

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

5

(DESTRUCTION OF RECORD RULES, 1990)

(1) RA 8/97 order page 10 & final order at 14.5.99 DV
Common order RA 7, 8, 9 & 10/97
(2) MP 289/97 final order at 3.3.98
condon order MP 288/97
289, 290 & 291/97 page 107 (all are)

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R.A/C.P.No. 8/97
E.P/M.A.No.

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SECTION OFFICER (Judl.)

Babli
5.2.18

GUWAHATI

ORIGINAL APPLN. NO. 144 OF 1995
TRANSFER APPLN. NO. OF 1995
CONTENT APPLN. NO. OF 1995 (IN OA NO.)
REVISED APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN. NO. OF 1995 (IN OA NO.)

..... Smt. Manjira Bora APPLICANT(S)

-VE-

..... U. O. I. & A. S. RESPONDENT(S)

FOR THE APPLICANT(S)

...MR. C.T. Jamir

MR.

MR.

MR.

FOR THE RESPONDENTS

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

OFFICE NOTE

DATE

ORDER

31-7-95

This application is in
form and within time

E. F. of Rs. 50/-

deposited vide

IPO/BD No. 326436

Dated 27.7.95

AT 26/7
Mr. Bhattacharya (A)

For

Mr. D.K. Mishra for the applicant.

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

Question involved in similar as in O.A. 138/95 admitted on 21-7-95. Application is admitted. Issue notice to the respondents. Written statement to be filed on or before 20-9-95. Interim stay of impugned orders dated 9-3-95 and 30-6-95 is granted till disposal of the O.A. Liberty to respondents to apply if so advised after notice to the applicant's advocate for variation of the order.

Vice-Chairman

Member

Requests are
and a cond. order
no 3422-24 d. 2-8-95

Im

2/11/8

20.9.95

For hearing on
29.11.95

For

Notice send on
R.no. 1 & 3

2/11/8

②
O.A. 144/95

18-9-95

W/s submitted 29.11.95 Adjourned to 3.1.1996 for fixing date of hearing.
by Regt. 1, 2 and 3.

[Signature]

[Signature]
Member

[Signature]

Vice-Chairman

Notice duly served
on op. No. 1 & 3.

trd

28/11

[Signature]
29/11

3.1.96

for Hearing
on 22.2.96

3.4.96

Mr C.T. Zamir for the applicant.
Mr S. Ali, Sr. C.G.S.C for the respondents. Case is ready for hearing.

List for hearing on 29.5.96
alongwith O.A.138/95.

[Signature]

22.2.96

for Hearing
on 3.4.96

pg

[Signature]
Member

30.5.96.

Mr C.T. Jamir for the applicant.
Mr, S. Ali, learned Sr. C.G.S.C., for the respondents. Mr Jamir seeks short adjournment for personal difficulties.

Hearing adjourned to 11.6.96.

[Signature]

1) Notice duly served on
op. No. 1 & 3

2) W/s submitted has been
b/w.

29/5

nkm

11.6.96

Mr S. Ali, Sr. C.G.S.C for the respondents. Mr S. Sarma on behalf of Mr C.T. Jamir prays for adjournment.

Hearing adjourned to 8.7.96.

[Signature]
Member(A)

[Signature]
Member(J)

[Signature]
Member(A)

[Signature]
Member(J)

pg

OFFICE NOTE

DATE

ORDER

8.7.96

Learned counsel Mr C.T. Jamir for the applicant and Mr S. Ali, learned Sr. C.G.S.C. are present.

List for hearing on 6.8.96.

Member

nkm

6.8.96

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

List for hearing on 3.9.96.

Member

12/6/8/96
pg

3.9.96

Mr C.T.Jamir for the applicant.
List for hearing on 30.9.96.

Member

pg

m
3/9

30.9.96

None present. List for hearing on 15.11.96.
Copy fo the written statement may be served on the counsel for the applicant.

Member

nkm

m
3/9

15.11.96

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

List for hearing on 13.12.1996.

Member

pg

m
15/11

Service ready on
of No. 1 & 3.
w/ statement - has been
billed.
2/9

w/ statement has been
billed.
2/9

19.3.97

Let the case be listed for hearing on 11.4.1997.

