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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-226/96 ordersheet Pg-1 to 3 INDEX

Disposed date- 18/12/96

M.P-154/96 ordersheet Pg-1 to 7

Disposed date- 15/10/96

O.A/T.A No. 22/96.....

R.A/C.P No.....

E.P/M.A No. 226/96.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI

ORIGINAL APPLN. NO. 22 OF 1996

TRANSFER APPLN. NO. OF 1995

CONT EMPT APPLN. NO. OF 1995 (IN OA NO. )

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

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

..... M. B. Sharma ....., APPLICANT(S)

-vs-

..... M. B. Sharma ....., RESPONDENT(S)

FOR THE APPLICANT(S) ... MR. B. K. Sharma

MR. B. Melton

MR. S. Sharma

MR.

HOME MINISTRY FOR THE RESPONDENTS

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

MINISTRY OF LABOUR : JANWAHIT SVITAHITA

OFFICE NOTE	DATE	ORDER
This application is in form and within time limit of Rs. 50/- deposited vide PO/BD No. 3.11.758 dated 16.2.96	19-2-96	Leave note of applicant's counsel. Adjourned to 22-2-96.
	1m	Member
	22-2-96	Mr. B.K. Sharma for the applicant. Mr. S. Ali, Sr.C.G.S.C. for the respondent O.A. is admitted. Issue notice to the respondents. 8 weeks for written statement. Adjourned to 25-4-96.

Member

Vice-Chairman

ORIGINAL APPLN. NO. 22XXXXXXXXXXXXXX 22 of 1996  
 TRANSFER APPLN. NO. OF 1995  
 CONT EMFT APPLN. NO. OF 1995 (IN OA NO.  
 REVIEW APPLN. NO. OF 1995 (IN OA NO.  
 MISG. PETN. NO. OF 1995 (IN OA NO.)  
 .....

APPLICANT(S)

..... VS ..... RESPONDENT(S)

FOR THE APPLICANT(S)

MR.  
MR.  
MR.  
MR.  
MR.

FOR THE RESPONDENTS

OFFICE NOTE

DATE

25.4.96

ORDER

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

List for hearing on 7.6.96.

6  
Member

3.4.96  
W/S submitted  
b/w Repts. 1 to 4.

nkm

7.6.96

Mr. S. Sarma, learned counsel for the applicant.

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

Hearing adjourned to 21.6.96. To be listed for hearing alongwith O.A. 214/95.

Bow

30-5-96  
Notice deferred  
On respn No. 4.

Member (J)

6  
Member (A)

trd

21-6-96

None is present. List for hearing  
on 22-7-96.6  
Member

1m

22-7-96

Sr.C.G.S.C. Mr.S.Ali is present  
for the respondents. Written statement has  
been submitted. Copy of the same may be  
served on the opposite party. List on  
20-8-96 for hearing.6  
Member

1m

22/6

20.8.96

List for hearing on 13.9.96.

6  
Member

pg

M  
20/8

18.9.96

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

List for hearing on 17.10.1996.

6  
Member

trd

17.10.96

Mr S.Ali, Sr.C.G.S.C for the respon-  
dents.

List for hearing on 5.12.1996.

6  
Member

pg

M  
12/10

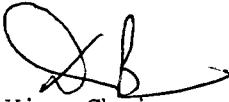
18.12.96 Vide order today in M.P.226/96  
the interim order dated 15.10.96  
in M.P.154/96 has been modified.

  
Member

pg

10.3.97 Let the case be listed on 21.4.1997 for  
hearing.

  
Member

  
Vice-Chairman

trd

  
Member

21.4.97

Let the case be listed for hearing  
on 2.6.97.

  
Member

  
Vice-Chairman

pg

  
Member

2.6.97

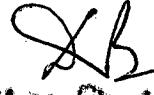
The respondents have filed an affidavit in Misc.Petition No.94/97 statin inter alia that the scheme has since been approved and it is likely to be notified. In view of the above Mr.B.K. Sharma, learned counsel appearing on behalf of the applicant submits unless the scheme is notified and we come to know about the scheme is notified and he comes to know about the scheme it will be difficult for  and for that purpose Mr. Sharma prays for time till the scheme is notified. Mr.N.K. Gupta, learned Adv. C.G.S. submits that the scheme will be notified very soon, may be within 3 weeks.

contd/-

2.6.97 Mr.S.Ali, learned Sr.C.G.S.C. and Mr.M.K.Gupta, learned Addl.C.G.S.C. also agreed that the matter should be heard after the publication of the scheme.

Considering the submissions of the learned counsel for the parties we adjourned the case till 7-7-97.

  
Member

  
Vice-Chairman

WTS Mr. M. K. G. W.  
PG  
K  
3p

7.7.97

Heard both counsel of the parties. Hearing concluded. The application is disposed of on withdrawal with liberty to file fresh application if so advised. No order as to costs. Order is kept in separate sheets.

  
Member

  
Vice-Chairman

trd

X

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

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

Title of the case : O.A. NO. 22 of 1996

Maniram Basumatary & Anr. • .... Applicants

- Versus -

Union of India and others ... Respondents.

I N D E X

<u>Sl. No.</u>	<u>Particulars of the documents</u>	<u>Page Nos.</u>
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2.	Verification	15.
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4.	Annexure B1 to B13	17 to 18.
5.	Annexure C	19 to 21.
6.	Annexure -D	22 to 26.

