not supported by records. Mr Ali, at least has not been able to show. The written statements in all the cases were filed by the Regional Passport Officer of the department. But, it is common knowledge that an officer who is discharging his duties day to day cannot be expected to verify each and every fact. The verification part of the written statement shows that all the statements were verified as true to the knowledge, belief and information. This has been verified in a form without stating which parts are true to his knowledge, which parts are true to his belief and which parts are true to his information. Besides, paucity of work can be said only from the record. Mr Ali has very fairly submitted before us that he has gone through the records and he could not find anything regarding non-availability of the work. Mr B.K. Sharma has also drawn our attention to the fact that the officer competent to pass order did not pass the same on his own. It was at the diktat of the higher authorities. In this connection Mr Sharma has urged us to look to the record. On going through the record we find that there is a letter dated 17.4.1995 issued by S.N. Goswami, Regional Passport Officer. In paragraph 2 of the said letter he informed the Under Secretary(PVA), Ministry of External Affairs, New Delhi, as follows:

"We have been advised vide A.O.(PV.IV) letter mentioned above to serve disengagement notice to the casual labourers stated to be on the ground that work load of this office does not justify engagement of casual labourers for further period.

These casual labourers were engaged by my predecessors apparently in the interest of work of the office. However while doing so, formality was not observed. In the meantime these casual workers have completed more than 3 years of service in this office.

Though this office is having at present full strength of staff as per allotment quota indicated by the ministry, yet it is felt that if all the daily workers are disengaged immediately, it will have impacts on the work.

In view of above and taking into consideration humane aspect of the issue, it is once again requested to reconsider the decision of the ministry and as a very special case approve (Ex-post-facto) engagement of the casual workers of this office.

For sympathetic consideration please."

We find that a format was given by the Ministry of External Affairs. According to Mr Sharma those will go to show that the authorities having the power to decide had abdicated its authority and left it to the Central Government. We find sufficient force in the submission of Mr B.K. Sharma in this regard. All these go to show that the applicants' temporary status had been stripped off without any reasonable ground and without affording an opportunity of hearing. All these have persuaded us to come to a conclusion that the order dated 9.3.1995 cancelling the order dated 10.5.1994, giving temporary status to the applicants, was passed without any reasonable ground. In this respect the action of the respondents were devoid of any reason and it was unfair, besides, this being violative of the principles of natural justice. Considering all these aspects we come to the conclusion that the action of the respondents in cancelling the order awarding temporary status and subsequent notice terminating their engagement cannot sustain in law. Accordingly we quash the same.

10. In their written statement the respondents have made an averment that the engagement of the applicants as casual labourers was irregular as they had not been sponsored by the Employment Exchange. We have perused the Scheme. We do not find anything to suggest that the casual employees are to be sponsored by the Employment Exchange. Mr Ali has drawn our attention to a clarification.....

clarification note issued by the Under Secretary. In our opinion the clarification cannot take the place of the Scheme and we consider that this is not a part of the Scheme. In this connection a reference can be made to a decision of the Full Bench of the Tribunal in Raj Kamal and others -vs- Union of India, reported in 1990 SLJ (Vol.2) CAT 176. In the said judgment the Full Bench observed that temporary status of casual workers cannot be taken away on the ground that they were not sponsored by the Employment Exchange. We quote the relevant portion.

"..... The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if at the time of their initial engagement, they were within the prescribed age-limit."


This decision clearly indicates that sponsorship by the Employment Exchange is not a condition precedent for employment, though it is advisable.

11. Mr S. Ali has informed us that two posts are at present lying vacant and services of two out of the four applicants can be regularised. If that be so, we recommend the respondents to regularise the services of two of the four applicants after taking into consideration of all aspects. The other two shall continue to have right of temporary status until they are absorbed on a regular basis as per the Scheme.

12. The application is accordingly disposed of with the above observation.

13. 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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
(An application under Section 19 of the Administrative
Tribunals Act, 1985)

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

Shri Shyamal Kr. Das & Another ... Applicants

- Versus -

The Union of India & Others Respondents

I N D E X

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For use of Tribunal's office :

Date of filing :

Registration No. :

REGISTRAR

Received copy.
C. S. CGSC
24/7/95

Shyamal Kumar Das

Filed by Mr.
appellant Chronom.
Pravin Dutta

9.16.7.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O.A. No. _____ of 1995

BETWEEN

1. Shri Shyamal Kr. Das,
2. Shri Ratan Talukdar,

At present both are working as casual workers
in the office of the Regional Pass Port Officer,
Guwahati, Ministry of External Affairs,
Government of India,

... Applicants

AND

1. Union of India,
represented by the Secretary to the
Government of India, Ministry of
External Affairs, New Delhi.
2. Chief Passport Officer,
Ministry of External Affairs,
Government of India,
New Delhi.
3. Regional Passport Officer,
Guwahati, Rani Bagan,
Basistha Road,
Guwahati, Assam.

... Respondents.

DETAILS OF APPLICATION

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

- (a) Government of India, Ministry of External Affairs,
Regional Passport Officer, Guwahati, office order No.
Pass/Gaup87/88 dated 9.3.95, withdrawing temporary
status granted to the applicant.

Contd...P/2.

(b) Government of India, Ministry of External Affairs,
Regional Passport Office, Guwahati office order No.
Pass/Gau/37/88 dated 30.6.95 by which the applicants
were served one month notice prior to disengagement
from service w.e.f. 01.08.95 (F.N.).

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the applicants are citizens of India and at
present working as casual workers in the office of the
Regional Passport Officer, Basistha Road, Guwahati and
permanent residents of Assam and as such, they are entitled
all the rights and privileges guaranteed under the
Constitution of India.

4.2 That both the applicants have passed the H. S. L. C.
Examination. They hail from very poor families and could
not prosecute their further studies. They got their names
registered in the Employment Exchange in search of
employment. Their respective Employment Exchange Registration
Nos. are 1126/94/90 and 15469/91.

Contd...P/3.

4.2 Copies of the Registration Identity cards are annexed herewith as ANNEXURES-A and A1.

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Sujamal Kumar Das

4.3 That the respondent No. 3 needed casual workers to bring daks, deposit of telegrams, making file covers etc. in connection with issue of passports and accordingly the applicants were engaged as casual workers in the office of the Respondent No. 3, on 22.6.92 and 23.6.92 respectively on payment of daily wages. The applicants worked sincerely and with utmost devotion and to entire satisfaction of the Respondent No.3, and other superior officers. The superior officers appreciated the applicants for their serious efforts of discharging their duties.