Member

Vice-Chairman

trd

20/3

27.3.97

Heard Mr D.K.Mishra, learned counsel for the applicant and Mr S.Ali, learned Sr. 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 hearing as first item.

Member

Vice-Chairman

pg

31/3

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

nkm

Copy of the Judgment has been sent to the parties vide d.no. 2023 14.5.99 to 2026 on 9.6.97 (Encls. signed with O.D. on

Judgment and order dated 30.5.97 is modified vide order passed today in R.A.8/97.

Member

Vice-Chairman

pg

Copy of the Judgment also sent to the parties vide d.no.

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.

.....

O R D E R

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.....

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.....

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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.

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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.....

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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.

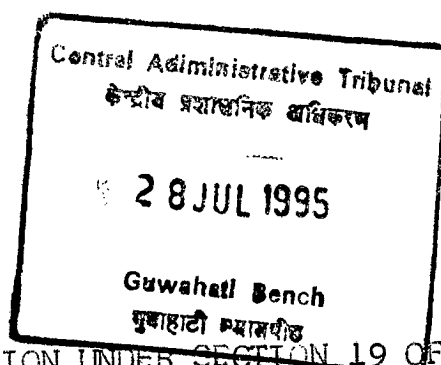
11. Mr S. Ali has informed us that two posts are at present lying vacant and services of two out of the four applicants can be regularised. If that be so, we recommend the respondents to regularise the services of two of the four applicants after taking into consideration of all aspects. The other two 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.

Sd/-VICE CHAIRMAN

Sd/-MEMBER (A)



15 Filed by the
Applicant through
L. T. Jami
Advocate
on 28-7-95

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT, 1985

Title of case :- Original Application No. 144 of 1995
Miss Manju Barman ... Applicant
-Vs-
Union of India & ors .. Respondents.

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3.	<u>Annexure:-B</u> (Copy Copy of the office order dated 25-8-92) assigning type of duties to be performed by the applicant). ...	15 & 16
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5.	<u>Annexure:-D</u> (Copy of the letter dtd. 29/9/93 by the Genl. Secy, AIPE Association for granting of temporary status and regularisation of casual workers) ...	18
6.	<u>Annexure:-E</u> (Copy of the office memorandum dtd. 10/9/93 granting temporary status and regularisation of casual workers). ...	19 & 20
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8.	<u>Annexure:-G</u> (Copy of the office order dated 10/5/94 granting temporary status to the applicant along with other casual workers) ...	26
9.	<u>Annexure:-H</u> (Copy of the office order dated 9/3/95 cancelling the temporary status granted to the applicant)	27
10.	<u>Annexure:-I</u> (Copy of the office order dated 30/6/95, notice of one month for termination of the service of the applicant)	28

Manji Barman
Signature of the Applicant

P.T.O

For use in Tribunal's office:-

Date of filing

of

Date of receipt by post

Registration No.

Signature

for Registrar.

Page No

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W/stand -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 144 of 1995.

Miss Manju Barman,
daughter of Late S. Barman,
presently working as casual worker in
Regional Passport Office, Guwahati,
resident of 2nd Bye Lane,
Basistha Road, Guwahati:- 28.

... Applicant

-Versus-

1. Union of India,
represented by the Secretary to
the Government of ~~Nagaland~~ 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 Office, Guwahati, office order No. Pass/Gau/37/88 dated 9.3.95, withdrawing temporary status granted to the applicant.
- 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 application was served one month notice prior to disengagement from service w.e.f. 01.8.95 (F.N.).

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the application and the action against which she wants redressal is within the jurisdiction of this Tribunal

3. Limitation

The applicant declares that this application is made within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case.

- i) That the applicant is an Indian citizen and residing at 2nd Bye Lane, Basistha Road, Guwahati:- 28, presently working as casual worker in the Regional Passport Office, Guwahati, and as she is entitled to rights and privilege guaranteed under the Constitution, and the law of the land.
- ii) That the applicant read upto Class VIII.
- iii) That, the respondent No. 3 needed casual worker to attend to the pressing works in connection with issue of passports and accordingly the applicant was engaged as casual worker in the office of the respondent No. 3 on 01-11-91 on payment of Daily Wages. The applicant worked sincerely and with utmost devotion and to the entire satisfaction of the respondent No. 3 and other superior officers. She is still working in the said office.

