

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI-05

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLN. NO.	106 OF 1995
TRANSFER APPLN. NO.	OF 1995
CONTEMPT APPLN. NO.	OF 1995 (IN OA NO.)
REVIEW APPLN. NO.	OF 1995 (IN OA NO.)
MISC. PETN. NO.	OF 1995 (IN OA NO.)

Smti. Amita Baruah... APPLICANT(S).

-VS-

..... Mr. S. Ali, Sr. C.G.S.C. ... RESPONDENT(S)

FOR THE APPLICANT(S)

... MR. B.K. Sharma
MR. M.K. Chaudhury
MR. S. Sarma
MR.

FOR THE RESPONDENTS

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

OFFICE NOTE	DATE	ORDER
<p>The application is in form and within time C. F. of Rs. 50/- deposited vide PO/BD No. 883079 Dated 17.4.95</p> <p><i>for 106/1995 final hearing on 28.6.95</i></p>	19.6.95	<p>Mr. B.K. Sharma for the applicant. Mr. S. Ali, Sr. C.G.S.C. for the respondents</p> <p>Admit. Issue Notice.</p> <p>The applicant has prayed for an interim order directing the respondents to allow the applicant to continue in her service as before and not to act in pursuance of Annexure-6 dated 26.5.95. As yet no order dispensing with the service of the applicant has been passed.</p> <p>Even otherwise she does not appear to have acquired any right to hold the post. Therefore there is no occasion to pass the interim order as prayed for. Prayer for interim order is accordingly rejected.</p>
<p>ffo. 2-8-95</p> <p><i>for 106/1995</i></p>		<p><i>60</i></p> <p>Member</p>
	trd	<p><i>1</i></p> <p>Chairman</p>

Requisites are served
on 28.6.95 & (contd)
in no. 2752-54 dt. 30.6.95

for 106/1995
Notice sent on
R. No. 1821. Dated

2.8.95 Written statement not filed so far. Adjourned for orders to 9.10.95. Liberty to file written statement.

Ali
Vice-Chairman

6
Member

nk

Ali
21/8/95

31-8-95

W/S submitted 22.1.96 to be listed for hearing on 8.2.96 by the Respondent 1, 2 and 3.

At page 25-35

By order
B.O.D.

Ali

8-2-96

Mr. S. Ali, Sr.C.G.S.C. for the respondents is present. Adjourned for hearing on 29-3-96, Before Division Bench.

6
Member

18.9.95

For hearing

on 24.11.95.

lm

Ali

Notice served on op.
No. 182

29.3.96

Mr S. Sarma for the applicant.

List for hearing on 16.5.96.

6
Member

24-11-95

pg

Adjourned to 22-1-96

16.5.96

Mr S. Ali, Sr.C.G.S.C for the respondents. List for hearing on 24.6.96.

6
Member

2.1.96

pg

Regarding to the W/S submitted by the Respondent

Ali

Member

6/19
Lm

List for hearing on 7-10-96.

denets.

for Mr. S. AlI, Sr. C. G. S. C. for the respon-

Learned Addl. C. G. S. C. Mr. A. K. Choudhury

96-9-6

Member

6/18
Lm

List for hearing on 6-9-96.

AlI for the respondeets.

the applicant. Learned Sr. C. G. S. C. Mr. S.

Learned counsel Mr. B. D. Batra for

96-8-6

Member

6/19
Lm

List for hearing on 8-8-96.

respondeets.

AlI, Sr. C. G. S. C. is present for the

None for the applicant. Mr. S.

11-7-96

Member (J)

6/19
Lm

Member (A)

6/19

List for hearing on 11-7-96.

opportunity of being heard.

hearing. The applicant is given another

Sr. C. G. S. C. is present and ready for

None for the applicant. Mr. S. AlI

14-6-96

11.4.97

(5)

In this case after hearing at some length we found that records of the case was necessary. Accordingly we requested Mr. S.Ali, Sr.C.G.S.C. to bring records from the office of Superintending Engineer, Telecom, fixing a date for production of records on 10.4.97. Ali informs us that though he informed the office of the Superintending Engineer, Telecom, records were not sent. For the ends of justice we give further time till today for production of records. The office of the Superintending Engineer is only about a kilometre away from the place. Mr. Ali again informs this Tribunal that he again informed, records have not been produced. For non production of the records this Tribunal is not in a position to dispose of the case. This amounts to interference with Administration of justice.

In view of the above, issue notice to the Superintending Engineer, Telecom to show cause why contempt proceeding shall not be drawn up against him for non-compliance of the directions. Notice is returnable by 30.4.97.

Superintending Engineer is also directed to produce the records on 22.4.97.

Furnish the copy of this order to Mr. S.Ali, C.G.S.C. for taking necessary steps.

List for hearing on 30.4.97.

60
Member

Vice-Chair

trd

(b)1

Some reports are still wanted.
W.P.S. & rejoinder by 30.4.97
in law.
Show cause for and
summons.

By order dated 11.4.97 this Tribunal issued notice to the Superintending Engineer to show cause why contempt shall not be drawn up. Today also Superintending Engineer is not present. He has deputed an Administrative Officer Mr. B.R.Saikia and he informs this Tribunal that Superintending Engineer is in town. However, he has deputed Mr. Saikia to appear before this Tribunal. We do not know for what purpose Mr. Saikia is deputed. No cause is shown. This may be because of the ignorance of the implications of this order.

30.4.97 Therefore for the ends of justice we direct the Superintending Engineer to ^{be} present before this Tribunal day after tomorrow i.e. on 2.5.97. Mr. S.Ali, Sr. C.G.S.C. and also Mr. B.R.Saikia shall inform the Superintending Engineer so that he may personally appear before this Tribunal on 2.5.97 positively, failing which appropriate action will be taken. The records have been filed. Mr. Ali, Sr. C.G.S.C. may retain the records for production the same day after tomorrow. The case is adjourned for hearing till day after tomorrow i.e. on 2.5.97.

List on 2.5.1997 for hearing.

Member


Vice-Chairman

trd

4 P.M.
2.5.97

2.5.97

Shri S.S.Dahia, Superintending Engineer Telecom Civil Circle, Guwahati has personally appeared and informs this Tribunal that he was not very much aware that he should be personally present before this Tribunal and therefore, he sent his Administrative Officer Shri Saikia. We are satisfied with the explanation given by the Superintending Engineer Shri Dahia. Shri Dahia may leave the Tribunal.

Rejoinder has been
Let this case be listed for hearing on 8.5.97

Member


Vice-Chairman

pg

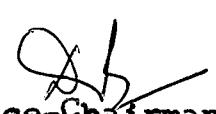
g
515

Left over. List on 19.5.97 for hearing.

19/5
18.5.97.

Left over. List on 19.5.97 for hearing.

Member


Vice-Chairman

pg.

g
915

19-5-97 There is no representation.
 List for hearing on 4-6-97.

W/S and Respondent
 vs. B.W.

6
 Member


 Vice-Chairman

1m

23/5

4.6.97 Let this case be listed on
 4.6.1997 for hearing.

W/S and Respondent
 vs. B.W.

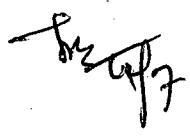
6
 Member


 Vice-Chairman

trd

5/6

4.7.97 P.O. for me day.



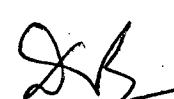
Be

7.7.97

Records have been produced by the respondents. Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant prays for short adjournment to enable him to go through the records. Other side has no objection. Prayer allowed. Let the records be examined by Mr. Sharma in the chamber of Registrar. After examination the Bench Assistant shall keep the records in safe custody.

Let the case be listed on 14.7.97 for hearing.

6
 Member

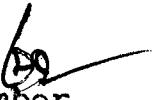

 Vice-Chairman

trd

14.7.97 Due to ref, the court is
 suspended after 12 noon. Adjourned

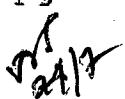
23.7.97 Proper records have not been produced by the respondents. Records contains only written statement, application and the parawise comments. The respondents are directed to produce records on 28.7.97. regarding engagement and subsequent invitation of tenders etc.

List on 28.7.97 for hearing.


Member


Vice-Chairman

pg


Member


Vice-Chairman

28.7.97 On the prayer of Mr S.Ali, learned Sr. C.G.S.C., this case is adjourned to 30.7.97.


Member

nkm

30.7.97 adjourn to 1st day.
By order.