Copies of the letter dated 25.7.95 by which the applicant No. 1 was engaged since 22.6.92 on daily wage basis and ~~and~~ letter dated 25.7.95 by which the applicant No. 2 was engaged since 23.6.92 on daily wage basis are annexed herewith as ANNEXURES-B and B1 respectively;

4.4 That the applicants have been assigned various type of jobs from time to time and they still continue to perform duties as are being entrusted to them. The applicants give below the particulars of duties assigned to them from time to time:

- (a) By order No. Pass/Gau/45/79 dated 25.8.92, applicant No.1 was allotted the duties of bringing dak, deposit of telegram, speed post letters to the postal authorities and other works entrusted by RTO from time to time.

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- (a-1) By order No. Pass/Gau/45/79 dated 25.8.92 the applicant No.2 was allotted the duties of making file covers of all fresh cases received at counter and by post within two days.
- (b) By order No.Pass/Gau/45/79 dated 11.3.93 the applicant No.1 was assigned to attach to Record Section, Orderly arrangement of files in the Record Room/ linking of old files. Attend to postal work whenever asked to do so.
- (b-1) By order No.Pass/Gau/45/79 dated 11.3.93 the applicant No. 2 was attached to Indexing Section/carry and deliver daks to SB office in the evening.
- (c) By order No. Pass/Gau/45/79 dated 7.6.93, the applicant No. 1 was engaged in issuance/arrangement of file in the Record Room.
- (c-1) By order No.Pass/Gau/45/79 dated 7.6.93, the applicant No.2 was engaged in arranging of files in Record Room.
- (d) By order No. Pass/Gau/45/79 dated 21.2.94, the applicant No. 1 was engaged in pasting and laminating of passport and verification of particulars of passports at page 1 and 36 with the application form.
- (d-1) By order No. Pass/Gau/45/79 dated 21.2.94, the applicant No. 2 was engaged in proper placing of file in the Record Section and searching of old files. Record Section will seriously be maintained by R.K. Talukdar he would see at no one can enter in the Record Room for finding of old record/papers etc. &

In absence of R. Talukdar, Shri T. Das will maintain the Record Room temporarily.

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a scheme for grant of temporary status and regularisation of the casual labourers. This scheme is called as 'Casual Labourers (grant of temporary status and Regularisation) Scheme of Government of India, 1993.'

This scheme came into force with effect from 1.9.93, According to the said scheme all casual labourers/workers who have rendered continuous service of atleast one year shall be granted temporary status, certain benefits were also granted to casual workers on par with group D employees. The aforesaid scheme was circulated vide office memo No.51016/2/90-Estt(c) dated 10th September 1993.

Copies of the memorandum dated 10th Sept. 1993 and the scheme referred to above are enclosed herewith and marked as ANNEXURES F and G respectively.

4.7 That inspite of the aforesaid scheme and the instruction contained in memo dated 10.9.93, no temporary status much less regularisation was conferred on the applicants and they continued to discharge their duties as casual labourers. By office order No.2/94 dated 21.2.94, the applicants No.1 was allotted the duties of pasting and lamination of passport and verification of particulars of passport at page 1 and 36 with the application form and the applicant No. 2 was assigned the duties of proper placing of files in the Record Section and screening of old files. Record Section will strictly be maintained by R.K. Talukdar, vide Annexure-D1.

Contd...P/7.

Shyamal K. Das
22

4.8 That the applicant further states that ultimately the respondent No. 3 granted temporary status to the applicant alongwith other casual labourers with effect from 1.9.93 vide order No. Pass/Gau/37/88 dated 10th May 1994.

A photocopy of the order dated 10.5.94 is annexed herewith as ANNEXURE-H.

4.9 That the applicants have reasonable expectations that their services will be regularised in terms of regularisation scheme, but they were shocked to see the office order No. Pass/Gau/37/88 dated 9.3.95, almost a year after confirmation of temporary status upon them, by which the temporary status granted to them was cancelled allegedly on the ground that the same was in contravention of rules.

Photocopy of the office order No. Pass/Gau/37/88 dated 9.3.95 is annexed herewith and marked as ANNEXURE-I.

4.10 That the applicants submitted representations to Respondent No. 3 on 6.7.95 requesting the said respondent inter alia to regularise their services as they are working as casual labourers for the last four years without any break.

4.11 That while the ~~an~~ applicants were waiting for a positive response from the respondents, they were served with termination notice on 30.6.95 intimating them that their services will not be required in the office of the respondent No. 3 with effect from 1.8.95. It is also ~~mentioned in the~~ mentioned in the said notice that as the specific work for which the applicants were engaged, has since been completed.

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~~4.11~~ Copy of the termination notice dated 30.6.95 is annexed herewith and marked as ANNEXURE-J.

4.12 That prima facie the impugned orders are illegal arbitrary and violative of principles of natural justice. Before issuance of such order, the applicants were not given any opportunity whatsoever to explain their cases. Be it stated here that apart from the applicants there are three more casual workers in the office of the Respondent No. 3. All these five casual workers are similarly placed under same service conditions. Be it further stated that the vacancies are available to accommodate all the five casual workers. One Ms. Anjali Thakuria a fellow casual workers like that of the applicants has also been issued with similar termination notice after cancelling the order of ~~termination~~ temporary status like that of the applicants. ~~They~~ She has already comes under the protective hands of this Hon'ble Tribunal by filing O.A. No. 138/95 and this Hon'ble Tribunal while admitting her case on 21.7.95, has been pleased to stay the impugned orders. ~~xxx~~

A copy of the said order dated 21.7.95 is annexed herewith and marked as ANNEXURE-K.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That after working as casual labour in the office of Respondent No. 3 for more than 4 years, the termination of the applicants by giving notice is a very harsh and hard decision and is liable to be set aside.

Contd...P/9.

Shyamaal K. B. Dey
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5.2 That the applicants state that to the best of their knowledge no rules have been framed for granting temporary status and regularisation of the casual labourers/workers and conferment of the temporary status and regularisation are governed by the Regularisation Scheme of Govt. of India, 1993. Accordingly, the cancellation of the temporary status granted vide order dated 10.5.94 is wholly illegal and in violation of the Regularisation Scheme, 1993.

5.3 That the applicants state that no opportunity was given to them before cancelling the temporary status granted to them and as such order dated 9.3.95 is violative of the principles of natural justice.