A photocopy of the certificate issued by the Respondent No. 3 dated 25.7.95 is annexed herewith and marked as Annexure-'A'.

- iv) That, the applicant has been assigned various type of jobs from time to time and she still continues to perform such duties as are being entrusted to her. The applicant gives below the

particulars of the duties assigned to her from time to time.

a) By order No. Pass/Gau/45/79 dated 25-8-92 she was allocated the duties of Lamination of passports, verification of particulars before lamination and also to assist on writing passports when required.

b) By order No. Pass/Gau/45/79 dated 11.3.93 the applicant was assigned to issue passport form to police/issue letter to MHA for clearance, Such papers should be issued within two days from the date of receipt of the files.

Order stated herein above are annexed herewith and marked as Annexures:- 'B' & 'C' respectively.

v) That, while the applicant continued to work as casual worker since the date of her engagement namely 01-11-91 neither was she accorded temporary status nor any step was taken to regularise her services. This was not only not done in case of the applicant but also in case of approximately 400 casual workers who are working in different passport offices of Central Passport Organisation.

The case of all these casual workers including the applicant was taken up by All India Passport Employees Association (shortly Association). The General Secretary of the Association addressed a letter to the Joint Secretary (CPV) Ministry of External Affairs, New Delhi stating inter-alia that Government of India, Ministry of Personnel has decided to grant temporary status to all casual workers who have rendered a continuous service of 1 year as casual workers. The said General Secretary therefore requested the said officers to implement the decision for the welfare of 400 casual workers.

Copy of the letter dated 24/9/93 is annexed hereto and marked as Annexure:- 'D'.

vi) That, thereafter, following the direction of the Hon'ble Central Administrative Tribunal, Principal Seat, New Delhi by judgment dated 16/2/90 in the case of Shri Raj Kamal and others versus Union of India, the Department of Personnel and Training Government of India formulated 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 services of atleast one year shall be granted temporary status, certain benefits were also granted to the 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 office memorandum dated 10th Sept '93 and the scheme referred to above are enclosed herewith and are marked as Annexure:- 'E' & 'F' respectively.

vii) That the applicant is working in the office of the Respondent No. 3 w.e.f. 1-11-91 without any break and from January, 1992 to December, 1992 she rendered more than 240 days of service without any break and as such she was entitled under the regularisation scheme for the grant of temporary status, The Respondent No. 3 accordingly granted Temporary Status to the applicant along with other casual workers w.e.f. 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 and marked as Annexure:- 'G'.

That the applicant states that after she was granted Temporary Status by order dated 10.5.94 all benefits as provided for in clause (V) of the regularisation scheme was given to her including wages corresponding to minimum scale of pay of regular group D officials including DA, HRA and CCA etc.

viii) That the applicant has reasonable expectation that her services will be regularised in terms of

the Regularisation scheme but she was shocked to see the office order No. Pass/Gau/37/88 dated 9/3/95, almost a year after conferment of the temporary status upon her, by which the temporary status granted to her was cancelled allegedly on the ground that the same was in contravention of the rules.

A photocopy of the office order No. Pass/Gau/37/88 dated 9/3/95 is annexed hereto and marked as Annexure:- 'H'.

ix) That, while the petitioner/applicant was waiting for a positive response from the respondents she was served with termination notice on 30/6/95 intimating her that her services will not be required in the office of the Respondent No. 3 w.e.f. 1/8/95 (F.M). It is also mentioned in the said notice that as the specific work for which the applicant was engaged has since been completed.

A copy of the termination notice dated 30/6/95 is enclosed herewith and marked as Annexure:- 'I'.