31.7.97 Left over. List on 3.8.97.
By order.

3.8.97 Left over. List on 8.8.97.
By order.

8.8.97 Adjourn to 14.8.97.
By order.

*w/s, Rajinder Singh
bun kilo*
SD
219

*SD
1619*

17.9.97

Heard Mr S.Sarma, learned counsel for the applicant and Mr S.Ali, learned Sr.C.G.S.C for the respondents.

Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of, in terms of the order. No order as to costs.



Member



Vice-Chairman

pg

10.97
Copy of the Judgment
been issued to the
order no.3 vide
3015.

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

D.A. NO. 106/95, 107/95 & 115/95.
T.A. NO.

DATE OF DECISION 17.9.1997.

Smt Anita Baishya, MdtFazar Ali & Smt Namita Das. (PETITIONER(S))

Shri S.Sarma.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Shri S.Ali, Sr.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN
THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Date of Order : This the 17th Day of September,

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Original Application No.106 of 1995.

Smt. Anita Baishya Applicant

- Versus -

Union of India & Ors. Respondents

Original Application No.107 of 1995.

Md. Fazar Ali Applicant

- Versus -

Union of India & Ors. Respondents

Original Application No.115 of 1995.

Smt. Namita Das Applicant

- Versus -

1. Union of India
represented by the Director General
(Telecom.)
New Delhi.

2. The Chief General Manager,
Assam Telecom Circle,
Ulubari, Guwahati-7.

3. The Superintending Engineer,
Telecom Civil Circle,
Guwahati-7.

. Respondents.

Advocate for all the applicants : Shri S.Sarma.

Advocate for all the respondents : Shri S.Ali, Sr.C.G.S.C.

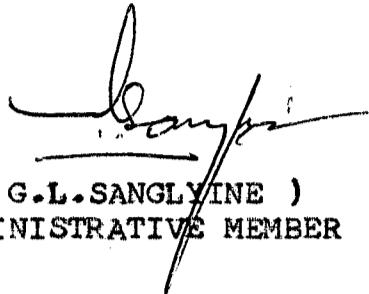
O R D E R

BARUAH J(V.C)

All the 3 applications involve common question of law and similar facts. We, therefore, dispose of all the 3 applications by this common order. The facts are :

The applicants were appointed Casual Workers on various dates in the years 1992 and 1993. They are claiming temporary status and also subsequent regularisation. As per statement made in Annexure-4 in O.A.No.106/95 and O.A. 115/95 and Annexure-1 in O.A.107/95 all the applicants

Considering the entire facts and circumstances of
the case we however, make no order as to costs.


(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER


(D.N.BARUAH)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

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

Case No. 106 of 1995

13 JUN 1995 Smt. Anita Baishya ... Applicant

- Versus -

Guwahati Bench Union of India & Ors. ... Respondents

I N D E X

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For use in Tribunal's office :

Date of filing : 13-1-95

Registration No. : CA. 106/95

Signature
13/6/95
Section Officer (L.Jud.)

REGISTRAR
Central Administrative Tribunal:

Guwahati Bench,
Guwahati-6.

Received copy.

Signature
8.6.95
13/6/95

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O.A. No. 106 of 1995

BETWEEN

Smt. Anita Bai shya, Draftsman,
working in the office of the
Superintending Engineer,
Telecom. Civil Circle,
Guwahati-7.

APPLICANT

...

AND

1. The Union of India,
represented by the Director General (Telecom.)
New Delhi.

The Chief General Manager,
Assam Telecom Circle,
Ulubari, Guwahati-7.

3. The Superintending Engineer,
Telecom Civil Circle,
Guwahati-7.

RESPONDENTS

...

DETAILS OF APPLICATION

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

The application is directed against the threatened discontinuance of service and forcible conversion of service to that of contractual system by inviting quotation No. 8(20)95/TCC/GH/170 dated 26.4.95.

2. JURISDICTION OF THE TRIBUNAL :

That the applicant states that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

Contd...P/2.

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and a permanent resident of Assam, and as such, she is entitled to all the rights, protections and privileges guaranteed by the Constitution of India and the laws framed thereunder. She is a member of Scheduled Caste community and as such, she is accordingly entitled to certain special privileges as admissible under the law.

4.2 That the applicant is a diploma holder in civil Draftsman and is fully qualified to hold the post of a Draftsman in Central Government Department. She has registered her name with the Employment Exchange and her ~~name~~ registration number is W. 262/90.

4.3 That the Assam Telecom. Circle under the Department of Telecommunication was established in 1992 and its main function is relating to civil construction. Pursuant to the Employment Exchange registration and having found the applicant suitable for the post of Draftsman, she was appointed in the Assam Telecom Circle as Draftsman (Civil) with effect from 22.6.92. Though no formal appointment letter was issued to her, it is an admitted position that she has been continuing in the office of



Assam Telecom Circle since 22.6.92 without any interruption whatsoever. Be it stated here that for the purpose of appointment as Draftsman, the eligibility and requirement are diploma in Civil Draftsman and sponsorship by the Employment Exchange. The petitioner being qualified in both respects and there being necessity of Draftsman in the newly created Assam ~~Telecom~~ Telecom Circle, her services have been utilised with effect from 22.6.92. Ever since her appointment, the applicant has been continuing and rendering her sincere and devoted services to the satisfaction of all concerned. Be it stated here that her basic salary is Rs. 1200/- per month.

4.4 That by letter No. 16(2)92/TCC/GH/1135 dated 2.3.94, the applicant was informed that her name has been sponsored by the Employment Exchange for the post of Civil Engineering Draftsman-II. Accordingly by the said letter she was directed to attend an interview to be held on 12.3.94 in the office of the Superintending Engineer (Civil), Telecom Civil Circle. As indicated above, at the time of issuance of the aforesaid letter, the applicant was ~~xxxxxx~~ already in service of the Department. However, after issuance of the said letter dated 2.3.94 an office memorandum No. 16(2)92/TCC/GH/1152 dated 8.3.94 was issued postponing the interview scheduled to be held on 12.3.94 until further order. The ground for postponement was indicated as "administrative reasons".

Copies of the aforesaid letter dated 2.3.94 and 8.3.94 are annexed as ANNEXURES-1 and 2.



4.5 That after the aforesaid postponement of the interview the applicant has been awaiting for the interview and it was her legitimate expectation that her services would be regularised having regard to her long continuance in the department. Be it stated here that there are available vacancies to accommodate the applicant. Apart from the two posts available in the Telecom Civil Circle, six more posts are available in the office of the Chief Engineer.

4.6 That the Superintending Engineer (Civil) by his letter No. 16(2)92/TCC/GH/253 dated 30.5.94 addressed to the Asstt. Director, Telecom (E&R), office of the Chief General Manager, Assam Telecom Circle, Guwahati urged for regularisation of the services of the applicant. In the said letter, it was clearly stated ~~as~~ as to how the services of the applicant has been utilised as Draftsman after creation of the Telecom Civil Circle. In the said letter it was further intimated that there are two vacant posts of Draftsman.

~~xx~~ A copy of the said letter dated 30.5.94 is annexed herewith as ANNEXURE 3.

4.7 That again in July 1994, the Superintending Engineer Telecom Civil Circle by his letter No. 8(3)92/TCC/GH/411 dated 26.7.94 forwarded the particulars of the casual labourers in different units to the Superintending Engineer (Civil), Telecom Civil Circle, Shillong for further necessary action. In the said list, the name of the

applicant figures at Sl. No. 7.



A copy of the said letter dated 26.7.94 is annexed herewith as ANNEXURES 4 alongwith the statements showing the details of casual labourers.

4.8 That when nothing was done towards regularisation of services of the applicant either through process of regularisation under the various schemes adopted by the Department pursuant to the dictum laid down by the Apex Court or through the process of selection as was sought to be done vide Annexure-1 letter dated 2.3.94, the applicant made representations both oral and in writing to the respondents. The cause of the applicant was also espoused by the National Union of Telecom. Engineering Employees, Class-III and accordingly by letter No. Civil Wing/NUTEE/CL-III/Guwahati/11 dated 10.1.95, an agenda item was forwarded to the Superintending Engineer, Telecom Civil Circle, Guwahati. In the said letter, the agenda item No. 7 was in respect of regularisation of Draftsman, staff in different Civil Wing Unit Offices. However, it has been learnt by the applicant that nothing fruitful has come out pursuant to such discussion by the Union with the authorities concerned.

A copy of the said letter dated 10.2.95 is annexed herewith as ANNEXURE-5.

