

50/600

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

3

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Kahb
6.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 167 OF 1995
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISC.PETITION NO. OF 1995 (IN NO.)

..... Kunja Das APPLICANT(S)

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

For the Applicant(s) ... Mr. B.K. Sharma
 Mr. B. Mehta
 Mr. S. Sarma
 Mr.

For the Respondent(s) Mr. S. Sarma
Add. case

OFFICE NOTE	DATE	ORDER
<p>This application is in form and within time C. F. of Rs. 50/- Admitted vide HC/ED No. 827218 Dated 30.8.95 [Signature] 31/8/95 PG</p>	<p>4.9.95</p>	<p>Adjourned to 6.9.1995 for admission before DB subject to being Division Bench matter. [Signature] Member [Signature] Vice-Chairman</p>
	<p>6.9.95</p>	<p>Mr. B.K.Sharma for the applicants. Leave granted to the applicants to join in single application. On perusal of the petition we are satisfied that a prima facie case is disclosed. O.A. admitted. 8 weeks for written statement. Notice as to interim relief to the respondents returnable on 16.10.95. The respondents however, are directed that until the hearing on interim relief and further order they shall not terminate the services of the applicants or any</p>

OFFICE NOTE

DATE

ORDER

6.9.95

one of them. This will however ^{be} without prejudice to the rights and contentions of the parties at the further hearing.

To be listed for hearing on interim relief on 16.10.95. To be placed for orders on the O.A. also on 16.10.95.

Mr G.Sarma, Addl.C.G.S.C seeks to appear for the respondents. Notice however be directly issued to the respondents.

ba
Member

huc
Vice-Chairman

Requisites are
sent & send
v.n. 3977-80 & 8987

ba
2/9

Notice send on
R. nos 1 & 2.

pg

huc

huc
6/9

17.10.95

Adjourned to 4.12.1995 for orders.
Liberty to file counter.

ba
Member

huc
Vice-Chairman

28.11.95

w/s submitted
on behalf of Respondents.

pg

4-12-95

Mr.B.K.Sharma for the applicant.
Mr.G.Sharma Addl.C.G.S.C.for the respondents.

Arguments of both the counsel are heard and concluded. Judgment delivered in the Court. Application is partly allowed. No order as to costs.

ba
Member

huc
Vice-Chairman

9.2.96
copy of Judg./Order
dtd. 4.12.95 issued to
all concerned by Regd.
post vide No. 384-388
dtd. 14.2.96.

gts

Im

huc
2/1/96

4

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

O.A. NO. 167/95(M.P.120/95)
T.A. NO.

DATE OF DECISION 4-12-95

Sri Kunju Das & 20 Others.

(PETITIONER(S))

Mr.B.K.Sharma for the applicant

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr.G.Sharma Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN
THE HON'BLE SHRI G.L.SANGLYINE, MEMBER(ADMN)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
 2. To be referred to the Reporter or not ?
 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 ?
- } yes
} no

Judgment delivered by Hon'ble

M.G. Chaudhary
VICE-CHAIRMAN

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.167/95 (in M.P.120/95)

Date of Order: This the 4th Day of December 1995.

JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN

SHRI G.L.SANGLHINE, MEMBER(ADMN)

1. Sri Kunju Das & 2030rs.

(All are working under the Station Headquarter,
Thakurbari, Assam.)

By Advocate Mr.B.K.Sharma for the applicant.

-Vs-

1. Union of India
Through the Secretary,
Govt. of India,
Ministry of Defence,
New Delhi.

2. Additional Director General of Staff Duties(SDGB)
General Staff Branch,
Army Headquarter, DHG,
P.O. New Delhi-110001.

3. Administrative Commandant,
Purv Kaman Mukhoyalaya
Headquarters,
Eastern Command, Fort William,
Calcutta-700021.

4. The Administrative Commandant
Station Headquarters
Thakurbari, C/O 99 A.P.O. ... Respondents.

By Advocate Mr.G.Sharma Addl.C.G.S.C. for the respondents.

ORDER.

CHAUDHARI J(VC)

1. This is an application filed by 21 applicants who are serving as Conservancy Safaiwalas except applicant No.8 who was Tractor Driver, under the Station Headquarter Thakurbari, Assam. They have been engaged on casual basis for specified duration of each engagement. They pray for regularisation in view of the length of service they have put in during different spells of engagement and further pray for pay corresponding to minimum of pay scale of regular Group 'D' employees.

contd/-

hss

2. The respondents do not dispute the claim of the applicants and in fact it is stated in the written statement that their demand for regularisation is genuine and should be granted within the existing rules as per eligibility conditions laid down from time to time since the requirement to employ them is continuous and is of a permanent nature. It is also stated that the applicants were to be regularised vide Department of Personnel Administrative Reforms, O.M.No.49014/4/77-Estt(C) dated 21-3-1979 and the case for regularisation had been processed by both static and field formation channels but the CFA's sanction could not be obtained so far for lack of knowledge of the procedure for regularisation. As far as payment of the minimum pay scale is concerned it is stated that although the same was paid for the month of March 1994 and April 1994 that was ordered to be recovered as sanction of CFA had not been received. It is however stated in paragraph 10 that the excess amount if it had been recovered from the monthly pay that would have left the conservancy staff with no money for subsistence. In paragraph 12 it is stated that no refund of recovery of excess payment is advisable under the rules and that all other reliefs asked for may be granted w.e.f. the date of sanction of CFA or the date of directive of the Central Administrative Tribunal. Having regard to the written statement we find no difficulty in granting appropriate relief to the applicants. Hence following order:-

The respondents are hereby directed to complete the procedure for regularisation of the applicants and regularise them as per rules.

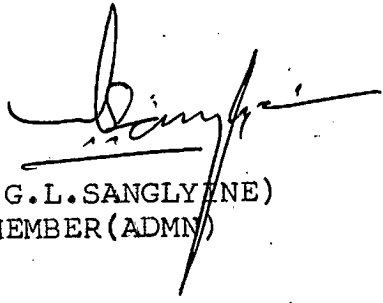
contd/-




The respondents are directed to pay the minimum of pay scale payable to Group 'D' staff to the applicants from the month of March 1994 onwards and continue to pay the same till the applicants are regularised.

3. Steps to obtain sanction from the CFA for the regularisation for payment of minimum pay scale shall be taken within 2 months from the communication of this order to the respondents. We recommend to the CFA to issue the necessary sanction early for regularisation as well as payment of minimum pay scale.

O.A. is partly allowed in terms of the aforesaid order. No order as to costs.


(G.L. SANGLYNE)
MEMBER (ADMN)


(M.G. CHAUDHARI)
VICE-CHAIRMAN

31 AUG 1995

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Gwahati Bench : GUWAHATI
গুৱাহাটী বেঞ্চ

S/B

Filed by Mr Applicant through
B. M. Chakraborty
30-8-95

448

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

O.A. No. 167/95

Sri Kunju Das & Ors.

Vs.

Union of India & Ors.

I N D E X

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Handwritten notes:
Gogoi Same
ADJ (SI)
CAT
30-8-95

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1. Particulars of the applicants.

1. Sri Kunju Das
Son of Sri Dantya Ram
Village - Tupajuli
P.O. Thakurbari
Dist. Sonitpur
2. Sri Surjeet Singh (Tanti)
Son of Sri Dhanto Tanti
Village - Sessa 12 No. Line
P.O. Rangapara
Dist. - Sonitpur
3. Sri Sita Ram Mandal
Son of Sri Buddhar Mandal
Village - Dholapdung Basti
P.O. Thakurbari
Dist. Sonitpur
4. Sri Budha Ram
Son of Sri Sudhya Tati
Village-Harchura
P.O. Balipara, Dist. Sonitpur
5. Sri Jeeten Chandra Sut
Son of Sri Bidhu Ram Sut
Village-Pitha Khuwa
P.O. Pilta Khuwa
Dist. Sonitpur

10
2
Filed by Mr. App
Through
T.S.M.