5. Grounds for relief with legal provisions :-

i) That after working as casual labour in the office of Respondent No. 3 for more than 3 years and 7

months, the termination of service of the applicant by giving notice is ^avery harsh and hard decision and is liable to be set aside.

ii) That the applicant states that in the best of ~~of~~ her 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 government 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.

iii) That the application further states that no opportunity was given to her before cancelling the temporary status granted to her and as such order dated 9/3/95 is violative of the principles of natural justice.

iv) That, the office order dated 10/5/94 granting temporary status to the applicant created a right in favour of the applicant and that right cannot be taken away without complying with the principles of natural justice.

- v) That the applicant respectfully states that after granting her the temporary status she was conferred with all the benefits ~~and~~ 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 Regularisation scheme) and the same can not be taken away in this manner.
- vi) That, the disengagement notice dated 30/6/95 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.
- vii) That the applicant is a workman having been engaged in an establishment as casual labourer since 1-11-91 till date without any legal break and as such her services cannot be dispensed with by giving a months notice.
- viii) That she has been working in the Regional Passport Office for more than three years without any legal break and as such the notice to disengage her with effect from 1/8/95 is wholly illegal and unreasonable.

ix) That having worked for more than 3 years the applicant has reasonable expectation that her services will be ultimately regularised. However the respondents are seeking to throw her out from service without any valid reasons and/or grounds. The allotment of various types of works are indications that she was not engaged for any specific works which are said to have been completed but she has been discharging multifarious duties to the entire satisfaction of her superiors. Unless the operation of the notice dated 20/6/95 is stayed the applicant shall suffer great hardship and irreparable loss as she is over aged for any other job and also she is the only earning members in the family to support her old ^{widow mother} ~~parents~~. On the other hand no hardship would be caused to any other concerned party if interim relief is granted to the applicant pending decision of this application.

It is further stated that by cancelling the temporary status by order dated 9/3/95 the respondent have deprived the applicant of all the benefits which she became entitled to under clause 5 of the Regularisation scheme 1993 without affording her any opportunity and as such the order dated 9/3/95 is liable to be stayed pending disposal of this application.

- x) That under the facts and circumstances keeping in view of a number of years of serving the respondents as casual worker, the applicant is liable to be regularised in service.

6. Details of the remedies exhausted :-

That no rules have been framed for granting temporary status except the Regularisation scheme, 1993 and consequently there is no provision for filing any appeal or representation against cancellation of temporary status and issue of disengagement notice. However the Association submitted a representation on 24.9.93 for granting temporary Status and for regularisation of the service of 400 casual labourers. (Annexure:- 'D')

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

The applicant further declares that she has 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 applicant prays 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.
- b) To set aside the disengagement notice No.Pass/Gau/37/88 dated 30.6.95 which was made effective from 01-8-1995 (F.N.).
- c) Direction to the Respondent to regularise the service of the applicant in terms of the guidelines.

9. Interim order, if any 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.

AND for this the humble applicant shall ever pray.

10. Particulars of Bank Draft/Postal Order filed in respect of the application fee.

Postal Order No. 8 09 326436 dtd. 27/7/95
for Rs. 50.00 (Rupees fifty only)

11. List of enclosures:-

1. Copy of the Certificate dated 25.7.95.
2. Copy of the orders assigning various type of jobs from time to time to the petitioner/applicant.
3. Copy of the letter dated. 24/9/93.
4. Copies of office memorandum dated 10/9/93 along with schemes.
5. Copy of the order dated 10.5.94.
6. Copy of the office order dated 9/3/95
7. Copy of termination notice dated 30/6/95.

v e r i f i c a t i o n

I, Miss Manju Barman daughter of ~~Sanku~~ Late S. Barman aged about 27 years presently working as casual worker in the Regional Passport Office, Guwahati do hereby verify that the contents of paragraphs 1, 2, 3 and 4 are true to my personal knowledge and paragraphs

5, 6, 7, 8 and 9 are believed to be true on legal advice and that I have not suppressed any material fact.

Place :- Guwahati

Date:-28/7/95

Manju Barman

Manju Barman

Annexure - 'A'

-14-

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

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

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

No.

Guwahati.....25.7.95.....19

TO WHOM IT MAY CONCERN

This is to certify that Smt. Manju Barman
d/o late Shiva Prasad Barman is working in this office
as casual worker since 01.11.91 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.