For use in Tribunal's office

Date of filing: 15-2-96  
Registration No. OA 22/96  
Registrar

Received copy  
C. S. G. S. C.  
14/2/96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

BETWEEN

O.A. No. 22 96

1) Mani Ram Basumatary.  
2) Dipul Deka

Both are working under Central Water Commission Middle Brahmaputra Division Rajgarh Road, Gauhati-7 and Manas Sub-Division Barpeta Road, Dist- Barpeta as indicated in Annexure A to O.A.

.....Applicant

AND

- 1) U.O.I. represented by the Secretary to the Govt. of India, Ministry of Water Resources, Charan Shakti Bhawan.
- 2) The Chairman, Central Water Commission, R.K. Puram, New Delhi.
- 3) The Executive Engineer, Middle Brahmaputra Division, C.W.C. Gauhati-7 (Rajgarh Road).
- 4) The Assistant Executive Engineer, Manas Sub-Division, Central Water Commission, Barpeta Road, Barpeta.

... Respondents

DETAILS OF APPLICATION

1) PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE

The instant application is not made against any particular order but has been made seeking a relief towards regularisation of the aforesaid applicants services. Recently they were/are under the Casual employment/worked charged K, alasi under the respondents and as per the scheme prevalent as well as the verdict of the Apex Court, they are entitled to be granted with temporary status with further regularisation of their services.

2) LIMITATION

The applicants further declare that the application is within the limitation period prescribed under section 21 of the Administrative Tribunals Act, 1965.

3) JURISDICTION OF THE TRIBUNAL

That the applicants declare that the subject matter of the application for which they want redressal is well within the jurisdiction of this Hon'ble Tribunal.

4) FACTS OF THE CASE:

4.1. That the applicants are all citizens of India and as such they are entitled to all the rights and privileges guaranteed by the Constitution of India and laws framed thereunder.

4.2 That the applicants have filed the instant application before this Hon'ble Tribunal for redressal

of their grievances towards non-regularisation of their services as Grade 'D' employees. The grievances of the applicants and the cause of action for which the applicants have come before this Hon'ble Tribunal for redressal of the same are similar. They belong to lower stratum of the society and holder of Gr. 'D' Post on casual basis and accordingly crave leave of this Hon'ble Tribunal to allow them to join together in this single application invoking the powers under Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987.

4.3. That the applicants are all similarly situated. Their grievances <sup>pertain</sup> to the services under the respondents. All the applicants here have been working under the respondents as worked Charged Khalasi (Casual) basis for last several years with the hope of regularisation of their services. They have not even granted temporary status under the scheme formulated by the Govt. of India. For better appreciation and to draw Your Lordships kind attention, the services particulars of the applicants are reflected in Annexure 1A. to the instant application. In this said Annexure the applicants have given the respective service particulars in details and the applicants crave leave of this Hon'ble Tribunal to refer the same in support of their contention made in this application instead of

repeating the said contention and to minimise the cost of the application.

4.4 That the applicants state that as is reflected in Annexure 'A' Statement annexed to this O.A., they have been working under the respondents since 1991, 1991 1986 and 1987, respectively. They were so appointed in Gr. 'D' employment as Worked Charged Khalasi after their names were sponsored through employment Exchange and they were selected for the post of Worked Charged Khalasi. Their appointment are continued from year to year. They are issued with appointment letters under which they were to work in Gr. 'D' post as work charged Khalasi in a definite Khalasi in a definite scale of pay and some of them had their initial appointment letter as A/c Labour / Muster Roll Labour.

Presently they are given pay scale of Rs 750/- to Rs 940/- which is the prescribed scale of Gr. 'D' employees. However, the applicants services are terminated and/or they are kept in employment for a definite period and often they are engaged on casual basis for the rest of the period in the year. Again in the next year, they were appointed for a further period. Thus, the procedure is going on since the time of their appointments and inspite of the fact that Govt. of India has formulated a policy decision for grant of temporary decision. With the consequences of regularisation in due process. The applicants are still deprived of their benefit. Their services are rather being terminated from time to time. All the <sup>applications</sup> have put on more then 240 days of working particulars so as to be entitled

for grant of temporary status.

4.5 That the applicants state that every year they are issued with the same kind of appointed letters and thereafter they are also required to work beyond the prescribed period in the appointment letter on casual basis on daily wages.

Their such appointments are not in dispute and thus instead of according all the appointments letters pertaining to all the orders, the applicants beg to annexe one each of their such appointment letters and the same are marked as ANNEXURE ( B/1 to B/02 ).

The applicants crave leave of this Hon'ble Tribunal to produce all these appointment letters at the time of hearing of this instant application.

4.6 That the applicants state that even after rendering years of service as Gr.'D' casual employees, their services have not been regularised and their services are being taken by their respondents in exploitative terms. As pointed out above, their services are utilised on daily wage basis. This process have been going on since the days of their respective employments. During the intervening

period they are often given casual employment like that of any other Gr. 'D' Casual employee. This, the case of the applicant stand thus all of them are duly sponsored by the Employment Exchanges, declared by the respondents for being appointed as casual Gr. 'D' employee, their services are being utilised every year for a particular period as work charged seasonal Khalasi, their services are yet to be regularised and till date, they have not been conferred with the temporary status as is required to be conferred with the under the relevant scheme formulated by the Govt. of India.

The applicants crave leave of the Hon'ble Tribunal to produce <sup>copy</sup> of the relevant scheme at the time of hearing of the instant O.A.