29/11/2008

6. Sri Pradeep Baruah
Son of Sri Prabhat Baruah
Village - Gerchi
P.O. Sootea
Dist. Sonitpur
7. Sri Nayan Das
Son of Sri Narayadra Das
Vill- Anyanmari
P.O. Mowmari
Dist. Nawgaon
8. Sri Benjamin Topna
Son of late Ramesh Topna
Village - Duleepadung Basti
P.O. Thakurbari
Dist. Sonitpur
9. Sri Chandra Kanta Sut
Son of Biphrām Sut
Village Pithakhuwa
P.O. Pithakhuwa
Dist. Sonitpur
10. Sri Goyind Sut
Son of Sri Mohdar Sut
Village - Pitha Khuwa
P.O. Pithakuwa
District- Sonitpur

11. Sri Someshwar Nath
Son of Sri Hem Ram Nath
Village Kakalibhangi
P.O. Khelmati
Dist. Sonitpur
12. Sri Khagen Chand Nath
Son of Sri Dhambridhar Nath
Village - Jangarchubri
P.O. Pithakuwa
Dist. Sonitpur
13. Emanul Eindwin
Son of Gaharim Eindwin
Village - Depal Line
P.O. Thakubari
Dist. Sonitpur
14. Sri Shekhar Karmakar
Son of Sri Ram Dayal
Village Namgaon
P.O. Thakurbari
Dist. Sonitpur
15. Sri S.H. Bhawal
Son of Sri Jai Kishan
Village Khaspotti
P.O. Merkan
Dist. Mujapharpur

- 16. Sri Lalu Lahar
 Son of Sri Gulab Lahar
 Village Dhuyapadung Basti
 P.O. Rangapara
 Dist. Sonitpur

- 17. Sri Dilip Lahar
 Son of Sri Lallu Lahar
 Village Dhulapadung
 P.O. Rangapara
 Dist. Sonitpur

- 18. Sri Aboi Nag
 Son of Beniya Nag
 Village Rekhamari
 P.O. Dhikiajuli
 Dist. Sonitpur

- 19. Sri Arup Nath
 Son of Bhawan Nath
 Village Bam Bassaria
 P.O. Bassaria
 Dist. Sonitpur

- 20. Sri Tanjeswar Sut
 Son of Shotu Ram Sut
 Village Pitha Khowa
 P.O. Pitha Khowa
 District-Sonitpur

21. Sri Sarbaswar Borah
Son of Sri Satram Borah
Village - Pitha Khowa
P.O. Pitha Khowa
District - Sonitpur Applicants

2. Particulars of the respondents

1. Union of India
Through the Secretary,
Govt. of India,
Ministry of Defence,
New Delhi

2. Additional Director General of Staff Duties (SDGB)
General Staff Branch,
Army Headquarter, DHG,
P.O. New Delhi-110001

3. Administrative Commandant,
Purv Kaman Mukhoyalaya
Headquarters,
Eastern Command,
Fort William,
Calcutta-700021

4. The Administrative Commandant
Station Headquarters,
Thakurbari, C/o 99 A.B.O. Respondents

3. Particulars for which this application is made.

This application is made for payment of minimum appropriate pay scale of Conservancy Safaiwala/ Tractor Dirver and for refund of the illegal recovery of regular pay scale & allowances granted to the applicants, for the months of May and April 1994, which was illegally recovered from the pay bill on the alleged ground of excess payment in the month of June, 1995 vide Area Accounts Office letter No. Pay/ IV/92 dated 2.6.95 and also for regularisation of services of the applicants with immediate effect, as they are serving for fairly long spell and other service benefit due and admissible to the applicants.

4. Jurisdiction

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

5. Limitation

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

Shri Sharadwari & Co

6. Facts of the case

6.1. That all the applicants are citizens of India and as such they are entitled to all the rights and privileges guaranteed by the Constitution of India and all the applicants are serving as Conservancy Safaiwala, except applicant No. 8 who is serving as Tractor Driver under the Station Headquarter Thakurbari, Assam. Honble Tribunal pleased to grant permission u/s 4(5) A of the CAT Act.

6.2 That all the applicants were appointed as Conservancy Safaiwala after being duly selected by the Selection Board constituted by the Administrative Commandant Station Headquarter except the applicant No. 8 who is serving as Tractor Driver in the Station Headquarter Thakurbari, names of the applicants were sponsored by the local Employment Exchange following the requisition of the Station Headquarter, Thakurbari. The details of initial appointments indicating relevant years are furnished below :-

Sl. No.	Name of applicants	Year of initial engagement
1	Shri Kunja Das	1980
2	Shri Sita Ram Mandal	1980
3	Shri Surjeet Singh (Tanti)	1980
4	Shri Budda Ram	1980
5	Shri Jeeten Chandra Sut	1989
6	Shri Pradip Baruah	1989

1	2	3
7	Shri Nayan Das	1990
	Shri Benjamin Topna	
8	Shri Benjamin Topna	1993
9	Shri Chandra Kanta Sut	1986
10.	Shri Govind Sut	1986
11.	Shri Someshwar Nath	1985
12.	Shri Khaga Chand Nath	1985
13.	Emanul Eindwin	1985
14.	Shri Shekhar Karmakar	1982
15.	Shri S.H. Bhawal	1978
16.	Shri Lalu Lohar	1982
17.	Shri Dilip Lohar	1985
18.	Sri Aboi Nag	1980
19.	Shri Thomeswar Sut	1986
20.	Shri Sarbeswar Boruah	1990
21.	Shri Arup Nath	1985

The above applicants ~~sxxx~~ after their initial engagement in the respective year mentioned above were continuously working in three different Units under Station Headquarter, Thakurbari without any break only after 1989 the respondents started showing one day artificial break after completion of every three months works which is arbitrary, illegal, and contrary to the settled law of the land.

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~~x62.~~

6.3 That it would be evident from the appointment letter of applicant No. 7, 11 and 21 that the engagement/appointment has been made following selection by the Board constituted by the Station Headquarter, Thakurbari. The appointment letter of Applicant Nos. 7, 11, and 21 were issued under letter No. 422/5/ST/Q dtd. 21.7.90 No. 422/5/ST/Q dtd. 29.7.85, No. 422/5/ST/Q dtd. 21.7.90. Therefore, it appears that all the applicants were duly selected through interview prior to their engagement/appointment.

Copy of the appointment letters dtd. 21.7.90, 29.7.85 and 21.7.90 are annexed as Annexure 1, 2 and 3 respectively.

6.4 That the applicants beg to state that, time to time the Station Headquarter Thakurbari some time used to issue fresh appointment letter after long interval which would be evident from the letter dtd. 10.8.89 issued by the Major P.C. Mathur, whereby all the applicants against appointed as Conservancy Safaiwala on temporary basis with effect from 1st September/89.

C copy of the appointment order dt. 10.8.89 is annexed as Annexure-4.

6.5 That the applicants beg to state that they have approached the Administrative Commandant and

Shri Thaneswar sut

other authorities of Thakurbari Station Headquarter, on many occasions for regularisation of services of the applicants particularly through Convenor North East Region, Defence Employees, Coordination Committee, Tezpur, Assam vide representation No. NEDE/CC/90 dated 28.4.90. The Hon'ble Minister of Industries, Assam vide his letter No. M1/12/91/330 dtd. 26.3.92 forwarded a petition endorsed to him by the Hon'ble Chief Minister of Assam regarding regularisation services of the applicants addressed to the ~~Commandant~~ Commander, 44 Mountain Brigade, Headquarter, Thakurbari Sonitpur.

Copy of the Representations dtd. 28.4.90 and letter dtd. 26.3.92 are annexed as Annexure 5 and 6 respectively.

6.6. That the applicants further beg to state that the Lieutenant Colonel Sri S Banerjee officiating S.S.O. of Station Headquarter, Thakurbari had written a letter addressed to Shri Brahmanand Pande L.A.O. Army, Tezpur vide letter No. 422/Conservancy/1/ST/Q dtd. 3.11.93 strongly forwarded the case of regularisation of the present applicants wherein it is stated that there are altogether 22 Conservancy Safaiwala employed for last so many years as adhoc Station Thakurbari, 18 of them fulfil all requirements for becoming permanent. It is also stated in the aforesaid letter that although demand for additional

Shri Thaneswar Pat

allotment is made but there are remote chances for getting any more funds. Therefore it appears that the casual labourers are being utilised under the Station Headquarter, Thakurbari depriving them the regular service benefit and also depriving the appropriate pay scale which ought to have been given to the applicants but the higher authorities intentionally depriving of the applicants legitimate claims of regularisation as well as appropriate pay scale. This action of the respondents is highly illegal, arbitrary and violative of article 14 and 16 of the Constitution particularly when casual labourers/workers are working under other Administrative commands of the same department are getting all service benefits and regular pay scale.

A copy of the letter dtd. 3.11.93 is annexed herewith as Annexure-7.

6.7 That in reply to the letter dated 3.11.93 the L.A.O(A) Tezpur vide his letter No. Tez/LA/Misc 1/Misc/Fd/Unit dt. 6.11.93 it was suggested that if the services of the Conservancy Safaiwalay continuously required/necessary for a longer period then a board of officers may be constituted under order of the Headquarter to select the name of conservancy out of the total for regularisation of the services as well as declaration of quasi permanent those who have already completed more than three years and 10 years

Shri Thame Swar. Sw

of service respectively and fulfil all requirements for becoming permanent then it would be obligatory to the department also to make payment regularly and meanwhile regular yearly demand for allotment of funds may also be placed to appropriate authority for their payment. But unfortunately no improvement is made as regard payment of regular salary as well as for regularisation of the services of the casual applicants although the applicants are working for a very long period and ~~its~~ is led a strong presumption that the services of the applicants are of permanent nature and they are being similar job like regular conservancy safaiwala in other establishment of Station Headquarter constituted in North Eastern Region under the Ministry of Defence. Therefore interference of the HonIble Tribunal is required for immediate payment of appropriate payscale to the applicants till their regularisation.