Attested
C. J. Janyam
28/7/95

भारत सरकार
विदेश मंत्रालय

क्षेत्रीय पासपोर्ट कार्यालय
GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
REGIONAL PASSPORT OFFICE

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

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

No. Pass/Gau/45/79

Guwahati, 25th August, 1972.

OFFICE ORDER

In supersession of all previous orders, following allocation of duties among staff members of this office is hereby ordered with immediate effect.

1. Shri R. K. Gogoi, Stenographer, - PA to RPO, In addition he will deal in R & E cases, stationery, administration and any other entrusted to him by RPO from time to time.
2. Shri J. C. Deeri, U.D.C. - In-charge of passport section.
3. Shri B. K. Laskar, U.D.C. - Cash & Accounts, ^{Subsidiary} i.e., timely submission of reply to MEA & COA regarding cash & Accounts matters. Issue of reminders to police and MHA of all fresh cases.
4. Shri T. Talukdar, L.D.C. - He will attend counter from 9.00 A.M. to 1.00 P.M. after closing accounts of the counter he will also assist Shri Shri I. Basumatary, in Index work in the ^{later} last part of the day.
5. Shri R. K. Tamuli, L.D.C. - Writing of passports of all kinds, including entry of them in the respective register service of all Misc. cases.
6. Shri M. Das, L.D.C. - He will assist Shri Laskar in all accounts works, handle cash of this office, maintain accounts, timely deposit of cash at Bank, timely submission of all returns pertaining to cash and accounts. In addition he will assist Shri Basumatary in the Index work in the later part of the day.
7. Shri I. Basumatary, L.D.C. - In-charge of Index section. He will have to see that warning, Impounding, and PAC circular are made up-to-date.
8. Shri J. Kakati, Daftry, - In-charge of despatch and Record sections including diarising of all general receipt and proper maintenance of record section including checking of postal cases and return of defective cases.

Defended
C. Janyam
28/7/75

P.T.O.

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

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RANI BAGAN, Basistha Road,
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3rd Bye Lane, Guwahati-781028.

- 2 -

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-wise 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

25/8/55

25/8/55

25/8/55

25/8/55

Attended
by
Jagun
28/7/55

Pass/Gen/45/79

11th March,

93.

OFFICE ORDER - 2/122

(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 P P forms to police/issue letters to MHA for clearance. Such papers should be issue within few days from the date of receipt of the files.
3. Shri Ratan - Attached to Indexing Section carry and deliver Dak to SH 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 Beishya, Nightwatchman, will attend to photo pasting/Lamination works/postal work as and when necessary.

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

NB. 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 or their own case.

A Hested
C. Yalyan
28/7/95

Annexure - 'D'
A.D. - 18-
34

ALL INDIA PASSPORT EMPLOYEES ASSOCIATION

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

Ref. No.

President
J. Singh Jullundhar

Vice President
S. Rajan Cochin

General Secretary
A.P. Rastogi-Delhi

Genl. Secy. Organization
M. B. Mishra-Bareilly

Genl. Secy. Organization
M. B. Mishra-Kozhikode

Genl. Secretaries:
M. B. Mishra-Bombay
M. B. Mishra-Calcutta
M. B. Mishra-Delhi
M. B. Mishra-Lucknow
M. B. Mishra-Madras

Genl. Secretaries:
M. B. Mishra-Ahmedabad
M. B. Mishra-Bhopal
M. B. Mishra-Cochin
M. B. Mishra-Jaipur
M. B. Mishra-Patna

Genl. Secretary:
M. B. Mishra-Delhi

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
(A.P. RASTOGI)
Genl. Secretary

*Attested
G. J. Jyoti
28/9/95*

- 19 -
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Annexure: - 'E'.

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 1995.

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 its 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.

Sd/-
(Y.G. Parande)
Director

*Attended
C. Y. Jolani
28/7/95*

20-
36

(Annexure:- 'F' contd...)

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

Attested
C. Y. Jadhav
28/7/95

Annexure: - 'F'

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

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

1) 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 conti-
nuous service of at least one year, which means
~~that~~ 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

*Attended
C. Y. Jais
28/7/95*

-2-

(Annexure: -'F' contd....)