5.4 That the office order dated 10.5.94 granting temporary status to the applicants created a right in favour of the applicants and that right cannot be taken away without complying with the principles of natural justice.

5.5 That the applicants respectfully state that after granting them the temporary status they were conferred with all the benefits as contained in para 5 of the casual labourers (grant of temporary status and Regularisation) Scheme of Government of India, 1993 (hereinafter referred to as the Regularisation Scheme) and the same cannot be taken away in this manner.

5.6 That the disengagement notice dated 20.6.95 is wholly illegal and against the principles laid down by the Apex Court in a number of decisions on the subject as well as against the decision and direction given by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi

and is accordingly liable to be set aside/quashed.

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5.7 That the applicants ~~sxx~~ ^{are} workmen having been engaged in an establishment as casual labourers since 22.6.95 and 23.6.92 respectively till date without any legal break and as such, their services cannot be dispensed with by giving a months notice.

5.8 That they have been working in the Regional Passport Office for more than 1100 days without any legal break and as such, the notice to disengage them with effect from 1.8.95 is wholly illegal and unreasonable.

5.9 That having worked for more than ~~4~~ 3 years the applicants have reasonable expectation that their services will be ultimately regularised. However, the respondents are seeking to throw them out from service without any valid reason and/or grounds. The allotment of various types of works are indicative that they were not engaged for any specific works which are said to have been completed but they have been discharging multifarious duties to the entire satisfaction of their superiors. Unless the operation of the notice dated 20.6.95 is stayed the applicants ~~sxx~~ shall suffer great hardships and irreparable loss as they are over aged for any other job and also they are the only earning members in the family to support their old parents. On the other hand no hardship would be caused to any other concerned party if interim relief is granted to the applicants pending decision of this application.

It is further stated that by cancelling the temporary status by order dated 9.3.95 the respondents have

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General to Govt
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deprived the applicants of all the benefits which they became entitled to under clause 5 of the Regulation Scheme, 1993 without affording them any opportunity and as such, the order dated 2. 9.3.95 is liable to be stayed pending disposal of this application.

5.10 That under the facts and circumstances keeping in view of number of years serving under the respondents as casual workers, the applicants are liable to be regularised in service.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicants state that there is no other alternative or efficacious remedy except by way of filing this application. *They submitted representation dated 6.7.95 (ANNEXURE-L), but to no effect and hence this OA, now being extreme urgency.*

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

The applicants further declare that they have not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court of law or any other authority or any other Bench of the Hon'ble Tribunal and no such application/writ petition or suit is pending.

8. RELIEFS SOUGHT :

In the facts stated above and the grounds set forth in this application, the applicants pray for the following reliefs :

- (a) To set aside the office order No. Pass/Gau/37/88 dated 9.3.95 cancelling the granting of temporary status.

27
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- (b) To set aside the disengagement notice No.Pass/Gau/37/88 dated 30.6.95 which was made effective from 1.8.95(F.N.)
- (c) Direction to the respondents to regularise the service of the applicants in terms of the guidelines.

9. INTERIM ORDER PRAYED FOR :

- (a) Interim suspension of order No.Pass/Gau/37/88 dated 9.3.95 cancelling the temporary status granted to the applicant ;
- (b) Interim suspension of the notice dated 30.6.95 issued by the respondent No. 3.
- (c) As already indicated above that the Hon'ble Tribunal has granted the interim relief to the applicant in O.A. 138/95 and the applicants ~~in the~~ in the instant case pray for the same interim relief/order.

10.

The application is filed through Advocate.

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

- (i) I.P.O. No. : 03 884291
- (ii) Date : 17.7.95
- (iii) Payable at : GPO/Guwahati

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

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

I, Shri Shyamal Nandi, son of Sonamani Das, aged about 25 years, the applicant No. 1, ~~am~~ presently working as casual labour in the office of the Regional Passport Officer, Guwahati, 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 paragraphs 5 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised to sign this verification by the applicant No. 2 on behalf of us.

And I sign this verification on this the 24th day of July 1995 at Guwahati.

Sri Shyamal Kumar Das,

GOVERNMENT OF ASSAM:
DEPARTMENT OF LABOUR AND EMPLOYMENT
DISTRICT EMPLOYMENT EXCHANGE
DHARALUMUKH: GUWAHATI-9.

IDENTITY CARD.

1. Name of the Applicant:- *Shyamal Kc Das*
2. Date of Birth:- *30-5-72*
3. Date of Registration:- *28-2-74*
4. Registration No:- *1126/94/90*
5. Qualification:- *HSLC*
6. N.C.O. Code No:- *201.20*
7. Occupation:- *M*
8. Identification Mark:- *M*

Shri Shyamal Kumar Das
(Signature of the Applicant).

Next Renewal date.

Shri M. B. Das
Assistant Director of Employment
District Employment Exchange
Dharalumukh: Guwahati-9.

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12/10/93

GOVERNMENT OF ASSAM:
DEPARTMENT OF LABOUR AND EMPLOYMENT.
DISTRICT EMPLOYMENT EXCHANGE::
DHARALUMUKH, GUWAHATI-9.

I D E N T I T Y C A R D

1. Name of the Applicant:- *Sri Ratan Talukder*
2. Date of Birth:- *1-3-72*
3. Date of Registration:- *16-9-91*
4. Registration No:- *15,469/91*
5. Qualification:- *H.S.L.C*
6. N.C.O. Code NO:- *49/10*
7. Identification Mark:-

Sri Ratan Talukder
Signature of the Applicant.

Next Renewal Date.

9/94

[Signature]
Assistant Director of Employment
District Employment Exchange.
Dharalumukh, Guwahati-9.

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- 16 -

ANNEXURE B

An-
91

भारत सरकार
विदेश मंत्रालय
क्षेत्रीय पारपत्र कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

File : 60198x 560101
Name : PASSEM, Guwahati
235 2312

राणी बागान, बसिष्ठ रोड
RANI BAGAN, Basistha Road,
गुवाहाटी
3rd Bye Lane, Guwahati-781028.

Guwahati.....25-07-95.....19

TO WHOME IT MAY CONCERN

This is to certify that Shri. Shyamal kumar Das
S/o Shri Sonamoni Das is working in this office as Casual
Worker since 22/06/92 on daily wages basis. However notice
has been served for disengagement of the casual worker
from 01.08.95 (F.N.) as casual labour services no longer
considered necessary.