A copy of the letter dated 6.11.93 is annexed as Annexure-8 .

6.8 That the applicants further beg to state
pleased
that the respondents were ~~pleased~~ to pay regular
pay scale to the applicants for the months of March
and April 1994 with all other allowances admissible
as per rules and thereafter regular pay and allowances

Shri Phareswar Sir

also prepared by the Station Headquarter, Thakurbari and submitted to the Area Accounts Office, Shillong under Reference No. 422/Conservancy/3/ST/Q dated 31.8.94 and 14.9.94 for the months of May, June, ~~and~~ July and August 1994 respectively. But the Area Accounts Officer Shillong under his letter No. Pay/IV/Vol/12 dated 21.9.94 whereby the regular pay bill for the months of May, June, July and August 1994 were returned with an objection that no authority for drawal of regular pay scale were enclosed and further objections were also raised on the ground that no detailed D.O.P.T. II has been enclosed to this effect stating interalia the rate of Pay, D.A. and H.R.A. and C.C.A and also on some other grounds and unfortunately thereafter no regular payment of salary paid to the applicants and the respondents again started paying at the old rate i.e. Rs. 36.90 per day on no work no pay basis and thereby the legitimate claim of the applicants are denied continuously which is violative of Article 14 and 16 of the Constitution of India.

A copy of the letter issued by the Area Accounts Officer dtd. 21.9.94 is annexed as Annexure-9.

6.9 That the applicants after non-receipt of regular pay scale for the months of May, June, July and August 1994 approached to the Administrative Commandant for payment of regular appropriate pay scale

Shri Hanumanwar sut

on many occasions. However the Station Headquarter Thakurbari vide notice dated 2.7.94 inform the applicants individually to collect their pay for the month of May 1994 as approved by the Area Accounts Office, Shillong at the casual rate following which the pay will be returned back to Government and it is further assured to the applicants individually that the case for permanent pay scale has already been taken up and waiting for confirmation from Army Headquarters. Likewise similar notice also issued in the month of August 94 individually to the applicants requesting them to collect their pay from the Headquarter at the casual rate and also further assured that the matter for regular pay scale was taken up with the Headquarter. But unfortunately till date no payment of regular pay scale have been made to the applicants and still the respondents are paying at the casual rate to all the applicants which is far less than the minimum of the pay scale which had been enjoyed by the regular Conservancy Safaiwala in other Station Headquarters. This action of the respondents are highly illegal and violative of Article 14 and 16 of the Constitution of India.

Copies of notice July '94 and August '94 are enclosed as Annexure 10 a,b,c,d, (series).

Shri Tharneswar sut

6.10 Most surprisingly when the applicants were due to get some arrear payment following the enhancement in the rate of their daily wages which would be evident from the letter No. 422/Sonservancy/3/ST/Q dt. 27.5.95 the respondents vide their letter No. Pay/IV/12/ dtd. 2.6.95 deducted the alleged excess payment which was made to the applicants in the months of March and April 94 by way of granting regular pay scale. This recovery from the arrear pay and allowances is made from the applicants without any show casue and also without observing the principles of natural justice. The applicants are entitled to receive regular pay scale in every month from the date of their initial appointment as casual labour but the same is being deprived to the applicants in a very arbitrary manner and when the regular pay scale is given for the months of March and April '94 the same should not have been recovered from the applicants under any circumstances. Moreover the applicants had spent all the money which was received as salary for the months of ^{May and} April ~~xxx~~ 1994 therefore recovery of the same is highly illegal arbitraty and unfair. It would be evident from the letter dated 2.6.95 wherein it is mentioned that the excess payment made vide voucher No. 422/5/RPB/CIV/March'94 dtd. 27.3.94 and 422/5/RPB/Civ/April'94 dtd. 30.4.94 Therefore the Hon'ble Tribunal be pleased to direct

Shri Thaneswar Snt

the respondents to refund the amounts which was recovered from the arrears pay and allowed of the applicants with immediate effect.

A copy of the letter dated 27.5.95 and recovery order dated 2.6.95 are annexed as Annexure 11 and 12 respectively.

6.11 That the applicants beg to state that after serving for such a long time, they have acquired a valuable and legal right for regular pay scale and other regular service benefits, which are being enjoyed by the regular Safaiwalas in other Station Headquarter, therefore pending immediate absorption, the applicants are entitled to regular pay scale. The Govt. of India, Department of Personnel and Training under their Office Memo No. 51016/2/90 (Estt.) (C) dtd. 10.9.93 have prepared a scheme for grant of temporary status and regularisation of casual workers and under the above scheme the guidelines in the matter of recruitment of person on daily wages basis in Central Govt. Offices which was issued under Office Memorandum No. 49014/2/86-Estt. (C) dtd. 7.6.88 were further reviewed in the light of the Judgement of the Central Administrative Tribunal, Principal Bench, New Delhi which was passed in the case of Raj Kamal and Others Vs. Union of India

Shri Thanebwar Sub

& Ors. on 16.2.90 and whereby it has been decided that while the existing guidelines contained in O.M. dated 7.6.86 may continue to be followed, the grant of temporary status to casual employees who are presently employed and have rendered one year of continuous service in Central Govt. Offices other than Department of Telecom, Posts and Railways would be regulated by this Scheme.

The relevant portion of scheme for grant of temporary status and regularisation are quoted below :

- " 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 office observing 5 days week).
 - ii. Such conferment of temporary status would be without reference to the creation/availability of regular Gr. 'D' posts.
 - iii. Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on 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 Gr. 'D' official including DA, HRA and CCA.
 - ii. Benefits of increments at the same rate as applicable to a Gr. 'D' employees would be taken into account for calculating pro rata wages for every one year of service subject to performance of duty for at least 240 days (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 rata basis at the rate of one day for every 10

days of work. Casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their 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 Gr. 'D' employees will be allowed.
- v. 50% of the service rendered under Temporary Status would be counted for the purpose of recruitment 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 Gr. '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 the temporary Gr. 'D' employees, provided they furnish two sureties from permanent Government servants of their Departments.

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

Under the above scheme the applicants are entitled to minimum of the regular pay scale, increment, Bonus, Leave etc. But the respondents did not take any action even after issuance of Office Memorandum dated 10.9.93.

A copy of the scheme of temporary status and regularisation dated 10.9.93 is annexed as Annexure - 13.

6.12 That the applicants beg to state that after serving such a long period the case of the present applicants stands in a better footing as regard their claim of regularisation as well as claim for payment of regular pay scale. The decision of Principal Bench of Central Administrative Tribunal New Delhi passed in Sri Raj Kamal & Ors Vs. Union of India & Ors support the case of the present applicants. The relevant portion of the Judgement dtd. 16.2.1990 reported in 1990 SLJ(2) CAT are quoted below :-

" 21. We are therefore, of the opinion that in order to solve the problem of casual

labourers engaged in the Central Government offices in a fair and just manner, the proper course for the Government would be to prepare a scheme, somewhat like the one in operation for redeployment of surplus staff, vide Department of Personnel and A.R.'s O.M. No. 3/27/65-CS-II dated 25.2.1966 and amplified vide Department of Personnel and Training's O.M. No. 1/1/81-CS-II dated 30.4.1987, and the Department of Personnel and Training's O.M. No. 1/14/88-CS-III dated 31.3.1989 and 1/18/88-C.S. III dated 1.4.1989 for all casual labourers engaged prior to 7.6.1988, but who had not been regularised by the authority concerned for want of regular vacancies or whose service had been dispensed with for want of regular vacancies. Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department, should undertake to prepare a suitable scheme for absorbing such casual labourers in various Ministries/Departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption should be on the basis of the total

Shri Thaneswar sut.

number of days worked by the persons concerned. Those who have worked for 240 days/206 days (in the case of six days/five days week, respectively), in each of the two years prior to 7.6.88 will have priority over the others in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be considered for absorption, but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancies shall normally be resorted to before absorbing the surplus casual labourers. 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".

Full Bench of the Central Administrative Tribunal, Hyderabad Bench upheld the decision of Ernakulam Bench where it is decided that even part time casual workers are entitled to benefit of

Grant of Temporary Status pending their absorption in Group 'D' Posts.

