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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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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.)

ORIGINAL APPLN.NO. 22 OF 1996
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. OF 1995 (IN A NO.)
REVIEW APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN. NO. OF 1995 (IN OA NO.)

.....M. Barnalany..... APPLICANT(S)

-VS-

.....Mr. D. L. Guha..... RESPONDENT(S)

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

FOR THE RESPONDENTS ...MR. Mr. S. Ali, Sr. C.G.S.C.

OFFICE NOTE	DATE	ORDER
	19-2-96	Leave note of applicant's counsel. Adjourned to 22-2-96.
This application is in form and within time E. F. of Rs. 50/- deposited vide IPO/BD No. 3.11758 dated 14.2.96	lm	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. Mr. B.K.Sharma prays for interim relief. While making it clear that the respondents might re-engage the applicant till the Scheme is prepared without prejudice to the rights and contentions in this application and expecting a positive response from them no other order at this stage. We have no doubt that the authorities concerned will be mindful of the requirement of justice that till these persons are considered for absorption under the Scheme and as they have worked for requisite days it would be harsh upon them to be rendered unemployed and, therefore, these cases require a sympathetic consideration.

Requisite steps are
taken & closed
no-500-0328.3.96

4/3

Member Vice-Chairman

ORIGINAL APPLN. NO. 22xxxxxx
TRANSFER APPLN. NO.
CONTEMPT APPLN. NO.
REVIEW APPLN. NO.
MISC. PETN. NO.

22 of 1996
OF 1995
OF 1995 (IN OA NO.
OF 1995 (IN OA NO.
OF 1995 (IN OA NO.

..... APPLICANT(S)

..... RESPONDENT(S)

FOR THE APPLICANT(S) :
..... MR.
..... MR.
..... MR.
..... MR.

FOR THE RESPONDENTS :
..... MR.

OFFICE NOTE

DATE

ORDER

25.4.96

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.

Member

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.

Member(J)

Member(A)

trd

3.4.96

w/s Submitted
3 in Reports 1 to 4.

30.5.96

Notice duly served
on resp No. 4.

Bow

3
O.A. 22/96

21-6-96

None is present. List for hearing
on 22-7-96.

ba
Member

lm

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.

ba
Member

lm

lm
22/96
20.8.96

List for hearing on 13.9.96.

ba
Member

pg

18.9.96

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

List for hearing on 17.10.1996.

ba
Member

trd

17.10.96

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

List for hearing on 5.12.1996.

ba
Member

pg

lm
13/10

Notice duly served
in op. No. 4.
W/ gratified to him
b.w.
6/10

(4)

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



21.4.97

Let the case be listed for hearing
on 2.6.97.


Member


Vice-Chairman

pg



2.6.97

The respondents have filed an affidavit in Misc.Petition No.94/97 stating 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 it will be difficult for us and for that purpose Mr.Sharma prays for time till the scheme is notified. Mr.N.K.Gupta, learned Advocate C.G.S. submits that the scheme will be notified very soon, may be within 3 weeks.

contd/-

17-4-97

Ready & Hearing.

2.6.97 Mr.S.All, 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

W/S as per L.W. PG
F
316

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

W/S
417

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

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4.	Annexure B1 to B13 ...	14 to 16
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For use in Tribunal's office

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

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

8

Filed by *[Signature]*
Date *1/11/96*

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, Charam 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 THE 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 Khalasi 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 citizen 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 ^{pertain:} ~~pertain:~~ pertinent 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 ^{applicants} applications have put on more than 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/22).

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/^{copy}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 in the instant application^{as}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:-

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

1994

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
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.

There shall be no order as to costs."

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

4.8. That the applicants state that the said judgement was carried on review by the respondents therein but the same 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 filed 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^{and} 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. GROUND 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 there 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 proceeds 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 framed thereunder.

5.9 For that in any 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 response 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 respondents 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' Judgment 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

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

(i) I.P.O. No.

09 311758

(ii) Date

14.2-96

(iii) Payable at : Guwahati

12. LIST OF ENCLOSURES:-

As stated in the Index.

Verification.....

....

- 15 -

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

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 14th ^{Feb} January, 1996 at Guwahati.

Shri. Mani. Ram Basumatary

ANNEXURE A

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

Attested.
A2
Advocate

NO. CFF/WC/Estt-24-A/86/ 3667-71
 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 Khalsai.

Shri. Mani Ram Basumatary.....

Employment Exchange, Kokrajhar.....Registration No. 878/79

is hereby informed that he has been selected for the post of Work-charged Gauge data Khalsai in the scale of Rs. 196-3-220-ES-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, Kokrajhar.....

under..... Asstt. Engineer, Barpeta Road below 31/5/86 on 16-5-86

(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.....
 Chechapani.....
 P.O. Magurmary.....
 Dist:- Kokrajhar.....

Copy forwarded for information & necessary action to:-

1. Asstt. Engineer,
Barpeta Road.....

The joining report on 16-5-86 (FN) in original may be sent to this office.

2. The Site incharge..... Kokrajhar..... 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.....
Kokrajhar.....

5. *****

(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

M E M O R A N D U M

The undersigned hereby offers appointed to the following persons as 'W/C Seasonal Khalsi' in the workcharged Establishment in the pay scale of Rs. 750-12-870-18-14-940/- per month with usual allowances as admissible as per rules from time to time

Sl. No.	Name & Address of the candidate	Employment Exchange Regn. No.	Place of Posting	Remarks
1.	Shri Rabin Ch. Kalita Vill. & P.O. Malabari Dist. Kamrup.	Gauhati No. 7588/86	AE, R. B. Sub-Divn., CMC, Gauhati-3.	
2.	Shri Sankar Kr. Mahanta Vill. Rajaduar P.O., Gauhati-30 Dist. Kamrup.	-do- No. 2023/83	Under Divn. Office	<i>Calc. sold into new Net Section.</i>
3.	Shri Bipul Eka Hly. Colony -r. No. 326/0 Bamunimarkham	-do- No. 7294/85	Net Section Under Divn. Office.	