4.9 That after rendering three years of services by the applicant in the Department of Telecommunication, it has been the legitimate expectation of the applicant that



her services would be regularised by the respondents. The respondents also all along assured her that her services would be regularised and she need not go for any other job. She was hopeful of materialisation of such assurances more so in view of the initiative taken by the department as indicated above. However, contrary to such expectation, the applicant is surprised to find that the respondents have issued quotation No. 8(20)95/TCC/GH/170 dated 26.5.95 inviting sealed quotation from qualified Draftsmen of experience and skilled for preparation of structural drawings of building works on a purely contractual basis. It will be pertinent to mention here that the said so called quotation has not been published in any national or local newspaper, but a copy of the same has been given to the applicant asking her to give her rates so that her services can be continued on contractual basis. She has also been asked to quote more copies of the quotations and then to insert rates lower than her own rate to be given giving some fictitious name so that on the basis of such fake quotations, she can be continued on contract basis. Such attitude/action on the part of the respondents is *prima facie* unbecoming of a model employer and is against the *dictum* laid down by the Apex Court.

Copy of the said quotation dated 26.5.95 is annexed as ANNEXURE-6.

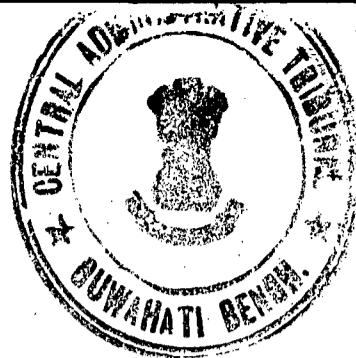
4.10 That being at the receiving end, the applicant had no other alternative than to quote her rate pursuant to the said quotation. He submitted a representation dated 31.5.95



making a grievance against such changed conditions of services and accordingly ~~was~~ urged upon the authorities to regularise her services with the request not to discontinue her services and to allow her in service as before till a decision is taken on the representation dated 31.5.95. Along with the said representation, she also enclosed a newspaper report regarding directive of the Hon'ble Supreme Court to abolish contract labour system.

Copy of the said representations dated 31.5.95 together with the newspaper report and her quotation are annexed herewith as ANNEXURES-7 7A and 7B respectively.

4.1 1 That the applicant states that the aforesaid action of the respondents is prima facie illegal and arbitrary inasmuch as instead of regularising her services, either through the process of regularisation or through the process of selection, her service condition is sought to be changed and her services are sought to be substituted to that of contract basis, which is against the law. Be it stated here that after the aforesaid Annexure-7 representation dated 31.5.95, no action has been taken by the respondents and the applicant has been kept in dark regarding her future prospect. Unless some positive directions are issued to the respondents, the services of the applicant may be discontinued and in such eventuality she will suffer irreparable loss and injury. The balance of convenience lies in favour of the applicant towards passing of such an interim order.



5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that prima facie the aforesaid action of the respondents are illegal and arbitrary and liable to be set aside and quashed.

5.2 For that the services of the applicant is required to be regularised either through the process of regularisation pursuant to the various schemes formulated by the Government of India or through the process of selection as was sought to be done vide Annexure-1 letter. It will be pertinent to mention here that in other respect, the applicant has been extended the benefit of temporary status inasmuch as when the question of ~~xxxx~~ payment of interim relief came to be considered by the respondents, the question arose as to whether the casual workers like that of the applicant are entitled to grant of interim relief. Pursuant to the clarification issued by the Government of India vide its letter No. 49014/2/93-Estt(C) dated 9.3.94 the applicant and other such casual employees were granted the interim relief. The respondents may be directed to produce a copy of the said letter dated 9.3.94.

5.3 For that the applicant having continuously worked for three years on casual basis, her services are required to be regularised ; but instead the respondents have adopted the policy of hire and fire and ~~xxxxxxxxxx~~ have sought to change the conditions of service of the applicant by converting her service into contractual system against the dictum of the Apex Court.



5.4 For that though the applicant cannot claim as a matter of right for regularisation of her services ; but as yet she has got a right to be regularised. However, the respondents instead of considering her case for regularisation have sought to terminate her services without issuing any order by way of devising the policy to convert her services into a contractual one.

5.5 For that the interview which was sought to be held vide Annexure I letter having been postponed and the same having not been held, the applicant has got a right to be considered for being regularised and till such time her services are required to be regularised in terms of the initial appointment.

5.6 For that the action of the respondents being arbitrary and illegal, the same are not sustainable under the law and appropriate directions are required to be issued by this Hon'ble Tribunal.

5.7 For that in any view of the matter, the impugned order/actions are not sustainable. The applicant craves leave of this Hon'ble ~~xxx~~ Tribunal to advance further grounds at the time of hearing of the instant application.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that she has no other alternative or efficacious remedy than to come under the protective hands of Your Lordships.



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

The applicant further declares that she had not filed any application, writ petition or suit in respect of the subject matter of this application before any other Court or any other Bench of this Hon'ble Tribunal nor any such application, suit or writ petition is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicant most respectfully prays that the instant application be admitted, records be called for and upon hearing the cause or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs :

- 8.1 To direct the respondents to regularise the services of the applicant as Draftsman (C), Grade-II with retrospective effect with all consequential benefit ;
- 8.2 To set aside and quash the Annexure-6 quotation dated 26.5.98 ;
- 8.3 To direct the respondents to allow the applicant to continue in her service as before till such time her case is considered for regularisation either through the process of regularisation under the regularisation scheme or through the process of normal selection.
- 8.4 Cost of the application ;
- 8.5 Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case.



9. INTERIM ORDER PRAYED FOR :

During the pendency of the application, the applicant prays for an interim order directing the respondents to allow the applicant to continue in her services as before and not to act in pursuance of the Annexure-6 quotation dated 26.5.95.

10.....

The application is filed through Advocate.

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

(i) I.P.O. No. 03 883079 Date : 17.4.95

(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

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

I, Smt. Anita Baishya, aged about 25 years, daughter of Shri D. Baishya, working in the office of the Superintending Engineer (Civil), Telecom Civil Circle, Guwahati-7, do hereby solemnly verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge ; those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 12th day of June 1995 at Guwahati.

Anita Baishya

GOVT. OF INDIA.

DEPARTMENT OF TELECOMMUNICATIONS,
OFFICE OF THE SUPERINTENDING ENGINEER : : TELECOM CIVIL CIRCLE,
GUWAHATI - 781 007.

No. : 16(2)92/DOC/G/H/ 1135

Dated : 02.03.1994.

To_d

Sub. :- Interview for the post of Civil Engineering Draftsman Grade - II.

Regn. No:- A. 262/90.

Sir,

The undersigned has pleasure to inform you that your name has been sponsored by the local Employment Exchange for the above said post.

You are hereby requested to attend interview on 12.03.1994 at 11.00 hrs. in the office of the undersigned as given below.

Candidates will have to bring all certificates and credentials in original alongwith a attested copy and also drawing instruments Viz Set Squares, T-Square, Engineering drawing scales, pencil, rubber, errasors etc.

No. T.A./D.A. will be allowed for attending interview.

ADDRESS

O/o The Superintending Engineer (Civil)
Telecom Civil Circle,
Mitra Building (2nd Floor)
Ashram Road,
Ulubari Chariali
Guwahati - 781 007.
(Adjacent to Statfed Building).

E.A. to Superintending Engineer,
Telecom Civil Circle,
Guwahati.
11/3/27

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DEPARTMENT OF TELECOMMUNICATIONS,
OFFICE OF THE SUPERINTENDING ENGINEER :: TELECOM CIVIL CIRCLE,
GUWAHATI - 781 007.

OFFICE MEMORANDUM
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No. : 16(2)92/TCC/GH/11352,

Dated : 8.03.1994.

In continuation to this office letter No. 16(2) 92/TCC/GH/1135, dated 02.03.1994 regarding interview for the post of Draughtsman Gr. - II to be held on 12.03.1994 at 11.00 hours is hereby postponed due to administrative reasons until further order.

(S.K. DUTTA)

Superintending Engineer,
Telecom Civil Circle,
Guwahati.

Copy to :

1. The Assistant Dy. Director of Employment, Dist. Employment Exchange, Bharalumukh, Guwahati - 9 for information w.r. to his letter No. ORD. No. 17/94/1416-17, dated 09.02.1994.

2-26)

Concerned candidates for information please

PSX hand

Name : - Smt. A. Prakash

Address : -

E.A. to Superintending Engineer,
Telecom Civil Circle,

Guwahati.