Relevant portion of the Full Bench Judgement of the C.A.T., Hyderabad Bench are quoted below :

" 13. Having regard to the aforesaid circumstances, we do not feel persuaded to reconsider the consistent view taken by the Ernakulam Bench of this Tribunal that the benefit of "Casual Labourer (Grant of Temporary Status and Regularisation) Scheme" in so far as it pertains to the grant of temporary status and further absorption in Group D posts is equally applicable to part-time casual labourers like the applicants also. Hence, it follows that the applicants herein are also entitled to have the same relief as granted in similar cases by the Ernakulam Bench.

14. For the reasons stated above, these applications are allowed and the respondents are directed to confer upon the applicants temporary status in Group -D posts from 2.11. 1989 pending their absorption in Group-D posts in accordance with the "Casual Labour (Grant of Temporary Status and Regularisation) Scheme". The applicants however, will not be

Shri Shameswar Smt

entitled to any arrears of emoluments arising out of the above said direction till the date of their filing the respective applications. The above directions shall be complied with by the respondents within six months from the date of receipt of this order".

All these above decision was taken by different Benches of the Central Administrative Tribunal to provide job security to the Casual Labourers and for better service condition. The Hon'ble Supreme Court expressed similar views in a number of cases of Casual workers for payment of minimum wages as well as for payment of minimum salary payable to regular employees in comparable posts. Recently the Hon'ble Apex Court further reiterated the same view in the case of Niadar and another Vs. Delhi Administration and nother which was reported in 1992 (4) SCC 112 equivalent to 1992 (21) ATC 398. The relevant portion of the ofder is quoted below :-

" ORDER

1. Petitioner 1 is a casual labourer on daily wages working in the Soil Conservation Department, Agriculture Section, Delhi Administration, Delhi and Petitioner 2 is the Union of Casual Labourers working in the said

Shri Thanezwar Sub

department. They have prayed for the issue of direction to the Delhi Administration and to the Union of India to regularise their services and also to pay each of them until such regularisation the minimum salary payable to a person regularly employed in a comparable post in the department. It is stated that many of the casual labourers working in the above-said department have been working for nearly 20 years as casual labourers.

2. Following a number of decisions rendered by this Court on the question of regularisation of casual workers and the need for paying them the minimum salary payable to a regular employee in a comparable post, we issue a direction to the Delhi Administration to prepare a scheme for absorbing the casual labourers who have worked for one year and more in the Soil Conservation Department as regular employees within six months from today and to absorb all such casual labourers who are found fit to be regularised under the scheme as regular employees. Until they are so absorbed the Delhi Administration shall pay w.e.f.

Shri Thaneswar Smt

October 1, 1988 to each of the casual labourers working in the Soil Conservation Department the salary or wages at the rate equivalent to the minimum salary paid to a regular employee in a comparable post in the Soil Conservation Department".

The present applicants also similarly situated. The Hon'ble Supreme Court further reiterated in the case of Vijoy Pal Sarma & Ors Vs. Delhi Administration & Ors. reported in 1992 (21) ATC 399. The Hon'ble Supreme Court in the case of Rajesh Kumar Soni and Others Vs. Ministry of Environment & Forest and Wild Life and Others reported in 1992 (21) ATC 401 where the Hon'ble Supreme Court was pleased to pass the following order :

" O R D E R

Heard learned counsel for the parties. We have also perused the writ petition and two counter-affidavits. It is not disputed that the petitioners have been working in the establishment for more than 4 to 5 years. This gives us the impression that there is regular need for this employment. Though

Shri Thameerwar Jnt

this is the ~~xxxxxxx~~ position, petitioners are being continuing as daily-rated employees. We do not think this should be permitted particularly when the wage of daily-rated employees is about half of regular employees. We direct the opposite-party-respondent to absorb the petitioners on regular basis. If there be any other similarly situated employees senior to them they should be given the same benefit. This should be done within three months hende. Initially the absorption should be against Group D posts and as and when permanent opportunity against Group C posts opens up, they should be considered. The writ petition is disposed of accordingly with no order as to costs."

The Hon'ble Supreme Court further observed in the case of State of Haryana & Ors Vs. Pyara Singh & Ors reported in 1992 (21) ATC 403 in paragraph 51 of the said Judgement as follows :-

"51. So far as the work-charged employees and casual labour are concerned, the effort must be to regularise them as far as possible and as early as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to a-availability

of work. If a casual labourer is continued for a fairly long spell - say two or three years - a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the authority concerned to examine the feasibility of his regularisation. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person. As has been repeatedly stressed by this Court, security of tenure is necessary for an employee to give his best to the job. In this behalf, we do commend the orders of the Government of Haryana (contained in its letter dated April 6, 1990 referred to hereinbefore) both in relation to work-charged employees as well as casual labour".

In the instant case applicants were working for a very long period, therefore it clearly indicate that there are needs of permanent hands and the works they performing in the permanent nature. Therefore they are entitled to regular service benefit and regular salary. Be it stated that the applicants are presently getting half of the salary in comparison to a regular employee in a comparable post serving

Shri. Shameswar sut

in the same department. Therefore denying of the benefit of regular pay scale is highly illegal, arbitrary and violative of Article 14 and 16 of the Constitution of India.

6.13 That the Hon'ble Tribunal be pleased to direct the Respondents under the facts and circumstances stated above to refund the pay and allowances which was paid to the applicants in the months of March and April 1994 and further be pleased to set aside the impugned order of Recovery (Annex-)

6.14 That the applicants beg to state that the recovery has been made in the month of June 1995 and finding no other alternative they approached this Hon'ble Tribunal for issuance of a direction to refund the illegal recovery made by the Respondents and further be pleased to direct the Respondents to pay regular pay scale pending absorption. The recovery was highly illegal when the applicants are entitled to regular pay scale after serving such a long time in the present establishment.

6.15 That the cause of action in the month of June/95 when the recovery has been made from the arrear pay and allowance of the applicants which is illegal, arbitrary and unfair.

Shri Thaneswar Sat

6.16 That this application is made bonafide and for the cause of justice.

7. Reliefs prayed for :

Under the facts and circumstances the applicants prays for the following reliefs :

1. That the Respondents be directed to refund the pay and allowances which was recovered from the arrear pay and allowances vide letter No. Pay/IV/12 dtd. 2.6.95 (Annex.-12).
2. That the order of recovery issued under letter No. Pay/IV/12 dtd. 2.6.95 be set aside and quashed.
3. That the respondents be directed to pay minimum of the pay scale with immediate effect till regularisation of services with annual increments, bonu leave etc.
4. That the respondents be directed to pay regular pay scale with effect from March'94 onwards.
5. That the respondents be directed to regularise the services of the applicants with immediate effect.
6. That the Hon'ble Tribunal be pleased to pass any other order or orders under the facts and circumstances of the case as deemed fit and proper.

The above reliefs are prayed on the following amongst other grounds -

G R O U N D S

1. For that the applicants are serving as casual labourers in the Station Headquarter, Thakurbari for fairly long period.
2. For that the works entrusted to the applicants are of permanent nature which would be evident from the fact of their long engagement in the Station Headquarter, Thakurbari.
3. For that regular pay scale granted in other Station Headquarter namely Rangiya, Missamari, Tezpur to the similarly situated Conservancy Safaiwala.
4. For that the respondents are paid only 50% of the minimum of the pay scale to the comparisable post of Safaiwala.
5. For that the applicants who are serving under Station Headquarter, Thakurbari performing the same duty like regular Conservancy Safaiwala like Rangiya, Missamari Station Headquarter.

6. For that the Respondents have violated the principle of equal pay for equal work in the instant case of the applicants.
7. For that recovery of pay and allowances in the name of alleged excess payments which were paid to the applicants in the months of March and April/94 and recovered in the month of June/95 is highly illegal, arbitrary and unfair.
8. For that recovery without following the principles of natural justice is highly illegal and discriminatory.
9. For that applicants are entitled to minimum of the pay scale which is settled law land by the Hon'ble Supreme Court of India.
10. For that applicants are entitled to regularisation of their services after serving for a long period in Station Headquarter, Thakurbari.
11. For that need of regular absorption of the applicants also appears from the correspondences of the authorities.

Shri Shaneswar Smt

8. Interim reliefs prayed for.

During the pendency of this application the applicants pray for the following interim reliefs :-

1. That the respondents be directed to pay the minimum of the pay scale.

The above interim relief is prayed on the ground mentioned in para 7 of the application.

9. That the applicants declare that there is ~~no~~ no remedy under any rule and the Hon'ble Tribunal is the only remedy. There is no service rule.

10. That the applicants further declares that they have not filed any other application on the subject matter before any other Court/Tribunal.

11. Details of I.P.O.

Postal Order No.	: 09 3271 93
Date	: 25-8-95
Issued from	: G.P.O., Guwahati
Payable at	: G.P.O., Guwahati

12. Details of Index

Index containing the details of documents are enclosed.

13. List of enclosures

As per Index.