(S.N.GOSWAMI)
Regional Passport Officer
Guwahati.

Atty
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Hmtr

भारत सरकार
विदेश मंत्रालय
क्षेत्रीय पारपत्र कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE.

Phone : 0361 560101

Gram : PASSEM, Guwahati

Tele : 0235 2312

No.

राणी बागान, वशिष्ठ रोड
RANI BAGAN, Basistha Road
गुवाहाटी
3rd Bye Lane, Guwahati-781028.

Guwahati, 25.7.95.....19

TO WHOM IT MAY CONCERN

This to certify that Shri Ratan Kumar Talukdar
s/o Shri Sadhan Talukdar is working in this office as casual
worker since 23.06.92 on daily wages basis . However notice
has been served for disengagement of the casual worker from
01.08.95 (F.N.) as casual labour services no longer considered
necessary.

(S.N.GOSWAMI)

Regional Passport Officer
Guwahati.

Attn
S. N. Goswami

भारत सरकार
विदेश मंत्रालय
क्षेत्रीय वायपत्र कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

Tele { Phone : 60198
Gram : PASSEM, Guwahati
Tolex : 0235 2312

- 2. -

राणी बागान, वशिष्ठ रोड
RANI BAGAN, Basistha Road,
गुवाहाटी
3rd Bye Lane, Guwahati-781028.

No.

Guwahati.....19

9. Shri Girish Baishya, N.W.M. - He will attend the bell of RPO and any other necessary works entrusted to him from time to time.
10. Tukheswar Das, C.W. - He will link all reports and clearance in respective files received daily within two days from the date of receipt.
11. Miss Anjali Thakuria, C.W. - Lamination of passports, verification of particulars before lamination. She will assist in writing passports when required. Writing of ppfs.
12. Miss Manju Barman, C.W. - She will arrange all ppfs to Police authorities District and submit the same to despatch clerk for early despatch.
13. Shri Ratan Talukdar, C.W. - He will make file covers of all fresh cases received at counter and by post within two days.
14. Shri Shyamal Das, C.W. - He will bring Dak, deposit of telegrams, speed posts, letters etc. to postal authorities, and other work entrusted by RPO from time to time.

(S. N. GOSWAMI)
Regional Passport Officer,
Guwahati.

Seen

DO
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25/8/53

25/8/53

भारत सरकार
विदेश मंत्रालय
क्षेत्रीय पारपत्र कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

राणी बागान, बसिष्ठा रोड
RANI BAGAN, Basistha Road,
गुवाहाटी
3rd Bye Lane, Guwahati-781028.

Guwahati, 11th March, 1993.

OFFICE ORDER - 2/93

(Distribution of works amongst the D.R. workers)
With immediate effect

1. Smt. Manju - Attached to counter/opening of files, bringing visitors slip to Section/RPO.
Files opened on the day should be passed on to Smt. Thakuria.
Files should not be opened on the same day of receipt of applications.
2. Smt. Thakuria - Issue of "D.R. forms" to police/issue letters to MHA for clearance.
Such papers should be issued within two days from the date of receipt of the files.
3. Shri Ratan - Attached to Indexing Section/carry and deliver Dak to SB office in the evening.
4. Shri Shyamal - Attached to Record Section. Orderly arrangement of files in the record room/linking of old files. Attend to postal work whenever asked to do so.
5. Shri T. Das - Linking of papers in the files and attend to RPO room work.

Shri Girish Baishya, Nightwatchman, will attend to photo pasting/Lamination works/postal work as and when necessary.

(S. N. GOSWAMI)
Regional Passport Officer,
Guwahati.

RE. All officials are requested not to disturb the above arrangement.

DR workers and Nightwatchman are advised to request the visitor to meet counter assistant or officials or RPO in case they want to know anything about passport work for their own case.

Manji Barman

C. G. Baishya

Date 12/3/93

Shri Ratan

Shri Shyamal

12/3/93

Atm

34

MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

Wahati.....7th June,.....1993.

No. Pass/Gau/45/79

1. Shri J. Kakati, LDC: Attached to indexing section.

3. Earl D. K. Laskar, In addition to existing work, will attend
100, to passport Misc services cases.

4. Shri R. K. Gogoi, Steno. Stenography/ typing work and other existing works except passport Misc services cases.

5. Shri Shyamal Das, Issue/arrangement of files in the record
Casual worker room.

6. Shri R. Talukdar, Arrangement of files in the record room.

7. Smt. A. Thakuria, Diarising of letters/ sending of PPFs to
 Pellice, / I.M.

With effect from today i.e. 07.06.1993.

(S. N. GCSW/MT)
Regional Passport Officer,
Guwahati.

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भारत सरकार
विदेश मंत्रालय
देशीय पारपत्र कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

Phone : 60198
Gram : PASSEM, Guwahati
Telex : 0235 2312

राणी बागान, बसिष्ठ रोड
RANI BAGAN, Basistha Road,
गुवाहाटी
3rd Bye Lane, Guwahati-781028.

No. Pass/Gau/45/79

Guwahati, 21st, Feb. 1994.....19

OFFICE ORDER No. 2/94

In supersession of all previous Orders, the following allocation of duties among Staff members of this office is hereby made with immediate effect.

- (1) Shri R. K. Gogoi, Asstt. Administration and any other work entrusted to him by RPO from time to time.
2. Shri J. C. Deori, Asstt. In-Charge of passport section including issue of letter to applicants calling for proof of address/ other documents.
3. Shri B. K. Laskar, UDC Nagaland & Mizoram cases, R & E cases including issue of letter to applicant calling for proof of address/other documents.
4. Shri T. Talukdar, LDC Writting of passports i.e. MSP/Official/Diplomatic in the Cashier's room for safety of blank passport booklets & files.
5. Shri R. K. Tamuli, LDC, Attend counter and servicing of Misc. services also help T. Talukdar in the passport section/ Delivery of passports through counter.
6. Shri I. Basumatary, LDC In-charge of Index Section. He will have to see that warning/PAC/Impounding circulars are made up-to-date.
7. Shri J. Kakati, LDC Cash & Accounts & typing of letters at second half of the day.
8. Smt. A. Das, LDC Despatch Section, Preparation of daily Dak at first half of the day with the help of Shri G. Baishya, NWN. At second half both will prepare ppf to police authorities.
9. Shri Tusheswar Das, DRW Linking of reports in the files and keeping of pending files in proper order.
10. Smt. Anjali Thakuria, DRW Sending of PPF & proforma at first half. In the 2nd half attend Index section and help Shri Basumatary in keeping warning etc. cards up-to-date.