4.7 That the applicants state that some of the Gr. 'D' employee of the Central Water Commission similarly situated like that of the applicants had moved the Principal Bench of the Hon'ble CAT, New Delhi, by way of filing various OAs wherein some kind of grievances have been raised <sup>as</sup> in the instant application were raised. The Principal Bench of the Hon'ble CAT by its Judgement dated 10.2.94 in O.A. No. 273/92, 604/92, 1601/92 and 2418/92 allowed the said OAd with the following directions:-

" (i) the respondents shall prepare a scheme for retention and regular-

Issue

isation of the casual labourers -employed by them. This scheme should take into account the regular posts, that can be created, on-the-basis-should-be made on-the-basis--should-be taking into account the fact that even if a particular schemes are launched every year. An assessment of the regular posts that can be created on the basis should be made. For regularisation all those, who have completed 240 days service in two consecutive years, should be given priority in accordance with their length of service.

(ii) Those, who have completed 120 days of service should be given temporary status in accordance with the instructions issued by the department of personnel from time to time. After completion of the required period of service, they should be considered for regularisation.

(iii) adhoc/temporary employees

should not be replaced by other adhoc/temporary employees and should be retained in preference to their juniors and outsiders.

(iv) such a scheme shall be submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of communication of this order by the petitioner to them.

There shall be no order as to costs."

A copy of the said judgement is annexed herewith and marked as ANNEXURE E.

4.8. That the applicants state that the said judgement was carried on review by the respondents therein but the same which was dismissed by the Hon'ble Tribunal by its judgement and order dated 9.9.94.

A copy of the said judgement dated 9.5.94 is annexed herewith and marked as ANNEXURE 'D'.

4.9 That pursuant to the aforesaid judgement, the applicants therein have been granted temporary status and to the knowledge of the applicants, all the

applicants therein have been continuing in their services without any interruption and break and they are enjoying the consequences of granting the temporary status. One of the applicants in the aforesaid O.A. has been transferred to Shillong and he has been continuing as a Gr. 'D' employee on conferment of temporary status with all consequential benefit. After the aforesaid judgement there has been no occasion to terminate the services of the applicants therein and they are enjoying the benefits of temporary status as per the scheme holding the field. The Central Water Commission has formulated and adopted the scheme as was formulated by the Government, Ministry of Personnel & Public grievances with slight modification here and there, more particularly, as regards number of working days. The respondents may be directed to produce a copy of the same formulated by them under which the applicants are entitled to be conferred with temporary status with all consequential benefits.

4.10 That the applicants state that the respondents instead of being a model employer has envisages under the Constitution of India as the laws framed thereunder have been utilising the services of the applicants for the last several years in exploitative terms without giving them any ray of hope of future prospect. Thus the applicants have attained a stage under which they can neither go for other employment nor

they can abandon their present employment. All of them have become overaged for any other Govt. job. Thus, with the meagre income they earn from their casual employment, they alongwith their families are in precarious predicament.

4.11 That the applicants state that in view of the aforesaid judgement of the Principal Bench, pertaining to the same department, there is no earthly reasons as to why the benefit of the said judgement should not be extended to the present applicants. The respondents of their own ~~ought~~ right to have extended the benefit of the said judgement to the applicants instead of making them to come under the protective hands of this Hon'ble Tribunal.

4.12 That the applicants state that in view of the facts and circumstances stated above, they are entitled to be conferred with temporary status and thereafter regularisation of their services. The applicants further state that it is their reasonably apprehension that since they come under the protective hands of this Hon'ble Tribunal their services may need be continued and thus, it is a fit case for an interim order directing the respondents not to terminate the services of the applicants till disposal of the instant O.A. Their repeated representations have not yielded any result.

#### 5. GROUNDS FOR RELIEF WITH LEGAL PROVISION

5.1. For that *prima facie* the action/inaction on the part of the respondents are illegal and arbitrary.

5.2 For that the applicants have not continued in the employment of the respondents for the last several years their services are required to be regularised with all consequential benefits.

5.3 For that there being a judgement holding the field pertaining to the same department, the respondents are duty bound to apply the principles laid down therein in case of the applicants also without requiring them to approach the Hon'ble Tribunal again.

5.4 For that the Consequential mandates demand that the services of the applicants be regularised and their services should not be utilised in exploitative terms as has been done by the respondents in the instant case.

5.5 For that the benefit of the scheme of regularisation as well as the verdict of the Apex Court and confinement to temporary status have not been given to others. Similarly situated employees like as the instant applicants in the O.A. and their is no earthly reasons as to why the same treatment should not be meted out to the applicant.

5.6 For that the applicants have been treated differentially and thus, there is violation of Articles 14 and 16 of the Constitution of India.

5.7 For that the applicants have been continued under the

respondents for the last several years and in the  
process having lost their chances of employment elsewhere  
and being over-aged to be absorbed elsewhere,  
the Hon'ble Tribunal may direct the respondents to  
regularise the services of the applicants in the Gr.'D'  
posts.

5.8 For that the respondents are duty bound to give  
weightage to the services rendered by the applicants  
towards regularisation of their service and they cannot  
be utilised in exploitative terms in violation of the  
provisions of the Constitutional rules and the laws  
frmaed thereunder.

5.9 For that in <sup>any</sup> view of the matter, the action/  
inaction on the part of the respondents are not  
sustainable.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants state that they have no other  
alternative efficacious remedy except by way of  
approaching this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE  
ANY COURT

The applicants further declare that they have not  
previously filed any application writ petition or suit  
regarding the matter in respect of which the  
application has been made before any court of law,

or any other authority and/or other Bench of the  
Tribunal and/or any such application writ petition or

suit is pending before any of them. The applicants further beg to state that time to time in every year they have been making representations to the authority concerned but till date no fruitful purpose have been served.