Shri. Shameswar Sut

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

I, Sri Thaneswar Sut, Son of Sri Satram Sut resident of Pithakhowa in the district of Sonitpur do hereby solemnly affirm and declare that I am one of the applicants in this case. I am authorised and competent to verify this petition on behalf of the others. The statements made in this application are true to my knowledge and belief and nothin is suppressed or material facts of the case.

Date : 30-8-95 Sri Thaneswar Sut
Place : Guwahati SIGNATURE

Sri Thaneswar Sut

ANNEXURE - 1

Station Headquarters Thakurbari
C/o HQ 44 Mtn Bde
C/o 99 APO

422/5/ST/Q

21 Jul 90

Shri Nayan Das
Vill-Madapi Bamun Pukhuri
P.O. Dipota

EMPLOYMENT OF CONSERVANCY STAFF

1. It is for your information that you have been selected for employment as consy staff in Station Headquarters Thakurbari.
2. You hereby direct to join the duty from 23 Jul 90 onwards and will report to this Station Headquarters Thakurbari with interview call letters on the above date.

Sd/- Y C Pathak
Maj
DAQMG
for Cdr

Copy

Area Account Office
Shillong

1. It is for your info that the following candidates found suitable for employment as consy staff in this Stn HQ in presence of board on 10 Jul 90.
 - a) Shri Sarbbeswar Bora
 - b) Shri Nayan Das
2. The above pers have been info accordingly and directed to report to this HQ by 23 Jul 90 onwards to join the duty.

Assistant Director of Employment : for info please
district exchange Tezpur

Attested.
Advocate.

Shri Sarbbeswar Bora

ANNEXURE-2

Station Headquarters
Thakurbari
C/o Headquarters
44 Mountain Brigade
C/o 99 APO

422/ST/Q

29 Jul 85

Shri Somoswar Nath
Village Kakalbhangi
Post Office - Khelmala T. Tezpur
Distt : Sonitpur (Assam)

1. You are recommended for employment as conservancy Safaiwala at this Headquarter. You are, therefore, requested to kindly report to this headquarters at 0800 h on 01 Aug 85. for duty.

Sd/- T. Nand Kumar
Captain
Offg BM
for Commander

Attested.
A.
Advocate.

Shri Thanoswar Sut

ANNEXURE-3

Station Headquarters Thakurbari
C/o HQ 44 Mtn Bde
C/o 99 APO

422/5/ST/Q

21 Jul 90

Shri Sarbbeswar Bora
Village & P.O. Pithakhowa

EMPLOYMENT OF CONSERVANCY STAFF

1. It is for your information that you have been selected for employment as consy staff in Station Headquarters Thakurbari.
2. You are hereby direct to join the duty from 23 Jul 90 onwards and will report to this Station Headquarters with interview call letter on the above date.

Sd/- Y.C. Pathak
Maj
DAQMG
for Odr

Copy

Area Account Office
Shillong

1. It is for your info that the following candidates found suitable for employment as consy staff in this Stn HQ in presence of Board on 10 Jul 90.
 - a) Shri Sarbbeswar Bora
 - b) Shri Nayan Das
2. The above pers have been info accordingly and directed to report to this HQ by 23 Jul 90 onwards to join the duty.

Assistant Director of Employment : for info please
district employment exchange
Tezpur

Attested.
Advocate.

Shri Shanegwar Sut

ANNEXURE-4

APPT

The undermentioned pers are appointed in temp vacancies of consy safaiwala. Please report for duty on 1st Sep 89 at Stn HQ Thakurbari at 0800 h :-

1. Shri Kunju Das
2. Shri Sekhar Karmakar
3. Shri Sita Ram Mandal
4. Shri Chandra Kant
5. Shri Jeevan Sut
6. Shri Lelau Lohar
7. Shri Govind Sut
8. Shri Surjeet Singh
9. Shri Aboi Nag
10. Shri Dilip Lohar
11. Shri Tara Basu
12. Shri Emendu
13. Shri Thaneshwer Sut
14. Shri Budh Ram
15. Shri Arup Nath
16. Shri Khagan Chand
17. Shri Someshwar Nath
18. Shri Jitendra Sut
19. Shri Ramesh Topna
20. Shri Bhuil

Station : C/o 99 APO

Dated : 10 Aug 89

Sd/- P.C.Mathur
Maj
DAQMG
for Stn Cdr

Attested.
/s/ Advocate.

Shri Shyamprasad

ANNEXURE-5

NORTH EAST REGION DEFENCE EMPLOYEES CO-ORDINATION
COMMITTEE(Representing Entire Defence Civilian Employees of
N.E. Region)

Please reply to : Sri D K Nath
Convenor &
Executive Member
All India Defence Employees
Federation

Sri D.K.Nath, Convenor
North East Region Defence
Employees' Coordination
Committee.
C/o GE Teapur
P.O. Dekargaon
Dist. Sonitpur (Assam)

Ref No. NEDE/CC/90

Date 28 April '90

To
The Adjutant General Branch
Army Headquarters
New Delhi

Subject : REGULARISATION OF CONVANCY SAFAIWALA UNDER
STATION HQ THAKURBARI.

Dear Sir,

Reference this Office letter No. NEDE/CC/90 dated
15th Feb '90.

Inspite of taking up the matter vide this office
letter under reference, no progress is noticed on the
subject matter and the suffering of the said workers
are increasing day by day and getting frustrated.

It is therefore requested that the concerned workers
may for the time being paid with the minimum wages fixed
by the State Government, Assam i.e. Rs. 621/- pm or
Rs. 77/- at per day rate until unless they are regularised
in the service. Their ~~regularisation~~ regularisation may also please be
finalised at an early date so that they may maintain
livelihood as being citizens of the independent country.

Thanking you,

Yours Sincerele,

Sd/- D.K.Nath, Convenor

Copy to :

1. HQ 51 Sub Area C/o 99 APO requested similar action
on the matter please.
2. HQ IV Corps, C/o 99 APO
3. Station HQ Tahkurbari
4. General Secretary, ALL with a request to persue the
India Defence Employees' case for finalisation at
70 Market Road, Kirkee an early date.
Pune-3.

Attested.
Advocate.

Shri Sharan Swar Surt

ANNEXURE -6

No. MI.12/91/330

Dated 26th March/92

SEALCOMMANDER, 44 MOUNTAIN BRIGADE,
HEADQUARTER, THAKURBARI, SONITPUR

I am enclosing herewith a petition, endorsed to me by the Hon'ble Chief Minister of Assam regarding the regularisation of services of some of the temporary workers under your Brigade.

I would request you kindly to look into the matter sympathetically and do the needful.

Sd/- BIZIT SAIKIA
MINISTER, INDUSTRIES, ASSAM, DISPUR

Copy to :

Shri Pradip Barua, Gereki, P.O. Sootea, Sonitpur.

Sd/- Bizit Saikia
Minister, Industries,Attested.
/s/
Advocate.

Shri Phaneeswar Sut

ANNEXURE - 7

Adhoc Stn HQ Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/1/ST/Q. 3 Nov 93

Mr Brahmanand Pande
LAO Army
Tezpur

REGULARISATION OF CONSERVANCY.

Dear Sir,

There are 22 conservancy safaiwalas employed for last so many years at Adhoc Stn HQ. Thakurbari, 18 of them fulfill all requirements for becoming permanent. Due lac of funds we are unable to make the permanent. Although we have projected our demand for additional allotment but as per HQ 4 Corps there are remote chances of getting any more funds.

2. You are requested to advice us on the subject for which I shall be obliged.

Yours faithfully,

Sd/- S Banerji
Lt. Col.
Offg SSO

Attested.
S.
Advocate.

Shri. Shankarwar Smt

ANNEXURE-8

No. Tez/LA/1/Misc/Fd Unit
Office of the L.A.O. (A) Tezpur

Dt. 6 Nov '93

To

The S S O
Adhoc Stn Hq
Thakurbari
C/o HQ 77 MTN Bde
C/o 99 APO

Sub : Regularisation of Conservancy.

Ref : Your letter No. 422/Consy/1/ST/Q dt. 3 Nov '93

It appears from your above cited letter that 22 conservancy Safaiwala have been engaged on casual basis paid at daily rate on ~~namu~~ rate fixed by a Board and rate approved by the ODA concerned yearly.

2. List of conservancy, safaiwala showing the particulars i.e. Name, designation, date of birth and date of engagement has not been found attached with your above cited letter as well as number of conservancy sanctioned to your Stn HQ also not known to this office.