Attn
Smt. Anjali

2

11. Shri R. K. Talukdar, DRW

Proper placing of files in the record section and searching of old files. Record section will strictly be maintained by R. K. Talukdar, he should see that no one can enter in the record room for finding of old record/papers etc.

In absence of R. Talukdar Shri T. Das will maintain the record room temporarily.

12. Shri S. K. Das, DRW

Pasting & lamination of passports & verification of particulars of passport at page 1 & 36 with the application form.

13. Smt. M. Barman, DRW

Filing of day to day application form at counter and closing of counter door at about 1.00 P.M. non-entry of visitors at 2nd half of the day to the working room of office.

For going post office for sending/bringing of Dak

1. Shri G. Baishya - Monday
2. Shri R. K. Talukdar - Tuesday.
3. Shri T. Das - Wednesday.
4. Shri S. Das - Thursday.

On Friday

- | | |
|----------|----------------------|
| 1st week | Shri G. Baishya. |
| 2nd week | Shri R. K. Talukdar. |
| 3rd week | Shri T. Das. |
| 4th week | Shri S. Das . |

For any shortcoming in discharging duties as mentioned above, person concerned will be personally held responsible.

(S. N. GOGWAMI)
Regional Passport Officer,
Guwahati

22/2/94

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22/2/94

22/2/94

but some not ready to get sitting at desk & pass because it will be in the way of the door

22/2/94

23/2/94

1-23-22
Annexure - A E
INDIA PASSPORT EMPLOYEES ASSOCIATION

Head Office: NEW DELHI
Office: Ahmedabad, Bangalore, Bombay, Bhopal, Bareilly, Bhuvneshwar, Calcutta, Cochin, Chandigarh, Guwahati, Goa, Hyderabad, Jaipur, Jalandhar, Lucknow, Kozhikode, Madras, Nagpur, Patna, Trichy, Trivandrum

Ref. No.

AIPEA/45/93

24-9-93

To

The Joint Secretary (CPV)
Ministry of External Affairs,
New Delhi.

Subject : - Grant of temporary status and
regularisation of casual workers - reg.

Madam,

You are aware that approximately 400 casual
workers are working in different Passport Offices of
Central Passport Organization.

Govt. of India, Ministry of Personnel has
introduced a scheme vide office memorandum (copy
enclosed herewith) wherein Govt. of India has decided
to grant temporary status to all casual workers who
have rendered a continuous service of one year as
casual worker. As per the above scheme these casual
workers would be treated at par with Group "D"
employees for certain particular purposes.

Keeping in view the above, you are kindly
requested to issue instructions to all Passport
Officers to implement the scheme for the welfare of
400 casual workers. This scheme will help in
developing a sense of responsibilities, sense of
belongingness to the organization among the 400 casual
workers and the matter of casualism will be resolved
finally.

Early action in the matter will be appreciated.

Yours Sincerely,

(A.P. RASTOGI)
Genl. Secretary

President
Rajesh Singh-Jalandhar

Vice President
S.S. Rajan-Cochin

General Secretary
A.P. Rastogi-Delhi

Genl. Organization
A.P. Rastogi-Madras-Bareilly

Genl. Secretary Organization
A.P. Rastogi-Kozhikode

Genl. Secretaries
A.P. Rastogi-Bombay
A.P. Rastogi-Calcutta
A.P. Rastogi-Delhi
A.P. Rastogi-Lucknow
A.P. Rastogi-Madras

Genl. Secretaries
A.P. Rastogi-Ahmedabad
A.P. Rastogi-Bhopal
A.P. Rastogi-Cochin
A.P. Rastogi-Jaipur
A.P. Rastogi-Patna

Genl. Secretary
A.P. Rastogi-T.K. Delhi

Attended
C. J. Jalyain
Advocate
20/7/95

Attended
Advocate

-24-23-

Annexure - 2

39

No. 51016/2/90-Estt(C)
Government of India
Ministry of Personnel, P.G. and Pensions
Department of Personnel & Training


New Delhi, the 10th Sept-1990

OFFICE MEMORANDUM

Subject: Grant of temporary status and regularisation of Casual workers- formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, judgement dated 16th Feb 1990 in the case of Shri Raj Kamal & Others Vs. UOI.

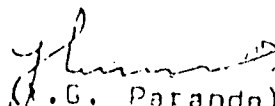
The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government offices were issued vide this Department's O.M. No. 49014/2/86-Estt(C) dated 7.6.88. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 16.2.90 in the writ petition filed by Shri Raj Kamal and others Vs Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7.6.88 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 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.


(Y.G. Parando)
Director

To
All Ministries/Departments/offices of the Government of India as per the standard list.

Copy to: (1) All attached and subordinate offices of
(i) Ministry of Personnel, PG and Pensions
(ii) Ministry of Home Affairs
(2) All officers and sections in the MHA and Ministry of Personnel, PG and Pensions.


(Y.G. Parando)
Director

Attended
C. Jolyain
Administrative
20/7/95

Atty
Shank

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

1. This Scheme shall be called "Casual Labourer (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993.

2. This scheme will come into force w.e.f. 1.9.1993

3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

4. Temporary status

i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

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

1.9.93

Attested
C. J. Jaisan
Advocate
20/7/95
Attn
82
Aluwa

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

Attested
C. Yajaman
20/7/75

Attested
A. S. Kumar

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. On dispute conferment of temporary status, the services of casual labourers 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 Group D Posts.

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

9. On regularisation of casual worker with temporary status, on substitute in his place will be appointed as he has not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases of suitable disciplinary action against the officers violating these instructions.

*Attended
C. V. Jain
Adm. Secy.*

20/7/35

*Altamash
As Admin*

-4-

10. In future, the guidelines as contained in this department's O. dated 7-6-88 should be followed strictly on the matter of engagement of casual employees in Central Government Offices.

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

Attested
C. Y. Jalyani
Advocate
20/7/95

Attested
R. K. Shrivastava

भारत सरकार
विदेश मंत्रालय
क्षेत्रीय पासपोर्ट कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

Tele { Phone : 2198 560101
Gram : PASSEM, Guwahati
Telex : 0235 2312

राणी बागान, वशिष्ठ रोड
RANI BAGAN, Basistha Road,
गुवाहाटी
3rd Bye Lane, Guwahati-781028.