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GOVT. OF INDIA.

DEPARTMENT OF TELECOMMUNICATIONS,

OFFICE OF THE SUPERINTENDING ENGINEER : TELECOM CIVIL CIRCLE,

GUWAHATI - 781 007.

No. : 16(2)92/TCC/GH/253

Dated : 30.05.1994.

To,

Sri K.S.K. Prasad Sarma,
Assistant Director Telecom (E&R),
O/o the Chief General Manager Telecom,
Assam Circle, Guwahati.

Sub. :- Recruitment to the cadre of Draughtsman.

Kindly refer to your letter No. RECCT-5/16-94, dated 20.04.1994, it is intimated that no such eligible regular staffs are available in this Circle. Hence report may be treated as NIL.

Further it may be mentioned that after the creation of this Circle Office which is looking after various time-bound projects of Assam Telecom Circle, Posting of Draughtsman was absolutely essential to run the office. The sanctioned two post were not filled up immediately and hence to run the office works smoothly 2 (two) Nos of Casual Draughtsman were engaged w.e.f. July '92 by personnel found eligible/qualified services rendered by them till date is found very much satisfactory.

Hence we are forwarding their names as below, for your consideration of recruitment to the cadre of Draughtsman.

Sl.No.	Name	Employment Exchange Regn. No.	Date from which engaged
1.	Smti. A. Basu (SC)	262/90	01.07.1992.
2.	Smti. N. Das.	793/92	13.07.1992.

Attn: Smti. N. Das

Superintending Engineer (C),
Telecom Civil Circle,
Guwahati.

GOVT. OF INDIA.
DEPARTMENT OF TELECOMMUNICATIONS,
OFFICE OF THE SUPERINTENDING ENGINEER: TELECOM CIVIL CIRCLE,
GUWAHATI - 781 007.

No. : 8(3)92/TCC/GH/ 4ii

Dated : 26.07.1994.

To,

The Superintending Engineer (C),
Telecom Civil Circle,
Shillong.

Sub. : Engagement of Casual labourer in different
units of Civil Wing.

Kindly refer to your letter No. 16(6)92/TCC/SII/1263,
dated 01.07.1994 the particulars of Casual labourers in
different units are furnished herewith for further necessary
action from your end.

enclo : Proforma.

Ram Manohar Pal
26/7/94
Superintending Engineer (C),
Telecom Civil Circle,
Guwahati.

*Almira
Hemanta*

4. Conf

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PROF. DR. E. H.

STATEMENT SHOWING DETAILS OF CASUAL LABOURS

STATEMENT SHOWING DETAILS OF CASUAL LABOURERS											
Name of casual labourers	Date of birth	Date of appointment as casual labourer	Community	Quali-	Total No. of	Office	Nature of job/ Reasons For RELEASE				
#	/	/					days worked to post against engagement	on 30.6.94 which	which en-	attached	engaged.
2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	

TELECOM CIVIL CIRCLE, GUWAHATI

1. Sri Bapdhan Rajbongshi		3.2.75 - 18.05.1992	3837/92/90	VIII	1992 - 121 1993 - 228 1994 - 92	TCC/GH	Office Chow- kidar	Engagement on tempor- ary basis was requi- red to run the Office smoothly till the sanctioned posts are filled up on regular basis.	
2. Sri Akhil Talukdar		1.2.71 - 15.06.1992	9907/92	IX	1992 - 124 1993 - 236 1994 - 124	TCC/GH	Office Peon		
3. Sri Kandarpa Rajbongshi		1.5.69 - 27.07.1992	5344/87	X	1992 - 101 1993 - 227 1994 - 123	TCC/GH	Office Peon		
4. Sri Anil Rajbongshi		1.3.73 - 27.07.1992	5671/93/91 - Passed	Passed	1992 - 105 1993 - 223 1994 - 108	TCC/GH	Office Peon		
5. Sri Dimbeswar Das		31.12.67 - 12.10.1992	12176/91	IX	1992 - 56 1993 - 203 1994 - 108	TCC/GH	Office Peon		
6. Md. Fazar Ali		1.3.66 - 11.02.1993	6764/93	B.A.	1993 - 217 1994 - 125	TCC/GH	Typist		
7. Smt. Anita Baishya		1.3.70 - 22.06.1992	262/90i	S.e.	— Dip. in Draugh- tsmanship Civil Engr. gineering	1992 - 112 1993 - 228 1994 - 64	TCC/GH	Draughtsman	
8. Smt. Namita Das		1.10.72 - 13.07.1992	753/92	-do-	1992 - 112 1993 - 235 1994 - 112	TCC/GH	Draughtsman		

In this connection correspondence has been made with C.G.M.T. Assam Circle, Guwahati Vide T.O. No. 16(2)92/TCC/GH/69 dated 13-7-92 and 16(2)/92/TCC/GH/622 dated 25-2-93 but no Group 'C' & 'D' Staffs posted against the existing vacant posts.

Superintending Engineer (C) 17194
Telecom Civil Circle
Guwahati-781007

NATIONAL UNION OF TELECOM ENGINEERING EMPLOYEES
Class III

Ref. No Civil wing/NUTEE/Cl, III/Ghy/11

Date 10.2.95

To

The Superintending Engineer
Telecom Civil Circle
Guwahati.

Sub. Agenda for by monthly meeting.

Sir,

This is with reference to your Telephonic discussion had with you on 9.2.95. In this connection I am very glad to place the following agenda for suitable decision.

AGENDA

1. Recruitment of L.D.C. & Steno-III & D.M.Gr.II from local employment exchange.
2. O.T.B.P. Promotion to TOA-II who have completed 16 years.
3. Transfer of Mrs. Usha Saikia to Jorhat Division.
4. Shifting of Telocom Civil Division, Guwahati
5. Acceptance of Options & issue of order for conversion from clerical to T.O.A. pattern in in r/o candidates promoted from Gr. D to L.D.C. recruited after 1990.
6. Posting of clerical staff & steno in Chief Engineer's and D/M Gr.III to Civil S.E.'s office and D/M Gr. III in Division office. Pay scale to be given as per central secretariate scale for chief Engg. office class III staff.
7. Regularisation of DRM staff in different civil wing office
8. Immediate posting of P.A. to Chief Engineer (C), S.E. (H.Q.)
9. Adhoc promotion of eligible Gr.D staff to Gr.C
10. Bifurcation of S.E. civil Shillong and S.E. Guwahati
11. Issue of order for Sr. TOA.
12. Functioning of L.G.C.m.
13. Admin. Bldg.

(R.K. Sharali)
Divisional Secy.
NUTEE, C.III (Avil wing)
Guwahati.

Almond
Beef
Tuna

No. : 8(20)95/TCC/GH/170/

Dated : 26.05.1995.

Q U O T A T I O N

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Sealed quotations are invited from qualified Draughtsman of experience and skill, for preparation of structural drawings of the building works, on a purely contractual basis. Rates for each size of job summarised below is to be quoted. The person who shall be selected for working will not have any right for regular engagement. The contract can be terminated any time by the department without showing any cause to him.

Name of the intending person	Qualification & experience	Sheet size	Rate to be quoted
1.	2.	3.	4.
Preparation of structural/Architectural Drawing as per details supplied, making corrections as directed & complete as per direction of the Engineer in charge.		1) 1.00 m. x 0.60 m. 2) 0.42 m. x 0.30 m. (A ₃)	

C O N D I T I O N S

= = = = =

1. The candidate must possess a diploma/certificate of draughtsmanship from a Govt. recognised institution.
2. The Candidate should have at least six months experience of working in an organisation of repute and a certificate of experience must be produced while furnishing his candidature.
3. The person selected for working have to procure his own drawing instruments and upkeep those in his own custody. However Tracing paper for the drawing shall be supplied by the Engineer in charge. He has to prepare/drawings at his own premises and get them approved in the Office of the Engineer in charge.
4. All additions, alterations, deletions, corrections, omissions in drawings prepared has to be complied with till the satisfaction of department, for getting payment for a complete drawing sheet of 1.00 mt. X 0.60 mt. (for smaller size of sheet, proportional rate will be paid).
5. Payment shall be made only after the drawing is prepared and corrected as per directions and to the entire satisfaction of the Engineer in charge. No claim for any incomplete or uncorrected work to the satisfaction of Engineer in charge shall be entertained.
6. The filled up quotation must be submitted to the undersigned within 31.05.1995 upto 3.00 P.M.