3. However, it is suggested that, if the services of the conservancy safaiwalas are continuously required/necessary, for a longer period, then a Board of Offrs may be held under the order of HQ IV Corps to select the name of conservancy out of the total for regularisation of their service as well as declaration of Quasi-permanent/ Pt, those who have already completed more than 3 years and 10 years of service respectively and fulfill all requirements for becoming permanent. Thereafter, with a copy of Board proceeding, the case may please be taken up with appropriate authorities through staff channel for their regularisation and declaration of QP/Pt in the grade. Once they declared regular/QP/Pt, it is obligatory to the deptt also to make payment regularly. Meanwhile, regular yearly demand for allotment of funds may also be placed to proper authy for their payment. In this connection, please refer Civil Service Regulation, Fundamental Rules and Financial Regulation Pt. I.

In case any doubt, the matter may please be taken up with the CDA Guwahati-22 (Pay Sec) for further clarification

Sd/- BRAHMA PANDEY, LAO (A), TEZPUR

Attested.

Shri Shanagar Sen
Advocate.

ANNEXURE - 9

No. Pay/IV/Vol 12
Area Accounts Office
Shillong

To
Station Hqrs.
Thakurbari
C/o Hqrs 77 Mtn bdc
C/o 99 A.P.O.

Dated 21.9.94

Subject : Regular Pay bill for the month of May, June,
July and August/94.

Reference: Your No. 422/Consy/3/ST/Q dt. 31.8.94 and
14.9.94.

The Regular Pay bills received under your above cited letters are returned herewith unactioned for the following reasons.

1. It is seen that the pay bills have been prepared by claiming all the allowances with effect from 1.5.94 onwards. Whereas these individuals were drawing daily rates only upto 30.4.94. In case these individuals have been given temporary status with effect from 1.5.94, the authority under which the same has been done may be stated with a copy of Govt. letter. It is also noticed that no detailed DO Pt II has been enclosed to this effect stating interalia the rate of Pay, DA, HRA & CCA.

2. It is also noticed that the CGEIS recovery also has been made with effect from 1.5.94. As per extant orders if an individuals employed after 1st January of an year, the CGEIS recovery has to be started with effect from 1st January of next year only.

3. As could be seen from the bills that interim relief has been claimed for all individuals. The specific authority under which the IR has been claimed may please be intimated with a copy of the Govt. letter failing which the amount will not be admissible.

4. It is noticed that the bill in Five individuals has been prepared on the basis of the rates approved for skilled and unskilled labours by station Board whereas the bill for 15 individuals has been preferred as per the pay scale of corresponding Group 'D' employees. The reasons for differential treatment to the one and same type of conservancy staff need to be elucidated.

Attes.ed.

Shri Shaneshwar Surt Advocate.

ANNEXURE-9 (Contd.)

5. In case the individuals have rendered more than 3 yrs continuous service after confirmation of temporary status the casual labourers would be treated on par with temporary ~~status~~ Group D employee for the contribution to GPF. As such papers should be initiated to get the GPF A/c number from JCDA (Fund) Meerut allotted.

6. No provisions exist for payment of washing allowances to casual labours. In case you are having specific authority for payment of washing allowances the same may please be furnished to allow the payment in audit.

It is further noticed that the same conservancy Safaiwala has been shown as casual whereas the same has been shown in other places as regular conservancy Safaiwala. Please reconcile and elucidate the reasons for doing so. Please note that the bills cannot be admitted for payment until the replies are fully furnished.

Dy. CDA has seen

Sd/- Illegible
Sr. Accounts Officer

Attested.
Advocate.

ANNEXURE - 10 (1)

Stn HQ Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

10 Aug 94

Shri Kunja Das

N O T I C E

1. Your pay for the month of Jul 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900 h on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/- Vijay Kumar
Capt
SSO
for Offg Stn Cdr

Attested.
Advocate.

ANNEXURE - 10(2)

Station Headquarters Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO.

422/Consy/Gen/ST/Q

02 Jul 94

Shri Surjeet

N O T I C E

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarter pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900hrs on 05 Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

Sd/- B.K.Bhalsing

Capt
Offg SSO
for Stn Cdr

Attested.

Advocate.

ANNEXURE - 10 (2a)

Stn HQ Thakurbari
C/o HQ 77 Mtn Bde
C/o 199 APO

422/Consy/Gen/ST/Q

10 Aug 94

Shri Surjeet Singh

N O T I C E

1. Your pay for the month of Jul 94 as approved by Area Accounts Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900h on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/- Vijay Kumar
Capt
SSO
for Offg Stn Cdr

Attested.
Advocate.

ANNEXURE - 10 (3)

Station Headquarters Thakurbari
C/o HQ 77 Mtn Bde,
C/o 199 APO.

422/Consy/Gen/ST/Q

02 Jul 94

Shri Sita Ram Mandal

N O T I C E

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarter pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900 hrs on 05th Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

Sd/- B.K.Bhalsing
Capt
Offg SSO
for Stn Cdr

Attested.
/s/
Advocate.

ANNEXURE - 10(6)

Station Headquarters Thakurbari
C/o HQ 77 Mtn ~~Mxx~~ Bde
C/o 99 APO

422/Consy/Con/ST/Q

02 Jul 94

Shri Pradeep Baruah

N O T I C E

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900 hrs on 05th Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting for confirmation from Army Headquarters.

Sd/- B.K.Bhalsing
Capt.
Offg SSO
for Stn Cdr

Attested.
/s/
Advocate.

ANNEXURE - 10(11)

Stn Headquarter Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ET/Q

10 Aug 94

Shri Someswar Nath

N O T I C E

1. Your pay for the month of Jul 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarters by 0900 hrs on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/• Vijay Kumar
Capt.
SSO
for Offg Stn Cdr

Attested.
/s/ Advocate.

ANNEXURE - 10 (12)

Stn HQ Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

shri Khagen Chand

N O T I C E

1. Your pay for the month of Jul 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarters by 0900h on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/- Vijay Kumar
Capt.
SSO
for Offg Stn Cdr

Attested.

Advocate.

ANNEXURE - 10 (12a)

Station Headquarters Thakurbari
C/o HQ 77 Mtn Bde,
C/o 99 APO

422/Consy/Gen/ST/Q

02 Jul 94

Shri Khagen Chand

NOTICE

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarter pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900 hrs on 05th Jul 94. Failing which pay will be returned back to the Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

Sd/- B.K.Bhalsing
Capt
Offg SSO
for Stn CdrAttested.
/s/
Advocate.

ANNEXURE - 10 (14)

Stn HQ Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

10 Aug 94

Shri Shekar Karmakar

NOTICE

1. Your pay for the month of Jul 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900h on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/- Vijay Kumar
Capt
SSO
for Offg Stn Cdr

Attested.
Advocate.

ANNEXURE - 10 (14a)

Station Headquarters Thakurbari
 C/o HQ 77. Mtn Bde
 C/o 199 APO

422/Consy/Gen/ST/Q

02 Jul 94

Shri Shekhar Karmakar

N O T I C E

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarter pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900 hrs on 05th Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

Sd/- B.K. Bhalsing

Capt.
 Offg. SSO
 for Stn Cdr

Attested.
 &
 Advocate.

ANNEXURE - 10 (15)

Station Headquarters Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

02 Jul 94

Shri S H Boil

N O T I C E

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarter pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900h on 05th Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

Sd/- B.K. Bhalsing

Capt.
Offg SSO
for Stn Cdr

Attested.
Advocate.

ANNEXURE - 10 (15 a)

Stn HQ Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

10 Aug 94

N O T I C E

1. Your pay for the month of Jul 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter on 0900 h on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/- Vijay Kumar
Capt.
SSO
for Offg Stn Cdr

Accepted.
/s/
Advocate.

ANNEXURE - 10 (16)

Station Headquarters Thakurbari
C/o HQ. 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

02 Jul 94

Shri Lalu Lohar

NOTICE

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarter pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900h on 05th Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

Sd/- B.K.Bhalsing
Capt
Offg SSO
for Stn Cdr

Attested.
Advocate.

ANNEXURE - 10 (16 a)

Stn HQ Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

10 Aug 94

Shri Lalu Lahar

NOTICE

1. Your pay for the month of Jul 94 as approved Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900h on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/- Vijay Kumar
Capt.
SSO
for Offg Stn Cdr**Attested.**
Advocate.

ANNEXURE - 10 (17)

Station Headquarters Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

02 Jul 94

NOTICE

1. Your pay for the month of May 94 as approved by Area Account office Shillong is held with this Headquarter pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900 hrs on 05 Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

Sd/- B.K. Bhalsing
Capt.
Offg SSO
for Stn Cdr

Attested.
[Signature]
Advocate.

ANNEXURE - 10 (18)

Station Headquarters Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

02 Jul 94

Shri Abio Nag

NOTICE

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with the Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900 hrs. on 05th Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting for confirmation from Army Headquarters.

Sd/- B.K. Bhalsing
Capt.
Offg SSO
for Stn CdrAttested.
Advocate.

ANNEXURE - 10(18 a)

Stn HQ Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

10 Aug 94

Shri Aboi Nag

NOTICE

1. Your pay for the month of Jul 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarters by 0900h on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/- Vijay Kumar
Capt
SSO
for Sffg Stn CdrAttested.
S.
Advocate.