8. RELIEF SOUGHT

In view of the facts and circumstances stated above, it is most respectfully prayed that the instant application, be admitted, records be called for and on perusal of the same and upon hearing the parties on the cause/causes that may be shown, be pleased to grant the following reliefs:-

1. To direct the responding to regularise the services of the applicants with retrospective effect i.e., the respective dates of their appointment with all consequential benefits including arrear salary and seniority.
2. To direct the respondents to extend the benefit of Annexure 'C' Judgement and order of the Principal Bench of the Hon'ble CAT New Delhi.
3. To direct the respondents not to terminate the services of the applicants and to allow them to work in their respective posts as per earlier scheme, pending disposal of this O.A.

10.....

The application is filed through Advocate

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

(i) I.P.O. No. 09311758

(ii) Date 14.2.96

(iii) Payable at : Guwahati

12. LIST OF ENCLOSURES:-

As stated in the Index.

Verifications.....

.....

VERIFICATION

I, Shri Mani Ram Basumatary, Son of  
I. Basumatary, R/O. Vill. chechapani P.O.  
District Kokrajhar do hereby solemnly  
affirm and verify that the statements made in  
para 1 to 4 and 6 to 12 are true to my knowledge  
and those made in para 5 are true to my legal  
advice and I have not suppressed any material facts.

And I am duly authorised by the applicants  
in the instant O.A. to swear this verification.

And I sign this verification on this  
day of <sup>14<sup>th</sup> Feb</sup> January, 1996 at Guwahati.

Shri Mani Ram Basumatary

ANNEXURE A

Sl. No.	Name & address	Place of work	Age	Edn.	Period of work, since	Remarks
1.	MONI RAM BASUMATARY CHECHAPANI P.O. MAGURMARY DIST. KO KRAJHAR ASSAM	Central water Commission Site in charge Kokrajhar Asstt. Engineer Barpeta Road CWC Assam	30	X	1986 to 1995	
2	DIPUL DEKA RLY COLONY Or. No. 326/D Bamunimaidam Guwahati-21	Central water Commission. Middle Brahmaputra division Rajgarh Road Guwahati-7	29	HSLC	1987 to 1995	

Attested.  
✓  
Advocate

India Earthquake Policy

NO. CFF/WC/Ett-24-A/86/ 3667-7,  
Government of India  
Central Water Commission  
W.R. & Flood Forecasting Division-I,  
Pub-Sarania, Rajgarh Road Guwahati-3.

Dated, Guwahati the 21.5. /86.

MEMORANDUM

Subject:- Appointment to temporary post of W/Charged  
Seasonal Khalasi.

Shri. Mani Ram Basumatary,.....  
Employment Exchange, Kokrajher..... Registration No. 878/79

is hereby informed that he has been selected for the post of  
Work-charged Geuge data Khalasi in the scale of Rs. 196-3-220-E8-  
3-232/- with usual allowances at the rates admissible under  
rules and subject to the conditions laid down in the rules and  
orders governing in grant of such allowances in force from time  
to time.

The appointment is on adhoc basis and is purely  
temporary, and will not continue beyond 15th October, 1986(A.N.) or  
completion of the works which ever is earlier without further  
notice.

If the candidate accepts the offer of appointment on  
the above terms, he should report himself for duty to the.....  
Site-in-Charge, Kokrajher.....  
Under..... Asstt. Engineer, Barpeta Road before 31/5/86  
(A.N.) positively. Otherwise this offer will be treated as  
cancelled.

No. T.A. is admissible to join the new appointment.

( A. CHAKRABORTY )  
DEPUTY DIRECTOR.

To,  
Shri... Mani Ram Basumatary,.....  
Chachapani.....  
P.O. Magurmary.....  
Dist:- Kokrajher.....

Copy forwarded for information & necessary action to:-

1. Asstt. Engineer,  
Barpeta Road.....
2. The Site incharge..... Kokrajher..... through Asstt...  
Engineer, WR&FF Sub-Division, CWC, Barpeta Road..
3. The Accounts Branch, WR&FF Divn. No. I, C.W.C., Guwahati-3.
4. The Employment Officer, District Employment Exchange.....  
Kokrajher.....
5. XXXXX

( A. CHAKRABORTY )  
DEPUTY DIRECTOR.

GOVERNMENT OF INDIA  
 CENTRAL WATER COMMISSION  
 MIDDLE BRAHMAPUTRA DIVISION  
PUB SARANIA, RAJGARH ROAD, GAUHATI-3

NO: MBD/WC/Estt-24(A)/87/ 3006-13

Dated, the 6/5/87

MEMORANDUM

The undersigned hereby offers appointed to the following persons as 'W/C Seasonal Khalasi' in the workcharged Establishment in the pay scale of Rs. 750-12-070-E8-14-940/- per month with usual allowances as admissible as per rules from time to time.

S.I.	Name & Address of the candidate	Employment Exchange Regn. No.	Place of Posting	Remarks
------	------------------------------------	-------------------------------------	------------------------	---------

1. Shri Rabin Ch. Kalita  
Vill. & P.O. Malabari  
Dist. Kamrup.

2. Shri Sankar Kr. Nahanta  
Vill. Rajaduar  
P.O., Guwahati-30  
Dist. Kamrup.

3. Shri Bipu Deka  
Bly. Colony No. 326/D  
Bamunimaisoan

Guwahati No. 7588/86	AE, R. B. Sub-Divn., CWC, Guwahati-3.	<i>Cal. Secy Boro Assam Met. Section.</i>
-da- No. 2023/83	Under Divn. Office	
-da- No. 7294/85	Met Section Under Divn. Office.	