Assistant Surveyor of Works (E),
O/c the Superintending Engineer,
Telecom Civil Circle, Guwahati.

Copy forwarded for information to :-

1. The C.E. (C), NEZ, Guwahati.
2. The E.E. (C), TCD, Guwahati.
3. Notice Board.

To,

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ANNEXURE 7

Dated.
31.5.95

The Superintending Engineer (C),
Telecom Civil Circle,
Guwahati-7.

Sub:- Regularisation of "Casual Service".

Ref:- Quotation No. 8(20)/95/TCC/GH/170 dated 26-05-95.

Sir,

With reference to the above, I, with due deference and profound submissions beg to state the followings:-

1. That ever since the establishment of the Telecom Civil Circle, I have been working as Draughtsman against an existing vacancy. My services are being utilised by the Department and I have been ~~not~~ rendering my sincere, denoted and unblemished service to the satisfaction of all concerned.
2. That I have been representing for regularisation of my service. In this connection, You had written to the Assistant Director Telecom (E & R) urging for regular Recruitment clearly indicating about 2(two) sanctioned posts and as to how my services are satisfactory and required to be utilised Vide your letter No. 10(2)92/TCC/GH/253 dated 30-05-94.
3. Further it may also be recalled that I was asked to appear before and interview being sponsored by the Employment Exchange Vide interview called letter No. 16(2)92/TCC/GH/1135 dated 2-5-95. However for the reasons best known to the authorities. The interview was postponed and the same is yet to be held.
- That based on various guidelines issued by the Govt. of India and dictums laid down by the Apex Court, my service is required to be regularised. However contrary to such a stand, the sealed Quotations as indicated above has been issued for contractual employment which again contrary to the dictums of the Apex Court instead of being a model employer my services are being sought to be utilised in exploitative terms. In this connection a recent decision of the Apex Court may be referred to as reported in ~~the~~ the issue of "The Assam Tribune" dated 24-5-95 (copy enclosed). In this connection provisions of contract labour (Regulation and Abolition) Act may also be referred to.

*Attnm
for
Answe*

(Contd.....P2)

In view of the above, I most respectfully pray that my service may be regularised instead of utilising my services under contract system as had been sought to be done.

Till a decision is taken on my this representation, I may be allowed to continue as before without insisting upon engagement on contract basis thereby changing my condition of my service.

Should you be pleased to accede to my aforesaid prayer which has been made in accordance with law and thereby extend your protective hands over me, I shall remain bound to you in deep gratitude.

With sincere regards.

Yours faithfully,
Miss Anita Baishya

Enclo:- As stated.

(ANITA BAISHYA),
Casual Draftsman,
O/o the Superintending Engineer (C)
Telecom Civil Circle,
Guwahati-7.

Copy to:-

1. Advance copy to the Superintending Engineer (C), Telecom Civil Circle, Guwahati for information and necessary action please.
2. The Chief Engineer (C), Department of Telecom, North East Zone, Guwahati for information and necessary action please.
3. The Chief General Manager Telecom, Assam Circle, Guwahati for information and necessary action please.
4. The Executive Engineer (C), Telecom Civil Division, Guwahati for information and necessary action please.

(ANITA BAISHYA),
Casual Draftsman,
O/o the Superintending Engineer (C)
Telecom Civil Circle,
Guwahati-7.

*Alleged
Signature*

ANNEXURE 7A

SC directive to abolish contract labour

NEW DELHI, May 23—The Supreme Court has termed the contract labour system as an unfair labour practice and has recommended to the Central and State Governments to take necessary steps for its abolition.

While disposing of several appeals, wherein the issue of abolition of contract system of labour, had been raised, the Division Bench of Justice P. B. Sawant and Justice S. B. Majumdar said, "We recommend that both the Central and the State Governments should appoint a committee to investigate the establishments in which the contract labour is engaged and where on the basis of the criteria laid down in Clauses (a) to (d) of Section 10(2) of the Contract Labour (Regulation and Abolition) Act, 1970, the contract system can be abolished and direct employment can be given to the contract labour."

The appropriate government on its own should take initiative to abolish the labour contracts in the establishments concerned by following the procedure laid down by the Act.

The Apex Court also asked the

operation or work which satisfies the factors mentioned in Clauses (a) to (d) of Section 10(2) of the Act, should on their own, discontinue the contract labour and absorb as many of the labour as is feasible as their direct employees".

The Judge said: "We cannot help expressing our dismay over the fact that even the undertakings in the public sector have been indulging in unfair labour practises by engaging contract labour when workmen can be employed directly even according to the test laid down by Section 10(2) of the Act.

The only ostensible purpose in engaging the contract labour instead of the direct employees in the monetary advantage by reducing the expenditure".

Alman
J. S. Alman

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To,

The Subcontrolling Engineer (C),
Telecom civil circle, Guwahati-7

Subject:— Submission of Quotation.

Sir,

According to your quotation, I have filled up
and enclosed my documents herewith.

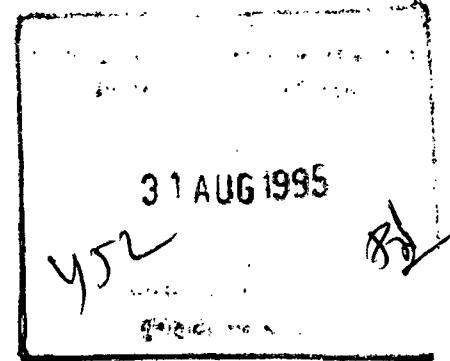
Name of the intending person	Qualification & experience	Sheet size	Rate to be quoted
Miss Anita Baishya	H.S.L.C passed with 2 (two) years diploma course in civil Engineering Draftsman. EXP: I am work- ing in Telecom civil circle since 22.6.92 to at present by making all struc- tural drawing & Archi- tecturing.	① 1.00m x 0.60m. ② 0.42m x 0.30m (A3)	Rs. 350.00 Rs. 150.00

This quotation is submitted without any pre-judice
and result of the representation made today
(31.05.95).

Yours faithfully

Miss Anita Baishya
Casual Draftsman
Telecom civil circle,
Guwahati-7

31.5.95



Central Govt. Standing Orders
 Central Administrative Tribunals
 Guwahati Bench, Guwahati

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
 GUWAHATI BENCH AT GUWAHATI:**

IN THE MATTER OF :

O.A. No. 106/95

Smti Anita Baishya ...Applicant

-Vs-

Union of India and ors...Respondents:

And-

IN THE MATTER OF :

Written Statements submitted by the
 Respondents No. 1,2 & 3.

WRITTEN STATEMENTS:

The humble Respondents submit their
 written statements as follows :-

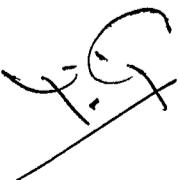
1. That with regard to statements made in paragraph 1 of the application, the Respondents beg to state that she is not the employee of the Department but shewas preparing some structural drawings under the instruction of the Department for which she has been paid on hand receipt which was a form of contract in which the applicant agreed to do the same on verbal offer. For every month the applicant is doing the same work in same terms and conditions on contract basis.
2. That with regard to statements made in paragraph 2 of the application, the Respondents beg to state that the applicant not being a Central Govt. employee the Hon'ble Tribunal has no jurisdiction to entertained the application of the applicant.

-2-

3. That with regard to statements made in paragraph 3 of the application, the Respondents have no comments on them.

4. That with regard to statements made in paragraphs 4.1 and 4.2 of the application, the Respondents have no comments.

5. That with regard to statements made in paragraph 4.3 of the application, the Respondents beg to state that the same is not correct and hence denied. It is not correct to say that having found her suitable for the post of Draftman, the applicant was appointed as Draftman w.e.f. 12.6.92. In fact this office required certain structural drawings to be prepared in the course of duties to be performed by this Office and therefore on casual job basis she was asked to prepare structural drawings for which payment was made to her on hand receipt. If she were appointed in any capacity to hold a post, necessary appointment letter would have been issued. Just because some jobs were required to be done for some time and were got done from her does not confer any right on her to hold the post or because the applicant was eligible to hold that post does not give any right to that post. The necessity of a Draftman even does not give her status of employee as appointment to the post can only be made by the authority competent ~~to x the x p a x t x x a x m x a x b x x m x x~~ ~~b x x t x x a u t h o r i t y x x x~~ to appoint through the established channels of recruitment in the department.