ANNEXURE 10 (19)

Station Headquarters Thakurbari
C/o HQ 77 Mtn Bde
C/o 99 APO

422/Consy/Gen/ST/Q

02 Jul 94

Shri Arup Nath

Notice

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarter pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900 hrs on 05th Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

(B.K. Bhalsing)
Capt
Offg SSO
for Stn Cdr

Attended
&
Advocate.

ANNEXURE - 10 (19 a)

4 22/Consy/Gen/ST/Q

10. Aug 94

Shri Arup Nath

NOTICE

1. Your pay for the month of Jul 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarters by 0900h on 12 Aug 94. Failing which pay will be returned back to Government.
3. The case for payment on permanent conservancy scale has already been taken up and confirmation of the same is awaited from Army Headquarters.

Sd/- Vijay Kumar
Capt.
SSO
for Offg Stn Cdr

Attested.
Advocate.

ANNEXURE - 10 (20)

Station Headquarters Thakurbari
C/o HQ 77 Mtn Bde
C/p 99 APO

422/Consy/Gen/ST/Q

02 Jul 94

Shri Thanesar Sut

NOTICE

1. Your pay for the month of May 94 as approved by Area Account Office Shillong is held with this Headquarters pending collection by you.
2. You are requested to collect the pay at the casual rate from this Headquarter by 0900hrs. on 05th Jul 94. Failing which pay will be returned back to Government.
3. The case for permanent pay scale has already been taken up and waiting confirmation from Army Headquarters.

Sd/- B.K.Bhalsing
Capt.
Offg SSO
for Stn CdrAttested.
Advocate.

ANNEXURE - 11

BY HAND

Stn HQ Thakurbari
 C/o HQ 77 Mtn Bde
 C/o 99 APO

422/Consy/3/ST/Q

22nd May 95

Area Account Office
 Shillong

ARREARS OF PAY AND ALLICES OF CASUAL CONSY
 SAFAIWALAS/TRACTOR DVR FOR THE PERIOD FROM
 01 AUT 91 TO 31. JUL 93 : FWD OF.

1. Please refer to your letter No. Pay/IV/12 dt. 18 May 95.
2. The arrears of pay and allowances amounting to Rs. 1,31,241/- in respect of consy safaiwalas/ tractor driver of this HQ for the above mentioned period received vide your letter under ref is fwd herewith alongwith the board proceedings duly approved by CDA Guwahati for pre audit and early payment please.
3. The cheque may please be issued in SBI Rangapara to be payable at Rangapara and crediting the amount in Public Fund Account Stn HQ Thakurbari 2/1721.
4. An early action is requested.

Enclo : As above

Sd/- B.K.Bhalsing
 Capt
 SSO
 for Stn Cdr

Attested.
 Se.
 Advocate.

ANNEXURE - 12

I.A.F.Z-2011

MEMORANDUM

From AAC
Shillong

STn HQ Thakurbari

No. Pay/IV/12

Dt. 2.6.95.

Sub : Arrears of Pay & alies of Casual Consy
Sfwls/Tractor Dvr for the period from
1.8.91 to 31 July 93

Ref : Your letter No. 422/Consy/3/ST/Q/
dt. 27.5.95.

Sy. Pay bill Nos. mentioned below received
under your above cited letter have been passed.

- | | | | | |
|----|------------------|-------------|------------|-------------|
| 1. | 422/Consy/3/ST/Q | dt. 13.5.95 | passed for | Rs.29691.00 |
| 2. | " | dt. 13.5.95 | passed for | Rs.36450.00 |
| 3. | " | dt. 13.5.95 | " | Rs.25230.00 |
| 4. | " | dt. 13.5.95 | " | Rs.18475.00 |
| | | | instead of | Rs.39970.00 |

Rs. 21495.00 has been recovered
excess payment made vide Vr. No. 422/5/RPB/Civ/March/
94 dt. 27.3.94 and 422/5/RPB/Civ/Apr'94 dt. 30.4.94
on a/c excess payment of Pay & alies for the month
of March'94 and April'94.

Details of pay of Bill No. 4 as under

- | | | | |
|----|---------------|---------------|--------------------|
| 1. | Sri Kunju Das | - Rs. 422/- | net amount payable |
| 2. | " | Sitaram Manda | Rs. 337/- |
| 3. | " | Chandra Kant | Rs. 265/- |
| 4. | " | S Karmakar | Rs. 626/- |

Attested.
Comtd.
Advocate.

5.	Shri L Lohar	Rs. 475/-
6.	" G. Sut	Rs. 442/-
7.	" S. Singh	Rs. 422/-
8.	" A Nag	Rs. 422/-
9.	" D. Lohar	Rs. 422/-
10.	" S. H. Boil	Rs. 422/-
11.	" Manuel	Rs. 325/-
12.	" Thaneswar Sut	Rs. 595/-
13.	" B. Ram	Rs. 562
14.	" K. Chand	Rs. 500/-
15.	" S Nath	Rs. 618/-
16.	" J Chandra	Rs. 1788/-
17.	" P. Bora	Rs. 422/-
18.	" M. Das	Rs. 1579/-
19.	" S Bora	Rs. 1690/-
20.	" N. Das	Rs. 1866/-
21.	" A. Nath	Rs. 1843/-
22.	" R. Topna	Rs. 2432/-

Attested.

[Signature]
Advocate

GOVT. OF INDIA, Dept. of Per. & Trg. No. 51016/2/90-Estt.
(C) dated 10-9-1993.

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

.....

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government offices were issued vide this Department's Case No. 49014/2/86-Estt(C) dated 7-6-1988 (Sl.No. 310 of Swamy's Annual, 1988). The policy has further been reviewed in the light of the judgment of the CAT, Principal Bench, New Delhi, delivered on 16-2-1990, in the writ petition filed by Shri Raj Kamal and others V. Union of India and it has been decided that while the existing guidelines contained in OM dated 7-6-1988 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the scheme as appended.

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

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".

Attested.
Advocate.
Contd---

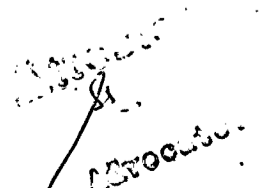
2. This scheme will come into force with effect from 1-9-1993
3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual 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 OM 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 Gr. 'D' Posts.
 - III. Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere 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 :-

contd.!!!

10/10/93
11
10/10/93

- 71
29
- (i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Gr. 'D' official including DA, HRA and CCA.
 - (ii) Benefits of increments at the same rate as applicable to a Gr. 'D' employees would be taken into account for calculating pro rate wages for every one year of service subject to performance of duty for at least 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 Gr. 'D' employees will be allowed.
 - (v) 60% 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 Gr. 'D' employees for the purpose of contribution to the General Provident

Contd.!!!



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

vii) Until they are regularised, they would be entitled to productivity Linked Bonus/Ad-hoc bonus only at the rates 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 Gr. 'D' posts:-

1. Two out of every three vacancies in Gr. '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

contd

Continuation of Annexure -17 13

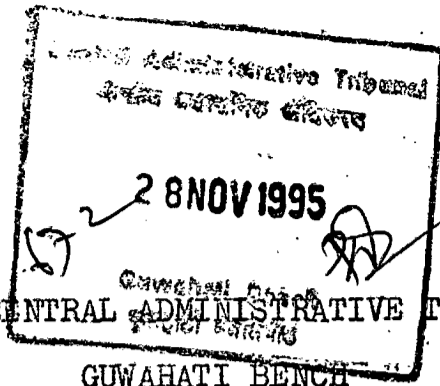
Department of Per. & Trg. from amongst casual workers with temporary status. However, regular Gr. 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/~~future~~ future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum 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 as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's OM dt. 7-6-1988 should be followed strictly in the matter of engagement of casual employees in Central Government Offices.

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

Attested.
/s/
Advocate.



Yola bgr
Yola Jaurai
Add C4SC
CAT.
28.11.95. Guwahati

In the matter of :

O.A.No.167/95

Shri Kunju Das & Ors ...Applicants.
-Vs-
Union of India & Ors ...Respondents.

-AND-

In the matter of :

Written Statement on behalf
of the Respondents.

I, Major V.S.Chhauker, Station Staff Officer,
Station Headquarters Thakurbari, C/o Headquarters 77
Mountain Bridge, C/o 99 APO, Respondent No.4 in the
present O.A. do hereby solemnly affirm and declare
as follows :-

1. That a copy of application in connection
with the above noted case along with an order passed
by this Hon'ble Tribunal have been served upon me

and.....

Advocate
4.12.95

and I have gone through the contents of the application as well as the order and I have understood them thoroughly. Being called upon by this Hon'ble Tribunal I file this written statement on behalf of myself and also on behalf of other respondents being so authorised to do so, say categorically that save and except what is admitted in this written statement rest may be treated as total denial by all the Respondents.