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ANNEXURE - CREGD. AD/SPL. PASSENGERCENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHIParidhat House,  
Ganjnivas Marg,  
NEW DELHI-110001  
10/2/94

From

The Registrar,  
Central Administrative Tribunal,  
Principal Bench, New Delhi

18/2/94

To

1. Shri S.N. Shukla,  
Counsel for the applicant 454, Lawyers Chambers,  
Eastern Wing, The Hazard Court, Delhi-54  
OA 223/92 & 804/92

2.

Shri B.G. Maini,  
Counsel for the applicant in OA 1601/92 & 2418/92  
CAT, Bar Room, New Delhi.

3.

Shri Jag Singh,  
Counsel for the respondents in OA 884/92, 223/92 & 1601/92  
CAT, Bar Room, New Delhi.

4.

Shri P.P. Khurana,  
Counsel for the respondents in OA 2418/92  
CAT, Bar Room, New Delhi.B.W.F.  
22.2.94

1.

Shri Vinod Kumar &amp; Ors

OA 223/92

2.

Shri Savak Ram &amp; Ors.

OA 884/92

3.

Shri Rajesh Kumar Saini

OA 1601/92

4.

Shri Rajinder Sharma &amp; Ors.

OA 2418/92

Applicant (s)

C.A.No.

VERSUS

Union of India & Ors. Respondent(s)

Sir,

I am directed to forward to you a copy of Judgement/Order passed by this Tribunal in the above mentioned case for information and necessary action, if any.

Yours faithfully,

S. G. J.

SECTION OFFICER (S.G.J.) (J-11)

- 26 -  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

Q. As No. 223, 884, 1601, 2246 & 2418 of 1992

New Delhi, this the 10th day of February, 1994.

HON'BLE MR JUSTICE S.K.DHANI, VICE CHAIRMAN  
HON'BLE MR B.N.DHONDIYAL, MEMBER(A).

Q.A.No.223 of 1992

1. Vinod Kumar  
S/O Shri Raman Singh  
R/O F-25, Transit Camp,  
Khichari Pur,  
Delhi.
2. Ram Kumar  
S/O Shri Ratan Singh,  
RZ-139, X - Block-II,  
New Roshan Pura, Najafgarh,  
New Delhi.
3. Yash Pal Singh  
S/O Shri Devi Singh,  
WZ-288, Vil. & P.O. Naraina,  
New Delhi.
4. Parmod Kumar  
S/O Shri Bijli Singh  
No.421, Sewa Nagar,  
New Delhi.
5. Narendra Paswan,  
B-50, Naharpur, Sector 7,  
Rohini, Delhi. .... .. Applicants.  
.. ( through S.N. Shukla, Advocate).

Q.A.No.884/1992

1. Sewak Ram,  
S/O Shri Hari Ram  
R/O G-195, Sector 10,  
Faridabad(Haryana).
2. Suresh Kumar  
S/O Shri Om Parkash  
R/O Village Sidipur Lona  
P.O. Bahadur Garh,  
District Rohtak(Haryana).
3. Nand Kumar  
S/O Shri Vishal Chand  
R/O S 27/B-303, Railway Colony,  
Gughlakabad,  
New Delhi. .... .. Applicants.  
( through S.N. Shukla, Advocate).

vs.

1. The Chairman, Central Water Commission,  
Govt. of India, Ministry of Water Resources,  
Sewa Bhawan, Sector 1, R.K.Duram, New Delhi.

Attested  
Advocate

2. The Executive Engineer (C.S.D.),  
Central Stores Division,  
Central Water Commission,  
West Block No.1, Wing No.4,  
2nd Floor, R.K.Puram, New Delhi ..... Respondents.  
(in both above O.A.s.)

(through Mr. Jog Singh, Advocate).

O.A.No.1601 of 1992

Shri Rajesh Kumar Saini  
s/o Shri Veer Sain Saini  
Workcharged Khalasi  
under Executive Engineer  
Central Stores Division  
Central Water Commission  
West Block No.1, Wing No.4,  
2nd Floor, R.K.Puram,  
New Delhi. .... Applicant.

(through B.S.Mainee, Advocate).

O.A.No.2245 of 1992  
Shri Jayant Kumar Pathak,  
S/O Shri Kusheshwar Pathak,  
Assistant Electrician,  
Central Stores Divn., Central  
Water Commission, West Block 1,  
Wing No.4, 2nd Floor, R.K.Puram  
New Delhi. .... Applicant.

(through B.S.Mainee, Advocate).

O.A.2418 of 1992

1. Shri Rajender Sharma  
S/O Shri Bhagwan Sharma  
Carpenter, Central Stores Divn.,  
Central Water Commission,  
West Block No.1, Wing No.4,  
2nd Floor, R.K.Puram,  
New Delhi.

2. Shri Raju Kashyap, S/O  
Shri Nikka Ram;

3. Shri Daya Ram S/O Ganga Ram.

4. Shri Dali Singh S/O Bhup Singh.

5. Shri Giri Raj S/O Mishri Singh

6. Shri Bijendra S/O Totu Ram.

7. Shri Ram Kumar Rai S/O Hardev Rai.

8. Shri Udai Kumar S/O Sh.Kurukul.

Applicants 2 to 8 working in Central Stores Divn.,  
Central Water Commission, R.K.Puram, New Delhi.

..... Applicants.

(through B.S.Mainee, Advocate).

vs.