It is absolutely baseless to say that she was at any time appointed as Draftsman and she has rendered any

-3-

service in such capacity and she was paid salary as Rs. 1200/- (Rupees One thousand two hundred) only per month. The applicant was paid only on hand receipt on the basis of work done by her in terms of equivalent sum payable to Group "C" employee. The payment was strictly for the work done and not on monthly basis as is clear from the different payments made during each month. As already stated each month when the applicant accepted the payment on hand receipt, the verbal contract according to which she executed work stood closed.

It is further pointed out that it is wrong to say that she has continuously rendered her services as she was not holding any post but doing only work as and when required on casual basis. She was paid for the work done equivalent to No. of days payment to Group "C" employees 124 (One hundred Twenty four) days in 92-93, 195 (One hundred ninety five) days in 93-94 and 217 (Two hundred seventeen) days in 94-95. No work was taken from her in November, 92, December, 92, January, 93, June, 93 and after January, 95 during which she was paid equivalent to 13 (thirteen) days only.

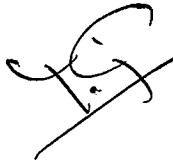
6. That with regard to statements made in paragraph 4.4 of the application, the Respondents beg to state that the Respondent No. 3 under the impression of being appointing authority for Gr.-"C" posts called for names of candidates from employment exchange and issued interview letters to candidates, but when he came to know of latest departmental rules position, the interview was postponed and the direction was received subsequently from C.G.M.T. Assam Circle in April, 94 vide letter No. Rectt.-5/16-94.

-4-

dated 20.4.94 based on Department of Telecom Circular No. 9-1/93-TE II Dated 14.2.94 stating that the existing vacancies are first to be filled from the eligible departmental candidates and if the same were not available then from open market to fill only the essential minimum vacancies. For filling up vacancies from the open market necessary formalities like open advertisement, offering opportunity to all eligible candidates shall be observed in which case applicant can also avail the opportunity instead of getting some preferential treatment which infringes upon the right of other eligible candidates. The interview was therefore cancelled but due to change of incumbent and persons on additional charge, the formal orders were not issued and got ignored, the applicant was aware of the same.

The appointing authority in case of Gr. "C" employees is Chief General Manager Telecom, Assam Circle, Guwahati who shall takeup the recruitment process. The Respondent No.3 is not the appointing authority for this post of Draftsman.

7. That with regard to statements made in paragraph 4.5 of the application, the Respondents beg to state that it is not correct to say that it has been her legitimate expectation that she would be offered regular service as she has not been promised for the same at any time and for the 2 Nos. of posts 16(sixteen) names were forwarded by the employment exchange and it would not have been reasonable expectation that she would surely be selected just because she has prepared some structural drawings for the office. The availability of the vacancies in the



office for which claimant has done some works or in any related office of the same wing or Department does not in any way confer any right on her for the appointment as would to any other person who has done some casual job for a day, or a month or any year or more for the respondents Office or for any other related office or Department.

As regards the posts available in office of the Chief Engineer (C) are concerned, she cannot claim any right on them on the basis of being called for interview for two posts and there is no relevance with the case. The recruitment for posts in the office of the Chief Engineer (C), which is different office shall be done by Chief General Manager Telecom, Assam Circle, Guwahati only after completing necessary formalities. The claimant can avail of her right with others equilly eligible as and when the department takes up recruitment against those posts.

It may also be stated that the recruitment for Group- "C" posts is to be done through the recruitment cell of Chief General Manager Telecom, Assam Circle, Guwahati as per established practices and departmental rules and Superintending Engineer (Civil) is not the appointing authority. As soon as the fact came to notice of the Superintending Engineer, the interview was postponed and on receipt of letter from Chief General Manager Telecom, Assam Circle, Guwahati No. Rectt.-5/16-94, dated 20.4.1994 on the basis of circular No.9-1/93-TE-II, dated 14.2.1994 from Ministry of Communications the recruitment process were cancelled. This was known to the applicant but since no cancellation orders were issued by Superintending Engineer (C) due to his transfer and reliving on 13.5.1994 and subsequent due charge with other officers, the case was lost sight off and the claimant is trying to take ~~advantage~~ ^{stage} of the same. The letter referred as Annexure "2A" dtd.

1.9.94 is just an internal official communication regarding vacancies in various cadres in different offices which does not mean that claimant can claim any preferential right on them for the appointment.

8. That with regard to statements made in paragraph 4.6 of the application, the Respondents beg to state that the Chief General Manager Telecom, Assam Circle, Guwahati asked for the names of departmental candidates for consideration for recruit as per policy of the department. In the said letter No.16(2)92/TCC/GH/253 Dt. 30.5.94 it was clearly stated that no regular departmental candidate is eligible, the names of two persons who were engaged for preparation of drawings on casual job basis were forwarded for consideration if permissible under the rules only on specific request on humanitarian grounds which in anyway does not confer on them any right to appointment. The stating of the name of applicant as Draftsman was done in routine manner as they were doing some drawing work for the office and which did not in anyway imply that she was appointed as Draftsman. and if were so there was no need to forward her name. Her name was forwarded totally on the repeated request of the applicant on the plea that in case no departmental candidate was available she might have some chance of consideration along with other candidates similarly qualified.

9. That with regard to statements made in paragraph 4.7 of the application, the Respondents beg to state that the name included in the casual labour Group- "D" list forwarded on 26.7.1994 was wrongly forwarded as Draftsman is Gr.- "C" post and there is no connection between casual



labour and work being taken from a person for drawing the structural drawings. Moreover this was forwarded as general administrative report in which name of all persons working on casual basis were included as a routine report only without any or consideration of any legal aspects.

10. That with regard to statements made in paragraph 4.8 of the application, the Respondents beg to state that since the applicant was given work on casual basis as and when it was there and work area of the office of the respondent was reduced to half as a result of creation of one more Circle at Jorhat and there was practically no work to do by Draftsman, there was no justification of giving work to the applicant. Since the work was reduced considerably, quotations were called by this office for preparation of drawings to cater to the still more infrequent need as and when it arose, The agenda item with union quoted (union agenda item at Sl.No.7) for DRM staff has no relevant with the case as it deals with Casual Mazdoors of Gr."D" level engaged on daily wages basis.

11. That with regard to statements made in paragraph 4.9 of the application, the Respondents beg to state that it is not correct to say that applicant has rendered 3 years of services in the Department as she has been paid for the work done equivalent payment made to employees of equivalent skill in Group "C" for 116 days in 1992-93, 218 days in 1993-94 and 195 days in 1994-95. She was not paid anything in Nov, 1992, Dec, 1992, Jan, 1993 and June, 1993. In several other months payment was equivalent to say in April, 1992 17 days, in Jan, 1994 17 days and in Jan, 1995 13 days only.

which clearly shows that the claimant was not a regular employee or having any ~~xx~~ service paid on monthly basis regular pay in which case it would have been constant monthly pay instead of variable payment on varying number of days in different months and but only casual work as and when required and not confirming status of employee. This also discredits the annexure "32" dated 30.5.94 which gives wrong impression of service which in fact was not there.

At no stage she was assured of any appointment and it is totally false and baseless and after thought. Since the structural drawing work of the respondent was reduced drastically because (1) reduction of jurisdiction to less than 1/2 of what was earlier (2) preparation of structural drawings of most of the standard staff quarters and Telecom buildings and requirement of work reduced to less than 1/3rd and work was required infrequently, the quotations were called for getting work done on contractual basis. Since claimant was to be given job only when it was available, and the job was required very rarely now, there was no need for the claimant to ~~xx~~ come to the office everyday and returning back empty, there wasting her time, efforts and money instead of doing some other fruitful job.

12. That with regard to statements made in paragraph 4.10 of the application, the Respondents beg to state that since the applicant was not in service and not appointed to any post, there was no question of allowing her to continue or to discontinue any services. The taking of work from claimant was based purely on the availability of work with the respondent.

The ~~Respondents~~ was not being asked to work as

contract labour but only to quote rates of doing work on contract basis which is fair and in no way infringes upon any law. If it were so no work can ever be got done on contract as all people doing work on contract basis shall be defined as contract labour which is not the intention of the Hon'ble Supreme Court. The law laid down by Hon'ble Supreme Court does not apply in the instant case.

13. 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. The Respondents further beg to state that regular appointment to Group "C" post can only be done by Chief General Manager through the established recruitment rules and guide lines issued by the Department giving due opportunity to all concerned instead of such backdoor appointments which is being tried by the applicant and is illegal and unwanted practice which infringes upon the rights of other similarly qualified candidates who are denied opportunity to the appointment.