No. Pass/Gau/37/88

Guwahati.....10th, May 1994. 19

OFFICE ORDER

Consequent upon Ministry's letter No. V.IV/570/13/93 dt. 10-02-94 advising to implement the scheme of grant of temporary status to the eligible casual labourers with effect from 01-09-93, the following casual labourers of this office were given temporary status w.e.f 01-09-93.

1. Shri Tusheswar Das.
2. Smt Anjali Thakuria.
3. Smt Manju Barman.
4. Shri Shyamal Kumar Das.
5. Shri Ratan Kumar Talukdar.

Certified that they have already completed 206 (two hundred six) days of service in a year.

Granting of temporary status to above D/R worker is subject to the conditions mentioned in O.M. No. 51016/2/90 Estt (C) dt. 10-09-93 (including appendix- IX attached to the said O.M) from the Ministry of personal P.G. and pension's Department of personal & Training, Government of India.

(S.N.GOSWAMI)

Regional Passport Officer,
Guwahati.

Copy to:-

- (I) Shri M. P. Singh DS(PVA) Ministry of External Affairs, Government of India, New Delhi.
- (II) Pay and Accounts Officer, O/O the controller of Accounts, Ministry of External Affairs, Govt of India, New Delhi.
- (III) Finance III/Budget section, Ministry of External Affairs, Government of India, New Delhi.
- (IV) Accounts Section, Regional Passport Office. Guwahati.

(S.N.GOSWAMI)

Regional Passport Officer,
Guwahati.

*Attn
to
Minister*

भारत सरकार
विदेश मंत्रालय
क्षेत्रीय पारपत्र कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

Tele { Phone : 0361 560101
Gram : PASSEM, Guwahati
Telex : 0235 2312

राणी बागान, वशिष्ठ रोड
RANI BAGAN, Basistha Road,
गुवाहाटी
3rd Bye Lane, Guwahati-781028.

No. Pass/Gau/37/88

9.3.95
Guwahati.....19

OFFICE ORDER

This office order No. Pass/Gau/37/88 dt. 10.5.94 granting temporary status w.e.f. 01.09.93 to the following casual labourers of this office is hereby cancelled as granting of temporary status is found to be in contravention of the rules.

1. Shri Tusheswar Das.
2. Smt. Anjali Thakuria.
3. " Manju Barman.
4. Shri Shymal Kumar Das.
5. Shri Ratan Kumar Talukdar .

(S.N.GOSWAMI)
Regional Passport Officer
Guwahati.

Copy to :-

1. The Dy. Secy.(PVA) , Ministry of External Affairs, Govt. of India, New Delhi.
2. Pay and Accounts officer, o/o the controller of Accounts ,Ministry of External Affairs, Govt. of India. New Delhi.
3. Finance III/ Budget Section , Ministry of External Affairs, Govt. of India, New Delhi.
4. The under secretary (PVA) , Ministry of External Affairs, Patiala House Annexe, New Delhi, with reference to his letter no. V.IV/579/15/94 dt. 17.1.94
5. Accounts Section, R.P.O ,Guwahati.

(S.N.GOSWAMI)
Regional Passport officer,
Guwahati.

*Attended
by
M. S. S.*

भारत सरकार
विदेश मंत्रालय
क्षेत्रीय पारित कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

Phone : 60198
Gram : PASSEM, Guwahati
Fax : 0235 2312

रानी बागान, बसिष्ठ रोड
RANI BAGAN, Basistha Road,
गुवाहाटी
3rd Bye Lane, Guwahati-781028

No.

Pass/Gau/37/88

Guwahati..30.6.95...../5

Shri R.K.Talukdar,
D.R.W.,
R.P.O.,
Guwahati.

" As the specific work ^{for} which you were engaged has since been completed, your services will not be required in this office effective 01.08.95 (F.N.) . This may be treated as one months notice prior to your disengagement w.e.f. 01.08.95 (F.N.):

(S.N.GOSWAMI)

Regional Passport Officer,
Guwahati.

Signature
for
Minister

ANNEXURE-K

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

Original Appl. No. * 138/95

Smt. A. Thakuria ... Applicant

- Versus -

Union of India & Ors. Respondents.

Date
21.7.95

Order

Mr. B.K. ^{Mishra} ~~Sharma~~ for the applicant.

The applicant was granted temporary status as eligible casual labour with effect from 1.9.93 vide order dated 10.5.94 Annexure-K. The statement made in the application and the grant of temporary status prima facie show that the applicant fulfills the requirement of ~~xxxxx~~ clause iv of the scheme. The impugned order dated 9.3.95 merely states that the grant of temporary status was found to be in contravention of the rules without further indicating as to in what basis it is so found. The applicant was not give any opportunity to show cause against the said ground. Prima facie the order is violative of principles of natural justice.

Since the impugned order dated 30.6.95 purporting to disengage the applicant with effect from 1.8.95 appears to be based on loss of temporary status under the earlier order and as it also does not show any reason nor any opportunity was given to the applicant to show cause against it. Prima facie it is also appears to be ~~that~~ bad in law. That order was passed without despite the pendency of this representation of the applicant dated 24.9.93 and 28.6.95.

Prima facie case disclosed. Application admitted. Issue notice to the respondents. 8 weeks for written statement. Adjourned to 20.9.95 for orders. During pendency of this O.A. interim stay of the impugned order dated 9.3.95 and 30.6.95 is hereby granted. The respondents however, will be at liberty to apply for variation of this interim order if so advised after giving 48 hours prior notice to the ~~Advocate~~ applicant's Advocate.

MEMBER

VICE CHAIRMAN.

*Return
to
Mishra*

To
The Joint Secretary (CPV) & Chief Passport Officer,
Ministry Of External Affairs,
Government of India
New Delhi.

Dt. 06-07-95.

Through :- Regional Passport Officer, Guwahati.

Subject :- Regularisation of Service of Casual Workers in
Regional Passport Office, Guwahati.

Sir,
We, The following Casual Workers were engaged
in the Passport Office, Guwahati w.e.f. (1) dt. 09-02-1990,
(2) dt. 12-07-91 (3) dt. 1-11-91 (4) dt. 22-06-1992,
(5) dt. 23-06-1992, respectively.

Surprisingly a notice regarding disengagement
of Service giving One month were served on 30-06-95.

Sir, We have already work in this Office more
than Three Years and in the year 1993 we have given temporary
status by the authority and afterwards withdrawn the said
order vide No. _____ dt. _____.