1. The Secretary, Ministry of Water Resources  
Shri Shakti Bhawan, New Delhi.

2. The Chairman, Central Water Commission  
Sewa Bhawan, R.K.Puram, New Delhi.

3. The Executive Engineer, Central Stores Divn.,  
Central Water Commission, R.K.Puram, New Delhi.

..... Respondents.  
(in all three above O.A.s)

(through Mr. Jog Singh in 1601 and 2245/92 and  
through Mr. P.P.Khurana in O.A.No.2418 of 1992).

- 25 -  
- 3-3-  
ORDER

B.N.DHONIYAL, MEMBER (A)

The applicants, in all the above-mentioned O.As have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians under the Executive Engineer, Central Water Commission, R.K.Puram, New Delhi. One of them, Shri Jayant Kumar Pathak, was engaged as Casual Labourer on 2.1.1987 but claims to have been working against the post of regular electrician w.e.f. 7.12.1987. The date of engagement of the applicants ranges between 1.10.1982 to 5.9.1988 in case of O.A.No.223/92, between 15.4.1986 to 26.10.1987 in case of O.A.No.884/92, between 6.1.1987 to 7.9.1990 in case of O.A.No.2418/92. Shri Rajesh Kumar Saini (applicant in O.A.No.1501/92) was engaged on 19.9.1988 and Shri Jayant Kumar Pathak (applicant in O.A.No.2246/92) was engaged on 2.1.1987. In some of the O.As, prayer has been made for issuance of a direction to the respondents to prepare a scheme on rational basis for absorption of Casual Labourers and for not disengaging the applicants till such a Scheme is prepared. In all the cases, interim orders were passed by this Tribunal, restraining the respondents from terminating the services of all the applicants. They are continuing till date.

2. In the counter filed by the respondents, the main averments are these. The appointments were made for specific projects and in the appointment orders, it was clearly mentioned that these are purely on ad hoc basis and will not lead to any claim for any permanent employment. They have worked in broken periods and many of them have not completed 240 days of service in two consecutive years. The rules

provide for appointment of Khalasis by direct recruitment through selection by a selection committee of which the Executive Engineer is the Chairman. The posts of Casual Khalasis etc. are provided in the working estimates for a definite period and the services of these workers are terminated after that period. In case of Jayant Kumar Pathak (C.A.No.2245/92), it has been stated that the applicant was appointed as an adhoc work-charged Khalasi from 3.8.1987 and later on he was offered appointment as Assistant Electrician on ad hoc basis at minimum fixed basic pay of Rs.1100/-. However, this appointment was for a specific period, though with breaks, the applicant continued to work against vacancies in different works. They have, however, admitted that during the years 1989 to 1991, he worked for more than 240 days in all the three years.

3. We have gone through the records of the case and heard the learned counsel for the parties.

Sir B.S. Mainee, learned counsel for the applicants has drawn our attention to the following observations made by the Hon'ble Supreme Court in case of State of Haryana and others vs. Pura Singh and others, 1992(3) Vol.45 S.C.R.34:

"The proper course would be that each State prepares a scheme, if one is not already in vogue, for regularisation of such employees consistent with its reservation policy and if a scheme is already framed, the same may be made, consistent with our observations herein so as to reduce avoidable litigation in this behalf. If and when such person is regularised he should be placed immediately below the last regularly appointed employee in that category, class or service, as the case may be.

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 clearly as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to 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 concerned authority 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....."

4. As the applicants have been working for a long period, through intermittently, their cases have to be considered in light of the above observations of the Hon'ble Supreme Court as also directions issued by the Government from time to time. It may be noted that in accordance with these directions, a special Scheme for regularisation of the Casual Labourers have been prepared by the Railways, Post and Telegraphs and other Departments. In the circumstances of this case, we dispose of these applications, with the following directions:

(i) the respondents shall prepare a scheme for retention and regularisation of the Casual Labourers employed by them. This scheme should take into account the regular posts, that can be created, taking into account the fact that even if a particular scheme is completed, new schemes are launched every year. An assessment of the regular posts that can be created on this basis should be made. For regularisation, all those, who have completed 240 days service in two consecutive years, should be given priority in accordance with their length of service;

-6-

(ii) Those, who have completed 120 days of service should be given temporary status in accordance with the instructions issued by the department of personnel from time to time. After completion of the required period of service, they should be considered for regularisation;

(iii) Adhoc/temporary employees should not be replaced by other ad hoc/temporary employees and should be retained in preference to their juniors and outsiders.

(iv) Such a scheme shall be submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of communication of this order by the petitioner to them.

5. There shall be no order as to costs.

( B.N.Dhoundiyal )  
Member(A)

( <sup>Dr.</sup> S.K.Dhaon )  
Vice Chairman

CCP.J.S.D.D.  
Regd. No. 134 L.L. 13-1-1977  
Gujarat Legislative Assembly  
Legislative Assembly  
Gujarat Legislative Assembly  
Gujarat Legislative Assembly

27-5-94  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

Faridkot House  
Copernicus Marg,  
New Delhi-1.

To

The Registrar  
Central Administrative Tribunal,  
Principal Bench,  
New Delhi.

Dt. 30/5/94

To

1. Sh. Jog Singh  
counsel for the applicant In RA  
1108, Prakash Deep, 7, Tolstoy Marg,  
New Delhi.

versus

2. Sh. Rajender Sharma, Carpenter Central  
Stores Divi., Central Water Commission  
West Block No 1, Wing No 4, 2nd Floor,  
R.K.Puram New Delhi.