2. That with regards to the contents made in paragraphs a 1 and 2 of the application, I beg to state that I have nothing to comment, being documentary information.

3. That with regards to statements made in paragraph-3 of the application, I beg to state that the conservancy safaiwalas and one tractor driver have been paid their pay at the rate of casual/daily labour wages as revised from time to time in the absence of sanction of the CFA for regularisation of services of the applicants. The bills of pay for the months of March and April 1994 were provisionally passed at the regular rates in anticipation of receipt of sanction of the CFA for regularisation. The difference in pay at regular and casual rates was recovered by the Area Accts Office, Shillong, from the arrears of pay in January '95 in the absence of sanction of the CFA for regularisation. The applicants were to be regularised
vide.....

vide Department of Personnel and Administrative Reforms OM No.49014/4/77-Estt(C) dated 21 March '79 forwarded vide Eastern Command letter No.104022/48/GS(SD) dated 09 June '92. The case for regularisation had been processed by both static and field formation channels but the CFA's sanction could not be obtained so far for reasons of lack of knowledge of the procedure for regularisation, being Adhoc Station Headquarters run by various field formations ever since and failure to get sanction of CFA, powers of which had been delegated to Commander 51 Sub Area. The demand for regularisation of all the applicants is thus genuine and should be granted.

4. That with regards to the contents made in paragraphs 4 and 5 of the application, I beg to state that I have nothing to comment.

5. That with regards to the contents made in paragraphs 6.1 to 6.6 of the application, I beg to state that the details are factually correct except that there are twenty ^{two} conservancy safaiwalas including one tractor driver employed by Adhoc Station Headquarters Thakurbari. The name of Shri Mantu Das is not included in the list as mentioned in para-6.2. The Adhoc Station Headquarters Thakurbari had been showing a break of one day every month except in 1989 when a break of one full

full month was effected in the month of August '89.

All twenty two personnel had been continuously employed by the Adhoc Station Headquarters Thakurbari except for the period of breaks from the date of their employment. The board of officers were constituted basically to obtain willingness of individuals sponsored by the Employment Exchange Tezpur as also to judge suitability of personnel against the existing vacancies. Even after issue of appointment letters many candidates did not join on due date in preference to other jobs at Tezpur. The letter to LAO as quoted in para 6.6 was only to seek advice on the subject rather than for sanction for regularisation as the LAO is not the CFA to do so. The comparison with other Station Headquarters where personnel are employed on regular basis is general and lacks substance since the Adhoc Station Headquarters are not authorised P^EDs against which they could be regularised. The regularisation of the affected personnel can only be done within existing rules and as such Article 14 and 16 of the Constitution have not been violated intentionally by any authority at any level.

6. That with regards to the contents made in paragraph 6.7 of the application, I beg to state that this Headquarters had taken up the case through field fmn channels as well as with 51 Sub Area to accord sanction of CFA for regularisation of eligible candidates. Only seventeen conservancy safaiwala as were found to be eligible.....

eligible and recruited before 07 June, 1988 and were in service on 08 April 1991 as per list attached in terms of Ministry of Personnel and Training O.M. letter No.49014/90/Estt(C) dated 08 April, 1991. The protracted correspondence has failed to result in sanction of the CFA to regularise the conservancy staff so far. The applicants have been employed with Adhoc Station Headquarters Thakurbari ever since their appointment with this Headquarters as conservancy safaiwalas and therefore genuinely deserve regularisation at the earliest.

7. That with regards to the contents made in paragraph 6.8 of the application, I beg to state that the contention of the applicants is incorrect since the pay at the regular basis was paid in anticipation of sanction of CFA. In the absence of the sanction of the CFA for regularisation this Headquarters was directed by the Area Accounts Office to deduct the excess amount paid for the month of March and April '95 vide their letter No. Pay/IV/12 dated 05 July 1994, copy of which is annexed herewith and marked as Annexure R.1. Since this Headquarters failed to either deduct the excess payment or submit sanction of the CFA, the Area Accounts Office deducted the excess amount from the arrears of pay in June '95. The area Accounts Office had only been passing salary for conservancy staff at the rate of casual/daily wages w.e.f. May '94. Article 14 and 16 of the Constitution.....

Constitution of India have not been violated as the conservancy safaiwalas are not authorised higher pay scales till they are formally regularised as per the existing rules.

8. That with regards to the contents made in paragraphs 6.9 and 6.10 of the application, I beg to state that these are factually correct. The action to deduct the excess payments by Area Accounts Office in the absence of sanction of CFA is legal and therefore justifiable.

9. That with regards to the contents made in paragraphs 6.11 and 6.12 of the application, I beg to state that these are factually correct. All twenty two conservancy safaiwalas should be regularised within the existing rules as per eligibility conditions laid down from time to time, since the requirement to employ them is continuous and of a permanent nature.

10. That with regards to the contents made in paragraphs 6.13 to 6.15, I beg to state that the recovery of excess amount paid as salary on higher pay scales in anticipation is in order. The applicants shall be paid on regular scales once sanction of CFA is accorded. The aspect of recovery of excess amount paid, from the arrears.....

arrears is a matter of procedure only. The excess amount, if it had been recovered from the monthly pay would have left the conservancy staff with no money for subsistence and would have resulted in a greater distress. The views of Area Accounts Office may also be obtained on the issue.

11. That with regards to the contents made in paragraph 6.16 of the application, I beg to state that I have nothing to comment.

12. That with regards to the contents made in paragraph-7 of the application, I beg to state that no refund of recovery of excess payment is advisable under the rules. All other reliefs asked for may be granted w.e.f. the date of sanction of CFA or the date of directive of the Central Administrative Tribunal, Guwahati Bench.

13. That the present application is not maintainable in the present form and as such it is liable to be rejected.

14. That the present application is ill-conceived of law and mis-conceived of fact.

Contd.....

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15. That the present application is not maintainable in view of the fact that the applicants have not exhausted all the remedies available to them.

16. That the Respondents crave leave of filing additional written statement if situation so demands.

17. That this Written Statement is filed bonafide and in the interest of justice.

Verification.....

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VERIFICATION

I, Major V.S.Chhauker, Station Staff Officer, Station Headquarters Thakurbari, C/o Headquarters 77 Mountain Bridge, C/o 99 APO do hereby solemnly affirm and declare that the contents made in paragraph-1 of this Written Statement are true to my knowledge and those made from paragraph 2 to 12 are derived from records which I believe to be true and rest are humble submissions before this Hon'ble Tribunal.

And nothing being suppressed, I sign this Verification on this 25th day of November, 1995 at Thakurbari.

V. S. Chhauker

SSO
Sta HQ Thakurbari

Central Administrative Tribunal
28 NOV 1995
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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Yola bgr
Yola Jaurai
Add C4SC
CAT
28.11.95

In the matter of :

O.A.No.167/95
Shri Kunju Das & Ors ...Applicants.
-Vs-
Union of India & Ors ...Respondents.

-AND-

In the matter of :

Written Statement on behalf
of the Respondents.

I, Major V.S.Chhauker, Station Staff Officer,
Station Headquarters Thakurbari, C/o Headquarters 77
Mountain Bridge, C/o 99 APO, Respondent No.4 in the
present O.A. do hereby solemnly affirm and declare
as follows :-

1. That a copy of application in connection
with the above noted case along with an order passed
by this Hon'ble Tribunal have been served upon me

and.....

Advocate
4.12.95

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VERIFICATION

I, Major V.S.Chhauker, Station Staff Officer, Station Headquarters Thakurbari, C/o Headquarters 77 Mountain Bridge, C/o 99 APO do hereby solemnly affirm and declare that the contents made in paragraph-1 of this Written Statement are true to my knowledge and those made from paragraph 2 to 12 are derived from records which I believe to be true and rest are humble submissions before this Hon'ble Tribunal.

And nothing being suppressed, I sign this Verification on this 25th day of November, 1995 at Thakurbari.

V. S. Chhauker

SSO
Sta HQ Thakurbari

Pay/IV/12
Area Accounts Office
Shillong

5-7-94

To

The Adm Comdt
Stn HQ Thakurbari
c/o HQ 77 Mtn Bde
C/O 99 APO

Sub: Regularisation of service of conservancy staff

It is intimated that since sanction to establishment accorded by the CFA on account of regularisation of service of 17 conservancy staff has not been obtained by you, their pay for May 94 has been admitted at casual rate.

It is requested that overpayment made to the 17 conservancy staff during the period Mar 94 and Apr 94 may please be worked out and make recovery from the individuals accordingly.

An early action may please be taken in this regard.

CFC

Sd/- XXX
AAO

[Handwritten signature]

[Stamp]

[Stamp]