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

BY REGD. AD/SPL MESSENGER

Paradekote House,
Indraprastha Marg,
NEW DELHI - 110001
10/2/94

From

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

18/2/94

To

1.

Shri S.M. Shukla,
Counsel for the applicant 454, Lawyers Chambers,
Eastern Wing, The Hazari Court, Delhi-54

2.

OA 223/92 & 884/92

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

3.

Shri Jog 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.

9/6
22.2.94

1.

Shri Vinod Kumar & Mrs

2.

Shri Suresh Ram & Mrs.

3.

Shri Rajesh Kumar Saini

4.

Shri Rajinder Sharma & Mrs.

OA 223/92

OA 884/92

OA 1601/92

OA 2418/92

G.A.No.

Applicant (s)

VERSUS

Union of India & Mrs. Respondent(s)

Sir,

I am directed to forward to you a copy of Judgement/Order
Dt: 10/2/94 passed by this Tribunal in the above mentioned case
for information and necessary action, if any.

Yours faithfully,

SECTION OFFICER (G-III) (J-II)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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

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

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

O. 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, Vill. & 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).

O. 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. Puram, New Delhi.

Attested.

Advocate

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

(through Mr Jog Singh, Advocate).

O.A.No.1601 of 1992

Shri Rajesh Kumar Saini
s/o Shri Veer Sain Saini
Workcharged Khallas
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 Tota 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
Sriyan 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.As

(through Mr Jog Singh in 1991 and 2245/92 and
through Mr. P.P.Khurana in O.A.No.2418 of 1992).

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- 1-3-1 -
ORDER

B.N.DHOUNDIYAL, 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 19.2.1988 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.

Sri 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.

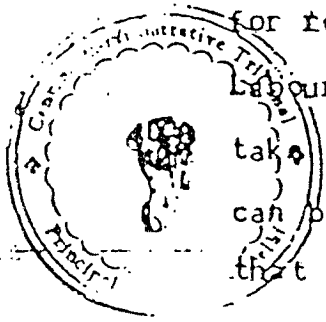
So far as the work-charged employees and casual labour are concerned, the effort must

-5-

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;



(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.Dhondiyal)
Member(A)

(S.K.Dhaon)
Vice Chairman

/sds/

CHIEF CLERK

12/1/11

Section Officer

13/1/11

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

Faridkot House
Copernicus Marg,
New Delhi-1.

Dt. 30/5/94

To

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

To

1. Sh. Jog Singh
counsel for the applicant In RA
1108, Prakash Deep, 7, Tolsted 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. Mikka Ram

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

5. Sh. Lali 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.)

Secy. Mini. Water Resources

Applicants

RA 172/94. In

O.A. No. 2418/92

VS.

Rajender Sharma & Ors.

Respondants

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,

(2)

Administrative Tribunal
Bench, New Delhi.

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

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

Hon'ble Mr. Justice S.K. Dheen, Vice-Chairman (J)
Hon'ble Mr. S.M. Dhoundiyal, Member (A)

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

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

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

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

Review Applicant &
respondents in CA.

(through Sh. Jag Singh)

RA-165/94 in CA-2246/92 versus

Shri Jayant Kumar Pathak,
S/o Sh. Kusheshwar 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 CA.

RA-171/94 in CA-1601/92

Shri Rajesh Kumar Saini,
S/o Shri Veer Sain Saini,
Workcharged Khullasi,
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 CA

RA-172/94 in CA-2418/92

1. Shri Rajender Sharma,
S/o Sh. Bhawan 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. Khandu Ram.
8. Sh. Udal 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. Dhoundiyal, Member(A)

These revised applications have been filed
by the respondents against the earlier judgement delivered
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 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;

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- 3 -

(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 ~~has~~ ^{has} resulted 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 Store 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

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- 4 -

established principle.

We, therefore, hold that no error apparent on the face of judgment 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 Commission within the stipulated time.

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

(S.N. CHANDRAN) MEMBER (A)

(S.K. SHARMA) VICE CHAIRMAN

/vv/

Original sent to

Registrar of Companies

Adm. Secy. (A)

Secy. (A)

1.8.74

CC. CO.

CA. P.B.

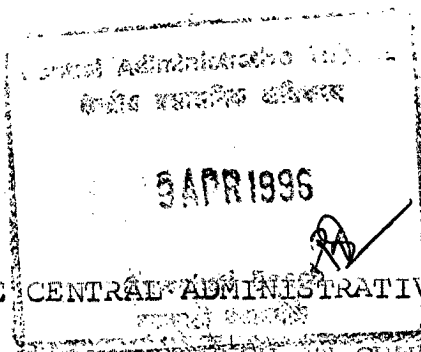
Nuc. Dir.

Section Officer

30/7/74

Section Officer

Adm. Secy. (A)



31
Filed by
Shankarade
Sr. C.S.C.
3/4/96

IN THE 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

Hand Copy
B. M. M. H.
20.5.96
Dr. S. M. M. H.

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

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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.

3643

- 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 ^{2nd}-----
day of April 1996 at Guwahati.

V.P. Shiv
DECLARANT