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 pre-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

Attested
C. Jalyan
28/9/25

-3-

(Annexure:- 'F' contd...)

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 ~~xxxx~~ 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 securities 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.

Attested
C. Yashwanth
28/7/25

-4-

(Annexure 'F' contd...)

7. Dispute conferment of temporary status, the service 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 office where the casual labourers have been working would be filled up as per extent recruitment rules and in accordance with the instructions issued by Department of Personnel & Training from amongst casual workers 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 these 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

Attested
C. J. Jain
28/7/95

(Annexure:- 'E' contd....)

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.

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

Attested
C. J. Jeyaraj
28/7/95

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

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

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

No. Pass/Gau/37/88

10th, May 1994.
Guwahati.....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 Tushoswar Bas.
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.

Handwritten:
C. J. Janyam
28/9/95

Annexure 'H' 27-

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

Tels { Phone : 0361 560101
Gram : PASSBM, Guwahati
Telex : 0235 2312

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

No. Pass/Gau/37/88

Guwahati, 9.3.95.....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. 17.1.95
5. Accounts Section, R.P.O ,Guwahati.

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

Handwritten signature and date: 28/7/95

Annexure - 'I' 28-

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

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

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RANI BAGAN, Basistha Road,
गुवाहाटी
3rd Bye Lane, Guwahati-781028.

Pass/Gau/37/88

Guwahati..30.6.95.....19

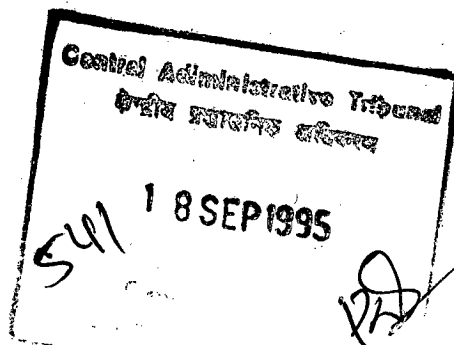
Miss M. Barman,
D.R.W.,
R.P.O.
GUWAHATI

" 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 month's notice prior to your disengagement w.e.f. 01.08.95 (F.N.).

(S.N.GOSWAMI)

Regional Passport Officer,
Guwahati.

Affected
C. Talwar
28/7/95



filed by
Shankar
18/9/95
Central Govt Standing Counsel
Central Administrative Tribunal,
Guwahati Bench, Gauhati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI:

IN THE MATTER OF :

O.A. No. 144/95

Miss. M. Barman

-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 she 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

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. 12.7.1994.

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 -

- Verification -

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 18 th day of September, 1995 at Guwahati.


DECLARENT:

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

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

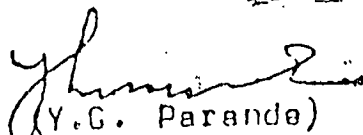
New Delhi, the 10th Sept-1993.

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.

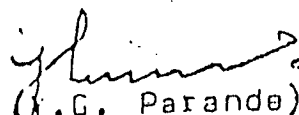
The guidelines in the matter of recruitment of persons on daily-wage basis, in Central Government offices were issued vide this Department's O.M. No.49014/2/86-Estt(C) dated 7.6.88. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 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.

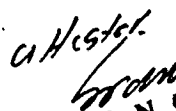
Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in O.M. dated 7.6.88. Cases of negligence should be viewed seriously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


एस.एन. गोस्वामी/S. N. Goswami
क्षेत्रीय पासपोर्ट अधिकारी
Regional Passport Officer
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

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 Regional Passport Officer
 गुवाहाटी/GUWAHATI

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

.....
 S. N. Goswami
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 Regional Passport Officer.
 गुवाहाटी/GUWAHATI

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 regularisation of casual worker with temporary dates, 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.

Officer
S. N. Goswami
एस.एन. गोस्वामी/S. N. Goswami
क्षेत्रीय पारल 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 OM 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

Clarifications

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

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.

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

No.

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?

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.

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

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.

অসম চৰকাৰ/অসম চৰকাৰ
 অসম চৰকাৰ/অসম চৰকাৰ
 Regional Passport Office
 GUWAHATI