14. 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 grounds is maintainable in law as well as in facts and as such the application is liable to be dismissed.

15. That with regard to statements made in paragraphs 6 of the application, the Respondents beg to state that the applicant could have approached higher offices situated in Guwahati itself like office of the Chief Engineer(C)/C.G.M.T., Assam Circle, Guwahati.

16. That with regard to statements made in paragraph 7 of the application, the Respondents have no comments .

17. That with regard to statements made in paragraph 8 of the application, 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.

18. That with regard to statements made in paragraph 9, regarding Interim order prayed for the Respondents beg to state that inview of the facts and circumstances narrated above the Interim order is liable to be dismissed.

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

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

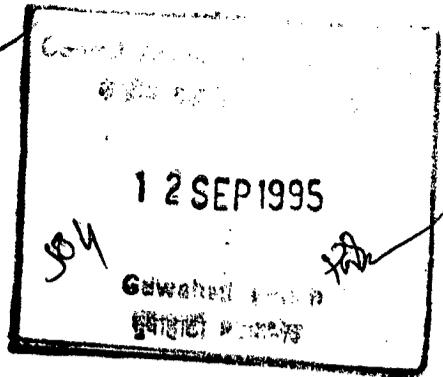
- V e r i f i c a t i o n -

K.P. Rajkhowa AssH.
I, Krishan Kumar, Superintending Engineer, Telecom
SD-I
Civil Circle, Guwahati do hereby solemnly declare that the statements made above are true to my knowledge, belief and information.

An I sign the verification on this 9 th day of AUGUST, 1995 at Guwahati.

DECLARENT::

K.P. Rajkhowa
AssH. Engineer(Civil)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: :GUWAHATI BENCH

Anita Baisya

- Vs -

U.O.I. & Others.

REJOINDER TO THE WRITTEN STATEMENT SUBMITTED BY THE
RESPONDENTS

The applicant begs to state as follows :

1. The applicant has gone through the copy of the Written Statement filed by the respondents and have understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the W.S. are categorically denied by the applicant. Further the statements which are not borne on records are also denied.
2. That with regard to the statements made in paragraph 1 of the W.S. while denying the contentions made by the respondents, the applicant begs to state that she was engaged as a casual Draftsman with effect from 22.6.92 by the competent authority against the sanctioned post. All the duties of a Civil Draftsman were entrusted to her and she had been performing her duties satisfactorily. She always attend the office regularly and kept on performing her duties to the best of her ability. She was enjoying the status of full time Draftsman from the very beginning. The mode of payment of salary was by ACG-17 per month which is one of the prescribed procedures for payment of monthly wages to casual workers.

Thus it is stated that the statements made by the respondents are not true. The applicant has failed to understand as to what the respondents have meant by the words 'hand receipt'. It is also denied that her appointment was contractual. She was a casual employee like any other casual employees in any other department.

3. That with regard to the statements made in paragraph 2 of the W.S., the applicant states that the Hon'ble Tribunal has got jurisdiction to entertain the O.A. filed by the applicant. The applicant craves leave of the Hon'ble Tribunal to refer to the various provisions of law in support of her claim. At the same time, the respondents are called upon to substantiate their claim that the O.A. is not maintainable.

4. That with regard to the statements made in paragraphs 3 and 4 of the W.S., the applicant reiterates and reaffirms the statements made in the O.A.

5. That with regard to the statements made in paragraph 5 of the W.S., it is stated that at the time of creation of the Assam Telecom Circle in 1992, there were two sanctioned posts of Civil Draftsman and the said posts were sanctioned by the Directorate, New Delhi alongwith other posts. Thus there being requirement of staff, the applicant was appointed as a casual Draftsman by the competent authority. It will be pertinent to mention here that in all such newly created Telecom Circles, casual Draftsmen and other such casual employees have been appointed and some of them have also been

appointed and some of them have also been granted temporary status. As pointed out above, the payment of salary was made through ACG-17 - a prescribed departmental form for payment to casual employees. It will further be pertinent to mention here that other casual employees engaged prior to and after the applicant, are still working in the office of the Superintending Engineer, Telecom Civil Circle, Guwahati. Thus there is no earthly reason as to why the applicant should not be continued in her service.

It is unfortunate that the respondents instead of being a model employer have gone to the extent of making an incorrect statement to the effect that the services of the applicant was utilised towards preparation of structural drawings as per the requirement of the office. Such a statement is wholly incorrect inasmuch as her services were utilised like any other casual employees and she had to remain in the office through out the duty hours, performing her duties. In this connection, the applicant craves leave of the Hon'ble Tribunal to direct the respondents to produce the relevant records. It is also denied that the payment of salary was made to her not only monthly basis but on the basis of the works done by her. Further the applicant states that merely because she was issued no any appointment letter, it does not mean that her services were on contract basis or that she was not a casual employee. As has been seen that it is the usual practice not to give any appointment letter to the casual employees. However as will be evident from the Annexures in the O.A., the then competent authority as a re cognition of her services urged for regularisation

of her services. The stand of the respondents cannot be allowed to be changed with the change of the competent authority. The earlier competent authority duly recognised her as a casual employee. The respondents cannot go on taking new stand than the earlier one with the change of incumbent. The Hon'ble Tribunal would surely look into this aspect of the matter. It is emphatically stated that the payments are made on monthly basis as per DOT's guidelines vide letter No. 269-33/90-STH dated 4.12.90.

A copy of the said letter dated 4.12.90 is annexed herewith as ANNEXURE-1 which include the copy of the letter dated 23.2.88.

In the above context, the grant of temporary status scheme may also be referred to. As regards pay, it is stated that the payments were made to the applicant to the equivalent pay of the Draftsman in the minimum of pay scale of Rs.1200/- plus D.A. on monthly basis. Further the applicant was also paid Rs.100/- as interim relief with effect from 16.9.93 which is admissible to regular staff as well as casual workers in terms of letter No. 490/4/2093-Estt(C) dated 9.3.94. Further the applicant has been paid arrears of D.A. as and when Central Government granted additional D.A. to its regular employees. This fact can easily be ascertained from the Accounts Officer, office of the Executive Engineer, Telecom Civil Circle, Guwahati who is the disbursing officer for the staff of Superintending Engineer, Telecom Civil Circle.

Above facts clearly prove that the applicant was a casual draftsman with monthly wages and that she

was not engaged on contract basis as has been stated by the respondents incorrectly and baselessly. As per the departmental guidelines, she is also entitled to confer the temporary status and thereafter her case is to be considered for regularisation against the available vacancies. Instructions are available from the Directorate that so far as regularisation is concerned, the casual workers should be regularised first and then only outsiders can be appointed.

The applicant denies the correctness of the statements regarding the number of working days to her credit as has been mentioned by the respondents. In this connection, the respondents may be directed to produce the relevant records including the Attendance Register, Daily Work Diary and arrear payment receipts etc. It is emphatically stated that the applicant was ~~among~~ all along working like any other casual workers and she was paid her salary at monthly wage basis during the period mentioned by the respondents. The applicant had been working regularly.

A copy of the letter dated 9.3.94 is annexed herewith as ANNEXURE-2.

6. That with regards to the statements made in paragraph 6 of the W.S., it is stated that the statements made by the respondents are not correct. To the best of knowledge of the applicant and the information gathered from the office, she has come to know that the Telecom Civil Circle got the approval from the CGM(T), Assam for

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processing recruitment of Civil Draftsman. Accordingly, the process was initiated towards regularisation of the services of the applicant and others. Thus as per the procedure, requisition was placed in the Employment Exchange and interview call letters were also issued. However, suddenly same was kept in abeyance. Later on the applicant came to know that there are more than 8 posts of Civil Draftsman at different offices under CGM(T), Guwahati. Thus there is a proposal to fill up all the 8 posts of Civil Draftsman through a single recruitment. According to the information of the applicant, the process will be initiated shortly.

As there are provisions first to fill up from the departmental staff, the applicant has got a better right to be considered for such appointment in preference to the outsiders.

7. That with regard to the statements made in paragraph 7 of the W.S., it is stated that as the applicant has served more than 3 years continuously, it was within her legitimate expectation that her services would be regularised. The applicant is not in a position to make any comment in absence of the letters dated 20.4.94 and 14.2.94 which have been referred to by the respondents in support of their claim.

8. That with regard to the statements made in paragraph 8 of the W.S., the applicant reiterates and reaffirms the statements made hereinabove.