3. Raju Kashyap S/o Sh. Kikka Ram

4. Sh. Daya Ram S/o Sh. Ganga Ram

5. Sh. Luli Singh S/o Sh. Bhup Singh

6. Sh. Riri Raj S/o Sh. Mishri Singh

7. Sh. Bijendra S/o Sh. Tota Ram

( Serial No. 2 To 6 working in Central Stores  
Divi. Central Water Commission, R.K. Puram,  
New Delhi.)

Secty. Mini. Water Resources Applicants

RA 172/94 in  
O.A. No. 2418/92

VS.  
Rajender Sharma & Ors. Respondents

Sir,

I am directed to forward herewith a copy of Judgment/Order dt.  
9/5/94 passed by this Tribunal in the above mentioned case  
or information and necessary action, if any.

Yours faithfully,

(A)

-27-

Administrative Tribunal  
Bench, New Delhi.

RA-165/94 in CA-2246/92, RA-171/94 in DA-1601/92  
and RA-172/94 in DA-2418/92.

New Delhi the the 9th Day of May, 1994.

Hon'ble Mr. Justice S.K. Dhawan, Vice-Chairman (C)  
Hon'ble Mr. B.N. O'Dowdijay, Member (A)

RA-165/94 in CA-2246/92 RA-171/94 in DA-1601/92 &  
RA-172/94 in DA-2418/92.

1. The Secretary,  
Ministry of Water Resources,  
Bhawan, Shakti Bhawan,  
New Delhi.

2. The Chairman,  
Central Water Commission,  
Sewa Bhawan, R.K. Puram,  
New Delhi.

3. The Executive Engineer,  
Central Stores Divn.,  
Central Water Commission,  
R.K. Puram, New Delhi.

Review Applicant /  
Respondents in DA.

(through Sh. Jag Singh)

RA-165/94 in CA-2246/92 v/s

Shri Jayant Kumar Pathak,  
S/o Sh. Kisheshwar Pathak,  
Assistant Electrician,  
Central Stores Divn.,  
Central Water Commission,  
West Block 1, Wing No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

Respondent in RA/  
Applicant in DA.

RA-171/94 in DA-1601/92

Shri Rajesh Kumar Saini,  
S/o Shri Veer Sain Saini,  
Workchargee Khilasi,  
under Executive Engineer,  
Central Stores Division,  
Central Water Commission,  
West Block No.1, Wing No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

Respondent in RA/  
Applicant in DA

RA-172/94 in DA-2418/92

1. Shri Rajender Sharma,  
S/o Shri Shashi Sharma,  
Carpenter, Central Stores Divn.,  
Central Water Commission,  
West Block No.1, Wing No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

2. Sh. Raju Kashyap,  
S/o Shri Nikka Ram.
3. Sh. Daya Ram,  
S/o Sh. Ganga Ram.
4. Shri Dali Singh,  
S/o Sh. Bhup Singh.
5. Shri Giri Raj,  
S/o Shri Mishri Singh.
6. Shri Bijendra,  
S/o Sh. Tota Ram.
7. Sh. Ram Kumar,  
S/o Sh. Hemraj.
8. Sh. Uday Kumar,  
S/o Shri Kurukul.

Respondents in RA/  
Applicants in OA.

(Serial No. 2 to 6 working in Central Stores  
Divn., Central Water Commission, R.K. Puram,  
New Delhi.)

ORDER (BY CIRCULATION)  
delivered by Hon'ble Mr. B.N. Dhoondiyal, Member (A)

These review applications have been filed  
by the respondents against the Central Government decision  
on 10.02.94 in C.A. Nos. 223, 884, 1631, 2246 & 2418 of  
1992. The following directions were given:-

- (i) The respondents shall prepare a scheme  
for retention and regularisation of the  
Casual Labourers employed by them. This  
scheme should take into account the regular  
posts, that can be created, taking into  
account the fact that even if a particular  
scheme is completed, new schemes are launched  
every year. An assessment of the regular  
posts that can be created on this basis  
should be made. For regularisation, all  
those, who have completed 240 days service  
in two consecutive years, should be given  
priority in accordance with their length  
of service;
- (ii) Those, who have complete 120 days of service  
should be given temporary status in accord-  
ance with the instructions issued by the  
Department of Personnel from time to time.  
After completion of the required period of  
service, they should be considered for  
regularisation;

*pk*

(iii) Adhoc/temporary employees should not be replaced by other ad hoc/temporary employees and should be retained in preference to their juniors and outsiders;

(iv) Such a scheme shall be submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of communication of this order by the petitioner to them.

The review applicants claim that though the impugned order is very much legal and has been passed after giving considerable thought, it would result in retention of junior people while rendering the senior people surplus. It is their contention that due to financial constraint and completion of works in hand W/C staff under different categories from both Central Stores Division as well as Planning Division are likely to be rendered surplus after 31.3.1994. It has also been mentioned that the Ministry of Finance has emphasised surrender of 10% of existing post under W/C Estt. also for declaring 10% post on W/C establishment. They have stated that due to financial constraints and lack of schemes, the applicants were not entitled for any regularisation of their services.

There is nothing in these directions which forces the review applicants to regularise casual workers in the absence of any post. They can take into account the latest position regarding the projects which are continuing and reach the conclusion that no more regular post can be created. The second direction only relates to implementation of the decision of the Deptt. of Personnel regarding temporary status being given to casual workers who have worked for 120 days. Certainly, it cannot be accepted that the applicants will not implement their own orders. The direction No.3 is based on a well

(7)  
- 6 -

established principle.

We, therefore, hold that no error apparent on the face of judgement has been brought out in the review applications, which are hereby dismissed. It is reiterated that a scheme prepared in the light of these directions shall be presented for scrutiny to this Committee within the stipulated time.