On the other side we have also appeared in the
Special Qualifying Examination held by the Staff Selection
Commission on 26-12-93. The result of which not
favourable to us.

Sir, We have already spent 3 Year's of our life
for which we will have to face so many problems after diseng-
agement from your Office.

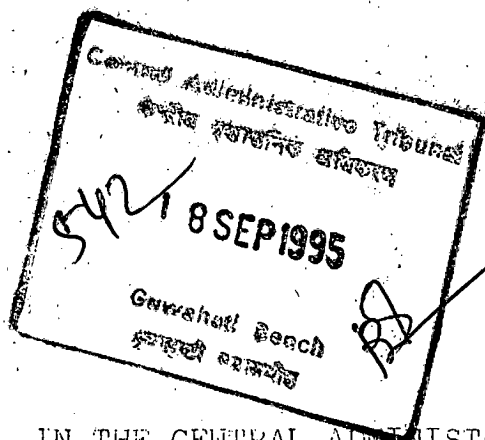
It is, Our earnest request to you Sir, kindly look
into the matter so that we could be able to get shelter under your
sympathetic consideration and favourable action.

Awaitly your kind & favourable reply.

Yours faithfully

1. 
2. 
3. 
4. 
5. 

*Attn
to
Munshi*



Filed by
Shankar Das
18/9/95
Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH AT GUWAHATI:

IN THE MATTER OF :

O.A. No. 141/95

S.K. Das

-Versus-

Union of India and others.

-And-

IN THE MATTER OF :

Written Statements submitted by the
Respondents Nos. 1, 2 & 3.

WRITTEN STATEMENTS :

The humble Respondents submit their
written statements as follows :-

1. That with regard to statements made in paragraphs
1, 2 & 3 of the application, the Respondents have no comments.

2. That with regard to statements made in paragraphs
4.1 to 4.3 of the application, the Respondents beg to state
that they have no comments on them, the same being matters
of record.

3. That with regard to statements made in paragraph
4.4 of the application, the Respondents beg to state that
the applicants are engaged for work which is casual or

seasonal in nature and for which regular post cannot be created. The engagement or disengagement of casual labourers depends upon the work load in the office. When the work-load in the office comes to the normal, the casual labourers are disengaged. Applicant too was engaged due to sudden increase of work in the office. Regarding statements made in paragraphs 4.4(a) to 4.4.(d-1) the Respondents have no comments on them, the same being matters of record.

4. That with regard to statements made in paragraph 4.5 of the application, the Respondents beg to state that they have no comments on them, the same being matters of record.

5. That with regard to statements made in paragraph 4.6 and 4.7 of the application, the Respondents beg to state that In pursuance of judgment of Principal Bench, CAT dtd. 16.2.90 in the case of Sh. Raj Kumar and others -Vs- UOI, Department of Personnel and Training had formulated a scheme of grant of temporary status and regularisation of casual workers vide its O.M. No. 51016/2/90-Estt. (c) dt. 10.9.93. This Scheme was circulated to all RPOs/Pos for compliance. To confer temporary status upon casual labourers, PO, Guwahati issued order No. Pass/Gau/37/88 dt. 10.5.94 and conferred all those benefits upon casual labourers for which they were entitled as per the scheme. When the Department of Personnel and Training had notified this scheme dt. 10.9.93, the condition of engagement through Employment Exchange was not specifically mentioned because it was an implied condition. This condition of engagement through Employment Exchange had become implied in the sense that

...p/3...

DOPT had formed a policy that casual labourers should be engaged only through Employment Exchange and not otherwise. However, to remove any doubts, DOPT issued O.M. No.49014/2/93 -Estt. (c) dt. 12.7.94 clarifying that engagement through Employment Exchange is a mandatory pre-condition for conferment of temporary status.

The order issued by PO, Guwahati conferring temporary status upon all the casual labourers was to be withdrawn in order to rectify the mistake and, therefore, PO Guwahati issued order No. Pass/Gau/37/88 dt. 9.3.95 withdrawing the temporary status so conferred because the casual labourers were not engaged through Employment Exchange. Thus, the order dt. 9.3.95 is absolutely in conformity with the rules and regulation of Govt. of India.

6. That with regard to statements made in paragraph 4.8 of the application, the Respondents have no comments on them, the same being matters of record.

7. That with regard to statements made in paragraphs 4.9 of the application, the Respondents beg to state that it is quite natural that every employee after joining in the ~~post~~ casual post expects regularisation in the services but when the applicant is not eligible for regularisation the individual gets dis-appointment by refusal by the Authority he being not eligible for regularisation. In the instant case also the same is applicable on the facts that the applicant is not covered by the Central Govt. Scheme for regularisation of the service not to speak of temporary status. The applicant was not entitled for granting temporary

....4....

status but through mistake the applicant was granted temporary status but subsequently when detected the temporary status given to the applicant was withdrawn by the competent authority as the applicant was not engaged through Employment Exchange which is mandatory as per Central Govt. Scheme.

Annexure- R(1) is the photocopy of Central Govt. Scheme forwarded by the Director, Govt. of India, Ministry of Personnel & Training, New Delhi vide No. 51016/2/90- Estt (c) dtd. 10.9.93.

Annexure-R(2) is the photocopy of letter No. 49014/2/93--Estt. -(C) dtd. 12.07.1994.

8. That with regard to statements made in paragraph 4.10 of the application, the Respondents beg to state that in view of dis-engagement notice dtd. 30.6.95 the question of consideration of applicant's representation does not arise.

9. That with regard to statements made in paragraph 4.11 of the application, the Respondents beg to state that the same is not correct and hence denied in view of the fact that the applicant submitted his representation on 6.7.95 while termination notice was given to the applicant on 30.6.95.

10. That with regard to statements made in paragraph 4.12 of the application, the Respondents beg to state that the same is not correct and hence denied. The termination notice is neither illegal nor invalid in view of the facts that the applicant is not eligible for regularisation of service and granting Temporary status under the Central Govt. Scheme.

11. That with regard to statements made in paragraph 5 of the application, regarding Grounds for relief with legal provisions, the Respondents beg to state that none of the grounds is maintainable in law as well as in facts and as such the application is liable to be dismissed.

12. That with regard to statements made in paragraphs 6 and 7 of the application, the Respondents have no comments on them.

13. That with regard to statements made in paragraph 8, regarding Reliefs sought for, the Respondents beg to state that the applicant is not entitled to any of the reliefs sought for and as such the application is liable to be dismissed.