9. That with regard to the statements made in

paragraph 9 and 10 of the W.S. while reiterating and reaffirming the statements made in the O.A., the applicant states that her services were terminated in a most illegal and arbitrary manner without giving a notice. It is also denied that there was no justification of giving works to the applicant. The factual position has been placed in a distorted manner by the respondents. In this connection, the applicant enumerates the vacancy position of the Draftsmen as follows :

- (i) Two posts ~~as~~ in the office of the Superintending Engineer, Telecom Civil Circle ;
- (ii) Six posts in the office of the Chief Engineer(Civil)
- (iii) Three posts under Project Circle.

All these posts are under CGM(T), Assam and are still lying vacant.

10. That with regard to the statements made in paragraphs 11 to 14 of the W.S., while denying the contentions made ~~in~~ by the respondents, the applicant reiterates and reaffirms the statements made hereinabove as well as in the O.A. Further the statements regarding the number of working days, the applicant seriously disputes the same and craves leave of the Hon'ble Tribunal for a direction to the respondents to substantiate their claim by producing their records. It may not be out of place to mention here that the respondents have mentioned that in April 1992 she had worked for 17 days whereas the fact remains that in April 1992 she was not in service under the respondents. The applicant had joined the

Department on 22.6.92. Similarly the respondents have shown the number of workings days as in January 1995 as 13 days whereas she had actually performed her duties for 22 days. Thus the respondents have not applied their mind to the factual position resulting in incorrect disclosure.

11. That with regard to the statements made in paragraphs 15 to 20 of the W.S., the applicant begs to state that the manner in which her services have been terminated is unprecedented and she has got no other alternative and efficacious remedy than to come under the protective hands of this Hon'ble Tribunal. Facts and circumstances warrant interference in the arbitrary and illegal action on the part of the respondents. Accordingly, the O.A. filed by the applicant deserves to be allowed with cost.

Verification.....

- 49 -

- 9 -

VERIFICATION

I, Anita Barshya, the applicant in O.A. No. 165 of 1995, do hereby solemnly affirm and verify ~~thinks~~ that the statements made in the accompanying ~~sejoinder~~ are true to my knowledge and belief and I have not suppressed any material fact.

And I sign this verification on this the 10th day of September 1995 at Guwahati.

Anita Barshya.

~~SECRET~~ Annexure - A

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457

D-252

17 DEC 1990

No. 269-33/90-STN
Government of India
Ministry of Communications
Department of Telecommunications
STN Section

New Delhi, the 4.12.90

To

All Heads of Telecom. Circles/Telecom. Districts.
C.G.Ms MTNL Delhi/Bombay.
All CGMs Maintenance Regions.
All Heads of Project Circles.
CGMs ALTTC, Ghaziabad/T.T.C, Jabalpur.
All Heads of other Administrative Units.

Subject:- Payment of wages to semi-skilled/skilled
casual workers.

It has been brought to the notice of the department by the Staff Unions that semi-skilled/skilled casual employees are not being paid at the rate of regular employees in the corresponding grade. Your attention in this regard is invited to the instruction issued vide this office letter number 10-13/87-Rates dated 23.2.88 (A copy of which is enclosed herewith) vide which all the casual labourers are to be paid wages worked out on the basis of minimum pay in the pay scale of regularly employed officials in the corresponding cadre but without any increment w.e.f. 5.2.86. Such casual labourers will also be entitled to D.A. and A.D.A., if any, on the minimum of the pay scale. These instructions are once again reiterated. You may kindly ensure that the casual workers are paid accordingly.

ACG on
(S.K. SHAWAN)

ASSISTANT DIRECTOR GENERAL (STN)

Copy to:-

S.O. Rates for placing it in file No. 10-13/87-Rates.
NCG/CSE/TFS/SEA section of the Department of Telecom.

All Staff Unions/Federation for information.

*Attn: (AS)
PLW/HM*

Copy of letter number 10-13/87-Rates dated 23rd Feb., 1988.

In compliance to Hon'ble Supreme Court of India decision dated October 27, 1987, in Writ Petition No. 373 of 1986 regarding payment of wages to casual labourers at the minimum of pay in the pay scales of the regularly employed workers in the corresponding cadre, but without any increments with effect from the 5th February, 1986, the Directorate of Telecommunications has decided that:-

- (i) all the casual labourers engaged on casual basis are to be paid wages worked out on the basis of the minimum pay in the pay scale of regularly employed workers in the corresponding cadre but without any increment, with effect from 5th Feb., 86. The casual labour will also be entitled to DA and ADA if other allowances are to be paid.
- (ii) the work 'casual labour' would cover full time casual labour, part-time casual labour and workers engaged on contingency basis. Part-time workers will be paid on pro-rata basis. For the purpose of payment, no distinction should be made whether the casual labourers are being paid wages against Muster Rolls charged to Works or Establishment Bills or from Office Contingencies.
- (iii) the arrears at the enhanced rate are to be paid before 25.2.88 positively.

2. The expenditure involved in the payment of arrears is classifiable in the accounts as Charged. Budget Section of this Directorate may be contacted for allotment of funds.

3. This issued with the approval of Finance (Advice-I) U.O. No. 482/83-FA I dated 17.2.88.

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ANNEXURE-B
10.3.1993
21 MARCH 1993
Task Force, Guwahati

No.49014/2/93-BSPP.(C)
Government of India
Ministry of Personnel, Public
Grievances and Pensions
Department of Personnel and Training

New Delhi, dtl. 9 March, 1994

OFFICE MEMORANDUM

Subject: Grant of temporary status and regularisation of
Casual workers - admissibility of Interim Relief.

The undersigned is directed to refer to Department of Personnel & Training O.M. No. 51016/2/93-Estt.(C) dtl. 10th September, 1993 on the subject noted above and to say that references have been received from various Ministries/Departments seeking clarification whether Interim Relief of Rs.100/- p.m. granted to Central Government Employees vide Ministry of Finance, Deptt. of Expenditure O.M. No. 7(26)/E.III/93 dtl. 27.9.93 would be admissible to casual employees who have been bestowed with temporary status.

2. The matter has been considered in consultation with Ministry of Finance and it has been decided that the Interim Relief at the rate of Rs.100/- p.m. will be admissible to casual employees with temporary status and also to casual employees who are entitled to daily wages with reference to minimum of the pay scale for corresponding regular Group 'D' employees including DA, HRA and CCA or pay plus DA. The casual employees entitled to daily wages not linked to minimum of the pay scale plus DA, or corresponding regular Group 'D' employees or casual workers/contingent employees engaged on part-time basis shall not be entitled to interim Relief.

3. The above decision is effective from 16.9.1993.

Sd/-

(V. NATARAJAN)
S/o. Secretary to the Govt. of India

To

All Ministries/Departments/Offices of the Govt. of India as per the standard list, etc. etc.

10.3.1993 - 11.3.1993, dtl. 22.3.94

copy forwarded to all Ministers, DES, M/o, ADG, DC, AC, ANM, others of Lt. Region, for information and record.

1.3.1993
राज्य अधिकारी (प्रशासन)
Assistant Engineer (Vidhan)
मुख्यमंत्री कार्यालय
O/o the C. M. 781003
Mangalbari, Guwahati - 781003

AAC (Gf)

Attn: for Govt.

Government of India
Department of Telecommunications
Sachar Bhawan, New Delhi

No. 5-3/93-PAT

DATED: 16.3.1994

To

All Heads of Telecom. Circles/
All Heads of Telephone Districts/
All Heads of other Administrative Offices/
M.T.N.L., New Delhi/Bombay /
V.S.N.L., New Delhi/Bombay /

Subject: Grant of temporary status and regularisation of
Casual workers- admissibility of Interim Relief.

.....

Sir,

I am directed to forward herewith a copy of O.M. No. 49014/2/93-ESIT(C) dtd. 9.3.1994 received from the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi on the subject cited above for information/guidance and necessary action.

Yours faithfully,

SJS
(S.D. SHARMA)
SECTION OFFICER(PAT)

Copy forwarded to :

1. All D.Gs/Directors
2. All I.O.O.Ps.
3. All /I/II/III/IV/ P-I/II/III/IV/ Fa-Cor/ Cash/ Genl. I/II/ III/IV/ P-I/II/III/IV/ Rates & Costing/ SAW/ SR/ STH-I/II/ III/IV/ P-I/II/III/IV/ PPs
4. All P.M. and C.P. Posts/
5. Pay Accounts Office/
6. RIO (7) Guard file

DJS
(A.D. SHARMA)
S.O. (PAT)