Let a copy of this order be placed on all the three files.

(B.N. BHCUNIYAL)  
MEMBER (A)(S.K. HACH)  
VICE-CHAIRMAN

/vv/

Original Recd.

- 20 - 10/10/1996

Address the C.R.

Vice-Chairman

10/10/96

CC. C.R.

C.R. P.B.

New Delhi

C.R. P.B.

Section Officer

C.R. P.B.

10/10/1996

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Filed by B. S. Chakraborty  
S. C. 522  
3/4/96

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI:

In the matter of :-

O.A. No. 22 of 1996

Maniram Basumatary and another

-Vs-

Union of India and others

-And-

In the matter of :-

Written statements submitted by  
the Respondents No. 1 to 4.

WRITTEN STATEMENTS ::

The humble Respondents submit their  
written statements as follows :-

1. That before submitting parawise replies of the application, the Respondents deem it necessary to give brief background of the applicants case for proper appreciation of the facts and legal position of the applicants case before the Hon'ble Tribunal. The brief back ground of the case has been given below :-

The applicants have worked as Seasonal Khalasis w.e.f. 15th May, 1995 to 15th October, 1995 under the Respondents. The scheme mentioned here in this application is not applicable to the seasonal workcharged Khalasis. However, a separate scheme for grant of temporary status and regularisation of workcharged employee is under active

consideration and is being process in Central Water Commission. On receipt of the above scheme for implementation, the respondents will take a sympathetic view to consider the demands according to their seniority cum fitness as and when vacancies will arise.

2. That with regards to statements made in paragraph 1 of the application, the Respondents beg to state that recently the applicants have worked as Seasonal Khalasis w.e.f. 15th May, 1995 to 15th October, 1995 under the Respondents. The scheme mentioned here in this application is not applicable to the seasonal workcharged Khalasis. However, a separate scheme for grant of temporary status and regularisation of workcharged employee is under active consideration and is being process in Central Water Commission. On receipt of the above scheme for implementation, the respondents will take a sympathetic view to consider the demands according to their seniority cum fitness as and when vacancies will arise.

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

4. That with regard to statements made in paragraph 4.1 of the application, the Respondents have no comments on them.

5. That with regard to statements made in paragraph 4.2 of the application, the Respondents have no comments on them but states that the applicants do not belong to Casual employees but worked as seasonal Khalasi.

6. That with regard to statements made in paragraphs 4.3 and 4.4 of the application, the Respondents beg to state that the applicants have worked as seasonal workcharged Khalasis. The services of seasonal workcharged Khalasi are required for a very specific purpose i.e. for collection of Hydrological data from the respective rivers during monsoon period normally (15th May to 15th October) every year which is related to flood forecasting. This facts is always mentioned in their office memorandum.

As mentioned in paragraph 1 i.e. brief background of the case, a scheme is under preparation and is likely to be finalised. On receipt of the scheme sympathetic view will be taken as explained in above. None of the applicants have completed 240 days in any single year.

7. That with regard to statements made in paragraph 4.5 of the application, the Respondents beg to state that the appointments are being issued every year from 15th May to 15th October as per actual execution of a specific nature of job for flood forecasting activities. As per the records available in this office, the Respondents beg to state that both the applicants were not appointed as casual/Daily wages basis as referred in the paragraph.

8. That with regard to statement made in paragraph 4.6 of the application, the Respondents beg to state that as per nature of job they are engaged for specific work for particular period (15th May to 15th October) every year. Knowing well the nature of job they are accepting the appointments letters so question of exploitation by the Respondents does not arise.

So far temporary status is concerned a scheme for engaging them is under active consideration and not yet received as mentioned in paragraph 1.

9. That with regard to statements made in paragraphs 4.7 to 4.11 of the application, the Respondents beg to state that there is a difference between casual workers and seasonal workcharged Khalasis in Central Water Commission. The scheme referred is not meant for workcharged establishment as the scheme does not cover to them.

As already stated in paragraph 4.3 the nature of job of the applicants are seasonal Khalasis and they are always engaged for a specific purpose and for a specific period of a monsoon. The applicants knowing fully well about their nature of engagement they have accepted the job and now raising of question of over age does not arise.

The Respondents are taking all necessary steps and making all efforts on their part to frame a scheme. Since framing/adoption of the aforesaid scheme attracting wide-ranging effects in other similar department of the Govt. of India a Policy decision is required to be taken by the Govt. of India in consultation with such other departments too. Accordingly it is likely to take some more time.

10. That with regard to statements made in paragraph 4.12 of the application, the Respondents beg to state that the applicants are not working since 15th October, 1995 as during non monsoon period there is no work of flood forecasting. As already mentioned in paragraph 1, a scheme for regularisation of services of seasonal workcharged employees

is under formulation in C.W.C. in consultation with the Ministry of Water Resources. Once the scheme is ready for implementation the cases of the applicants will be considered as per seniority cum fitness.

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

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

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

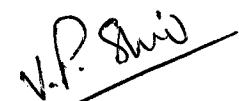
14. That with regard to statements made in paragraphs 10 to 12 of the application, the Respondents have no comments on them.

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

- VERIFICATION -

I, V.P. Shiv, Executive Engineer, Middle  
Brahmaputra Division, C.W.C., Rajgarh Road, Guwahati -7  
and Respondent No. 3 do hereby solemnly declare that  
the statements made above are true to my knowledge,  
belief and information.

And I sign this verification on ~~the~~ this 2<sup>nd</sup> day of April 1996 at Guwahati.

  
V.P. Shiv  
DECLARANT