14. That with regard to statements made in paragraph 9 of the application, regarding Interim Order prayed for, the Respondents beg to state that in view of the facts and circumstances narrated above the Interim order granted to the applicant by the Hon'ble Tribunal is liable to be vacated forthwith.

15. That with regard to statements made in paragraphs 10 to 12 of the application, the Respondents have no comments on them.

16. That the Respondents submit that the application is devoid of merit and as such the application is liable to be dismissed.

- 6 -

- V e r i f i c a t i o n -

I, Shri S.N. Goswami, Regional Passport Officer,
Rani Bagam, Basistha Road, Guwahati-28 do hereby solemnly
declare that the statements made above are true to my
knowledge, belief and information.

And I sign this verification on this _____th
day of September, 1995 at Guwahati.


DECLARENT:

एस.एन. गोस्वामी/S. N. Goswami
क्षेत्रीय पारपत्र अधिकारी
Regional Passport Officer,
गुवाहाटी/GUWAHATI

7 -59/- 12-(1) 43 5

No.81016/2/90-Estt(C)
Government of India
Ministry of Personnel, P.G. and Pensions
Department of Personnel & Training

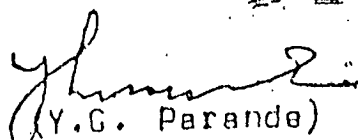
New Delhi, the 10th Sept-1993.

OFFICE MEMORANDUM

Subject: Grant of temporary status and regularisation of Casual workers- formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, judgement, dated 16th Feb 1990 in the case of Shri Raj Kamal & Others Vs. UOI.

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government offices were issued vide this Department's O.M. No.49014/2/86-Estt(C) dated 7.6.88. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 16.2.90 in the writ petition filed by Shri Raj Kamal and others Vs Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7.6.88 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.

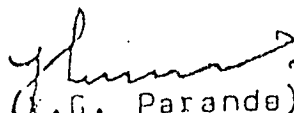
2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in O.M. dated 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

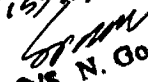

(Y.G. Parande)
Director

To

-All Ministries/Departments/offices of the Government of India, as per the standard list.

Copy to: (1) All attached and subordinate offices of
(i) Ministry of Personnel, PG and Pensions
(ii) Ministry of Home Affairs
(2) All officers and sections in the MHA and Ministry of Personnel, PG and Pensions.


(Y.G. Parande)
Director

officer

एस.एन. गोस्वामी/S. N. Goswami
क्षेत्रीय पारपत्र अधिकारी
Regional Passport Office
गुवाहाटी/GUWAHATI

APPENDIX

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

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

अ. वि. स. नं. 15/1993
 एस. एन. गोस्वामी/एस. न. गो.
 स. न. गो. पासपोर्ट ऑफिस
 Regional Passport Office
 गाजपुर/GUR 441

9 - 51- 77 9

to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.

iv) Maternity leave to lady casual labourers as admissible to regular Group D employees will be allowed.

v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.

vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group D employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group D employees, provided they furnish two sureties from permanent Govt. servants of their Department.

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

6. No benefits other than those specified above will be admissible to casual 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 conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual 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 Group D posts

i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel & Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or

.....
अधीक्षक
एच.एस. गोस्वामी/S. N. Goswami
क्षेत्रीय पारंपरिक अधिकारी
Regional Passport Officer,
पुणे/POWANE

or lack of minimum qualification will not be a requisite qualification. They would be allowed a relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he is 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 O.M. dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government Offices.

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

S. N. Goswami
एस.एन. गोस्वामी/S. N. Goswami
क्षेत्रीय पारंप्र अधिकारी
Regional Passport Officer
गुवाहाटी/GUWAHATI

New Delhi, the 12th July, 1994.

OFFICE MEMORANDUM

Subject: Grant of temporary status and regularisation of casual workers.

The undersigned is directed to refer to Department of Personnel and Training O.I. No. 51016/2/90-Estt(C), dt. 10th Sept., 1993 on the subject noted above and to say that many references have been received from various Ministries/Depts. seeking clarifications on certain points relating to grant of Temporary status to casual labourers.

2. Clarifications in respect of the points raised in the references are given below:-

S.No. Points raised

1. Whether the casual employees who were not initially engaged through employment exchange are entitled to the benefit of temporary status.

2. Whether temporary status could be granted to the part-time casual employees.

3. Will the casual labourers initially engaged after crossing the upper age limit prescribed for recruitment to Group 'D' posts be eligible for grant of temporary status?

Clarifications

Since it is mandatory to engage casual employees through employment exchange, the appointment of casual employees without employment exchange is irregular. Hence such casual employees cannot be bestowed with temporary status.

No.

No age limit has been prescribed for grant of temporary status. However, for the purpose of subsequent regularisation, the conditions regarding age and educational qualifications prescribed in the relevant recruitment rules will apply.

2/7/94
एस.एन. गोस्वामी/S. N. Goswami
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Regional Passport Officer,
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S.No. Points raised

4. Will the wages of casual employees would be debited to the Salaries sub-head of the establishment or to the contingent sub-head?
5. Whether the casual employees working in administrative offices observing 5 days week would be entitled to the benefit of paid weekly off.
6. For the purpose of assessing leave entitlement how should qualifying period be reckoned?
7. Frequency at which leave will be credited.

Clarification

Since the casual employees on grant of temporary status would be entitled for wages on actual basis, their wages will have to be debited to the sub-head wages.

Since the facility of paid weekly off is admissible after 6 days of continuous work, this would not be admissible to casual employees working for 5 days in a week.

Qualifying period should be reckoned with reference to actual number of days duty performed ignoring days of weekly off, leave and absence etc. All days of duty will be counted irrespective of intervening spells of absence, which do not constitute break in service.

Twice a year. On the 1st of January and 1st of July credit will be afforded for the preceding half year or fraction thereof, on a pro-rata basis at the rate of one day for every 10 days of work.

(KRISHNA MENON)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

- To
1. All Ministries/Departments/Offices of the Govt. of India as per the standard list.
 2. All attached and subordinate offices of
(i) Ministry of Personnel, P.G. and Pensions
(ii) Ministry of Home Affairs
 3. All officers and sections in the MHA & Ministry of Personnel, P.G. and Pensions
 4. Members of Staff Side, National Council (JCM)
 5. Office of the C. & A.G. with 200 spare copies.

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